



OFFICE OF THE AUDITOR-GENERAL

Enhancing Accountability

COUNTY ASSEMBLIES

**AUDITOR-GENERAL'S REPORT
ON THE COUNTY GOVERNMENTS
COUNTY ASSEMBLIES 2021-2022**

VOLUME 2



VISION

Making a difference in the lives and livelihoods of the Kenyan people



MISSION

Audit services that impact on effective and sustainable service delivery



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REPORT

OF

THE AUDITOR-GENERAL

ON

THE COUNTY GOVERNMENTS

FOR

THE YEAR 2021/2022

VOLUME 2 – COUNTY ASSEMBLIES

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Foreword

This report, commonly known as the Green Book, is a compilation of the audit reports of the County Governments for County Executives and County Assemblies for the year ended 30 June, 2022.

The Auditor-General is mandated by the Constitution of Kenya, under Article 229, to audit and report on the use of public resources by all entities funded from public funds. These entities include the National Government, County Governments, the Judiciary, Parliament, Statutory Bodies/State Corporations, Commissions, Independent Offices, Public Debt, Political Parties funded from public funds, other government agencies and any other entity funded from public funds. In addition, Article 229(6) requires the Auditor-General to confirm whether or not public resources have been applied lawfully and in an effective way. The mandate of the Auditor-General is further expounded by the Public Audit Act, 2015.

Article 229 (7) of the Constitution requires the Auditor-General to audit and submit reports to Parliament or the relevant County Assembly within six (6) months after the end of the financial year. However, Section 81(4) of the Public Finance Management Act, 2012, reduces the timeline to three (3) months by giving entities leeway up to the end of September to prepare and submit financial statements for audit. This reduces the duration for audit and reporting from six (6) months given by the Constitution to three (3) months. This has been adversely affecting the timelines for reporting, leading to backlogs and affecting the efficiency and effectiveness for oversight by Parliament and the County Assemblies.

Further, as previously reported, an effective mechanism for follow up on implementation of audit recommendations is lacking and as such most audit queries recur in subsequent audit reports due to lack of requisite action. Section 204(1)(g) of the Public Finance Management Act, 2012 provides that the Cabinet Secretary for matters relating to finance may apply sanctions to a national government entity that fails to address issues raised by the Auditor-General, to the satisfaction of the Auditor-General.

However, despite numerous reports indicating lack of accountability and documents to support the legality and effectiveness in the use of public resources, failure to apply the requisite sanctions and consequences has resulted to some Accounting Officers not adequately accounting for the management and use of public resources with impunity. Lack of action and sanctions has also led to fiscal indiscipline including misallocations, wastage of resources, lack of value for money in implementation of projects and loss of public funds, thereby impacting negatively on development programmes. This in turn threatens economic growth and sustainability of service delivery to citizens. There are instances where some Accounting Officers are in breach of Section 62 of the Public Audit Act, 2015 by failing to adequately prepare for audit which is exhibited by numerous inaccuracies in financial statements presented for audit, lack of requisite supporting documents, several revisions of financial statements and, in some cases, reluctance to cooperate with the auditors during the audit process.

The Office of the Auditor-General has been continuously improving on the effectiveness and quality of the audit process to ensure that the results of audit and

the recommendations thereof are credible, relevant, reliable and value adding. This is geared towards influencing improved decision making and positive impact on the lives and livelihoods of citizens and other stakeholders. Provision of quality and effective audit services and confirmation of the lawfulness and effectiveness in programme implementation requires comprehensive scrutiny and evaluation of supporting documents. Most critical is the physical confirmation of the existence and utilization of projects or programmes implemented throughout the country. To achieve this requires an independent and well-resourced audit Office with guaranteed adequate funding to enable efficient, effective and timely execution of the audit cycle as well as retention of optimal staffing levels to ensure continuous, quality and sustainable audit operations.

The Office continues to seek financial independence and support from Parliament and The Executive through The National Treasury for enhancement of resources to enable it build technical capacity, expand its presence in the counties, widen the scope and comprehensiveness of audit and motivate staff. We continue to devolve our services closer to the people through establishment of regional offices and construction of office premises to accommodate our staff in order to address the audit needs at the grassroots level. During the year under review, we established the Upper North Regional Office in Isiolo and the North Western Regional Office in Kitale. We have so far constructed regional offices in Garissa, Kakamega and Eldoret, while construction works in Embu is almost complete. Plans for construction of our Headquarters in Nairobi, which is currently at the design stage, has been delayed by lack of funding. However, the Office continues to make appeals to Parliament and The National Treasury for adequate funds to enable us perform our functions and achieve our mandate in enhancing accountability across government, both at the national and county levels, and in all other entities funded from public funds.

The audit scope has been expanding over the years due to the expansion of government programs to ensure sustainable development and delivery of continuous and quality services to the citizens. This has led to growth in the national budget and formation of additional entities that I am required to audit and report on. All the over nine thousand (9,000) Public Secondary Schools were from 30 June, 2022 required to prepare and submit financial statements to the Auditor-General for audit and quite a number have complied. In addition, I am required to audit and report on financial statements for all the three hundred and fifty-eight (358) Level 4 hospitals and fourteen (14) Level 5 hospitals separately. In the current financial year, I am also required to audit a total of two hundred and eighteen (218) Technical and Vocational Education and Training (TVET) Institutions and the number could increase as we are currently undertaking an evaluation exercise with the State Department for Technical, Vocational Education and Training to identify all institutions funded by the Exchequer including the Community Vocational Training Institutions that are estimated to be over one thousand and two hundred (1,200) Institutions. In addition, new projects and funds have been created that require timely oversight.

During the period under review, the Office of the Auditor-General made great strides in enhancing delivery of audit services to the people of Kenya. The Office has entered into partnerships with other Supreme Audit Institutions (SAIs) regionally and globally and with local oversight institutions such as the Ethics and Anti-Corruption Commission (EACC), the State Corporations Advisory Committee (SCAC) and the

Salaries and Remuneration Commission (SRC) among other organizations, as we strive to increase the impact of audit through learning, knowledge sharing, innovation and collaboration.

Specific reports together with my opinion for each entity are contained in the respective County Assembly's audited financial statements for the year ended 30 June, 2022, which I have already submitted to Parliament and to each Accounting Officer.

I wish to sincerely thank the entire staff of the Office of the Auditor-General for their commitment, passion and professionalism in carrying out their duties despite the challenges posed by lack of adequate funds. Special appreciation goes to the team that prepared this Book.

I wish also to appreciate my clients or auditees for the cooperation they accorded my staff during the audit.


CPA Nancy Gathungu, CBS
AUDITOR-GENERAL

Nairobi

26 May, 2023

REPORT OF THE AUDITOR-GENERAL ON COUNTY GOVERNMENTS FOR THE YEAR 2021/2022

VOLUME 2 – COUNTY ASSEMBLIES

1.0 Introduction

1.1 Legal Mandate of the Office of the Auditor-General

The Auditor-General is mandated under Article 229 of the Constitution of Kenya, , to audit and report on the use of public resources by all entities funded from public funds. These entities include; the National Government, County Governments, the Judiciary, Parliament, statutory bodies/state corporations, commissions, political parties funded from public funds, other government agencies and any other entity funded from public funds. The mandate of the Auditor-General is further expounded in the Public Audit Act, 2015.

The Constitution requires the Auditor-General to submit the audit reports of the public entities to Parliament and the relevant County Assemblies by 31st December, every year. In carrying out the mandate, the Auditor-General, is also required, under Article 229 (6) to assess and confirm whether the public entities have used the public resources entrusted to them lawfully and effectively.

Further, the objects and authority of the Auditor-General, as outlined in Article 249 of the Constitution, are: to protect the sovereignty of the people; to secure the observance by all State Organs of democratic values and principles; and to promote constitutionalism. The Auditor-General has also been given powers by the Constitution, under Article 252, to conduct investigations, conciliations, mediations and negotiations and to issue summons to witnesses for the purpose of investigations.

1.2 Responsibilities of Management and those Charged with Governance

Management is responsible for the preparation and fair presentation of the financial statements in accordance with the International Public Sector Accounting Standards (IPSAS)-Cash Basis, as prescribed by the Public Sector Accounting Standards Board (PSASB), and for the submission of the financial statements to the Auditor-General in accordance with the provisions of Section 47 of the Public Audit Act, 2015.

Management is also responsible for maintaining effective internal control environment necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error, and for the assessment of the effectiveness of internal control, risk management and governance.

Further, management is required to ensure that the activities, financial transactions and information reflected in the financial statements are in compliance with the law and other relevant or applicable authorities, and that public resources are applied in an effective way.

Those charged with governance are responsible for overseeing the financial reporting process, reviewing the effectiveness of how each entity monitors compliance with relevant legislative and regulatory requirements, ensuring that effective processes and systems are in place to address key roles and responsibilities in relation to governance and risk management, and ensuring the adequacy and effectiveness of the control environment.

1.3 Auditor-General's Responsibility

My responsibility is to conduct an audit of the financial statements in accordance with the International Standards of Supreme Audit Institutions (ISSAIs), and to issue an auditor's report. The audit report includes my opinion as provided by Section 48 of the Public Audit Act, 2015, and the report is submitted to Parliament in compliance with Article 229(7) of the Constitution.

In addition, Article 229(6) of the Constitution requires me to express a conclusion on whether or not, in all material respects, the activities, financial transactions and information reflected in the financial statements are in compliance with the law and other authorities that govern them, and that public resources are applied in an effective way. I also consider the entities' control environment in order to give an assurance on the effectiveness of internal controls, risk management and governance processes and systems, in accordance with the provisions of Section 7(1)(a) of the Public Audit Act, 2015.

I am independent in accordance with Article 249(2) of the Constitution of Kenya, 2010 and ISSAI 130 on the Code of Ethics. I have fulfilled other ethical responsibilities in accordance with the ISSAI and in accordance with other ethical requirements applicable to performing audits of public entities in the Republic of Kenya.

1.4 New Reporting Structure

I have amended the structure of my report to address the reporting requirements of Article 229(6) of the Constitution of Kenya, 2010, which requires that an audit report shall confirm whether or not public money has been applied lawfully and in an effective way. Section 7(1)(a) of the Public Audit Act, 2015 also requires that I provide assurance on the effectiveness of internal controls, risk management system and governance in national and county governments entities.

In addition, the International Standards of Supreme Audit Institutions (ISSAIs), now require the incorporation of Key Audit Matters in the report on the financial statements, which are those matters that I determine in my professional judgment, are of most significance in the audit of the financial statements as a whole, for the year under review. In order to address these requirements, my audit reports contain the following:

- i. Report on Financial Statements, in which I give an audit opinion on whether the financial statements present a true and fair view of the financial position and performance of the entity.
- ii. Report on Lawfulness and Effectiveness in Use of Public Resources, in which I give a conclusion on whether or not public resources have been applied lawfully and in effective way.

- iii. Report on Effectiveness of Internal Controls, Risk Management and Governance, in which I give a conclusion on whether internal controls, risk management and overall governance were effective.
- iv. Report on Other Legal and Regulatory Requirements is included where applicable, especially for the entities that registered under the Companies Act and any other enabling legislation and authorities that require such disclosure.

1.5 Audit Opinions

I have expressed the different types of audit opinions based on the following criteria:-

a) Unmodified/ Unqualified Opinion

The books of accounts and underlying records agree with the financial statements and no material misstatements were found. The financial statements give a true and fair view of the operations of the entity.

b) Qualified Opinion

Financial transactions were recorded and are to a large extent in agreement with the underlying records, except for cases where I noted material misstatements or omissions in the financial statements. The issues though material, are not widespread or persistent.

c) Adverse Opinion

The financial statements exhibit significant misstatement with the underlying accounting records. There is significant disagreement between the financial statements and the underlying books of accounts and/or standards. Problems are widespread, persistent and require considerable interventions by the management to rectify.

d) Disclaimer of Opinion

The financial statements exhibit serious and significant misstatements that may arise from inadequate information, limitation of scope, inadequacy or lack of proper records such that I was not able to form an opinion on the financial operations.

The list of the County Assemblies and the type of opinion given on the financial statements is contained in Appendix A.

1.6 Audit Findings

The key audit findings noted during the audit of each County Assembly's financial statements for the year ended 30 June, 2022 are presented in the sections below.

COUNTY ASSEMBLY OF MOMBASA – NO.1

REPORT ON THE FINANCIAL STATEMENTS

Unqualified Opinion

1. There were no material issues noted during the audit of the financial statements.

Other Matter

2. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects that the County Assembly had a revenue budget of Kshs.879,254,392 against actual receipts of Kshs.624,177,019, resulting to under-realization of Kshs.255,077,373 or 29% of the budgeted receipts. Similarly, the statement reflects an approved budget of Kshs.879,254,392 for both recurrent and development expenditure while the actual total expenditure was Kshs.645,684,839 or 73%, resulting to overall under expenditure of Kshs.233,569,553 or 27%.

The under-funding and under-absorption of the budget may have adversely affected activities planned during the year.

3. Unresolved Prior Year Matters

Prior year audit issues remained unresolved as at 30 June, 2022. Although Management has included all the issues under progress on follow up on prior year auditor's recommendations, reasons for the delay in resolving the prior year audit issues have not been provided.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

4. There were no material issues raised on internal controls, risk management and governance.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

5. There were no material issues raised on internal controls, risk management and governance.

COUNTY ASSEMBLY OF KWALE – NO.2

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

6. Use of Goods and Services

The statement of receipts and payments reflects an amount of Kshs.305,958,297 in respect of use of good and services as disclosed in Note 5 to the financial statements. The following anomalies were noted:

6.1 Unsupported Domestic Travel and Subsistence Allowance

As disclosed in Note 5 to the financial statements, an amount of Kshs.137,629,755 was incurred in respect of domestic travel and subsistence out of which an amount of Kshs.4,249,534 was spent on purchase of air tickets. However, supporting documents such as requisitions, approval of travel and details of official duties performed or activities undertaken were not provided for audit review.

Further, the balance includes an amount of Kshs.756,000 paid to a transport and car hire service provider at daily rates of Kshs.24,700 and Kshs.37,000 for a land cruiser and tour bus respectively. However, the prices were not provided for in the framework agreement between the service provider and the County Assembly.

In addition, the balance includes an amount of Kshs.13,275,700 in respect of subsistence allowance paid to Members of County Assembly, Board Members and staff of the County Assembly. However, the payments were not supported by details of activities for each event, reports of meetings, requisition for conference facilities where the meetings were held and invoices issued by facilities used.

6.2 Unsupported Foreign Travel and Subsistence Allowance

Further, the balance includes an amount of Kshs.51,902,728 being payment of foreign travel and subsistence, out of which an amount of Kshs.5,513,966 was paid to Staff and Members of the County Assembly for trip to Zanzibar from 21 December, 2021 to 29 December, 2021. The itinerary included private tours to tourist sites, get-together for the MCAs and staff, excursion and shopping. However, Management did not provide supporting documents such as minutes of the County Assembly Service Board meeting which approved the travel, reports on discussions, thematic area of benchmarking, institutions picked for benchmarking and benefits accruing from the same. An amount of Kshs.1,176,689 was also incurred in respect of County Service Board and staff but reports provided for audit did not indicate how the visit addressed challenges faced by Kwale County.

Further, the County Assembly paid an amount of Kshs.2,131,489 in respect of imprest spent on audit committee benchmarking trip to Addis Ababa. However, there was no comprehensive benchmarking report indicating actual activities and engagements of

the committee with institutions having similar mandate from which they could benefit from.

In addition, the County Assembly paid an amount of Kshs.6,798,347 in respect of subsistence allowance for staff travelling to Dar-es-Salaam and refund of logistical expenses. However, the payment voucher was only supported by list of beneficiaries. There was no evidence of travel in form of air tickets, boarding passes, entry and exit stamped passports, report indicating actual activities and engagement of the staff with institutions having similar mandate for benchmarking and evidence of prior communication with the institutions to be visited. Operating expenses amounting to Kshs.118,075 was incurred on Covid-19 tests, boat hire, tour guide services and car hire services. However, evidence of prior planning and approval of the expenditure was not provided for audit review.

6.3 Unsupported Hospitality Supplies and Services

The balance also includes an amount of Kshs.28,438,532 in respect of hospitality supplies and services. Included in the expenditure is conference facilities expenditure amounting to Kshs.15,902,050 which was not supported by formal requisitions by the user departments, procurement plan and details on how the service providers were identified and selected and how the prices charged were determined.

6.4 Irregular Expenditure on Printing, Advertising and Information Supplies

The balance includes printing, advertising and information supplies and services expenses amounting to Kshs.10,692,180. which includes an amount of Kshs.8,618,976 in respect of bulk printing and advertising which was not supported by tax invoices and inspection reports to confirm the quantities delivered.

Further, examination of the purchase orders, delivery notes and store records indicated that the payment was for producing 1,014,749 copies of the Annual Development Plan (ADP) and 1,858,243 copies of audit documents for 2018/2019 for the Senate. However, the Management did not provide the number of ADP booklets and pages to account for the copies made while the copies printed for the Senate were not supported by details of copies made per file. Further, Management did not explain why they printed Annual Development Plan for public participation, which is the responsibility of the County Executive.

6.5 Irregular Expenditure on Other Operating Expenses

The expenditure also includes other operating expenses amounting to Kshs.33,520,126. Included in the amount is Kshs.3,839,781 paid to a local advocate as legal fees which was not supported by user requisitions, professional opinions from the head of procurement, notification of awards and acceptance letters.

Further, the amounts includes ward operation expenses of Kshs.3,839,505 that was not supported by formal requisition and invoices. In addition, it was not explained why the Ward operations expenses varied from one Ward to another as follows: Kshs.50,000, Kshs.100,000 and Kshs.150,000.

In the circumstances, the propriety of expenditure amounting to Kshs.305,958,297 spent on use of goods and services could not be confirmed.

7. Doubtful Accounts Receivable - Imprests and Advances

The statement of financial assets and liabilities reflects imprests and advances amounting to Kshs.10,969,664, which includes a balance of Kshs.200,000 and Kshs.6,377,361 in respect of rent deposit and prepayments to Kenya Revenue Authority, respectively. The rent deposit of Kshs.200,000 was in respect to the Speaker's former residence. Information provided for audit indicates that the Speaker moved to his new residence which was built by the County Assembly in 2019. However, there was no evidence of efforts made to recover the outstanding deposit.

Further, an amount of Kshs.1,899,057 disclosed in the books relates to a prepayment of fringe benefits tax to Kenya Revenue Authority (KRA). Review of available documents and discussion with the Management revealed that the amount relates to a payment of fringe benefits tax arrears for 2018 that was erroneously processed twice from the Central Bank of Kenya Account. However, in June and July, 2022, Management wrote to KRA requesting for refund of this amount but no response has been received.

In addition, an amount Kshs.4,119,392 was deducted by KRA from the County Assembly's bank account in October, 2018 after issuing the County Assembly with a letter stating that this was in regard to tax arrears and interest. On 7 October, 2019, the County Assembly wrote to KRA disputing the claim and on 26 January, 2022 the Authority allowed the County Assembly to utilize the amount KRA however recalled this letter and deducted an additional amount of Kshs.4,478,304 from the County Assembly's account.

In the circumstances, the accuracy and recoverability of prepaid tax imprests and advances of Kshs.10,969,664 could not be confirmed.

8. Construction of Ward Offices

The statement of receipts and payments reflects acquisition of assets balance of Kshs.206,765,158 which includes an amount of Kshs.143,703,923 in respect of domestic public non- financial enterprises. Included in the balance is Kshs.143,703,923 out of which an amount of Kshs.50,393,925, related to payments to various local contractors for the construction of Members of County Assembly's Ward Offices. However, Management did not provide ownership documents for the parcels of land where the Ward offices are being erected. There was no evidence of action being taken to obtain the land ownership documents.

In the circumstances, the ownership, rights and obligations of the County Assembly assets valued at Kshs.50,393,925 could not be confirmed.

9. Unconfirmed Fringe Benefits Tax

Review of payroll data revealed that Members of the County Assembly and staff were advanced twenty-one (21) car loans and fifty-two (52) mortgage loans by the County

Assembly of Kwale Members and Staff Car Loan and Mortgage Fund. The loans were advanced at a rate of 3%, a rate below the market rate and therefore qualified for imposition of fringe benefit as required by Section 12(B)1 of the Income Tax 2012. The County Assembly estimated and paid a total of Kshs.1,332,600 during the year under review to Kenya Revenue Authority as fringe benefits tax. However, the amount paid was not supported by actual calculation of the fringe benefits tax payable, thereby exposing the Assembly to penalties due to non-compliance.

In the circumstances, the accuracy of the fringe benefits tax paid could not be confirmed.

Other Matter

10. Budgetary Control and Performance

The statement of comparison of budget and actual amounts - recurrent and development combined for the year ended 30 June, 2022 reflects final receipts budget and actual on comparable basis totalling Kshs.1,028,286,613 and Kshs.853,430,078 respectively, resulting in an under-funding of Kshs.174,856,535 or 17% of the budget. Similarly, the County Assembly spent an amount of Kshs.844,351,546 against an approved budget of Kshs.1,028,286,613, resulting in an under-expenditure of Kshs.183,935,066 or 18% of the budget.

The underfunding and underperformance affected the planned activities and may have impacted negatively on service delivery to the public.

11. Progress on Follow-Up of Prior Year's Auditor Recommendations

In the audit for the previous year, several issues were raised under the report on financial statements and Report on Lawfulness in the use of Public Resources. However, Management has not resolved the issues or provided an explanation for the delay. However, Management has not completed the section on progress on follow-up of prior year's audit recommendation as provided by the Public Sector Accounting Standards Board template.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

12. Irregular Payment of Subscriptions and Memberships

The statement of receipts and payments reflects an amount of Kshs.305,958,297 in respect of use of goods out of which an amount of Kshs.33,520,126 is in respect of other operating expenses which includes Kshs.1,500,000 paid as subscriptions and membership fees to County Assemblies Forum, comprising Kshs.500,000 for subscription to County Assemblies Sports Association for 2021 games and Kshs.1,000,000 for Speakers at the Table (SOCATT) for the financial years 2018 and 2019. However, the payments were not authorized by any law.

In the circumstances, the propriety of the payments of Kshs.1,500,000 could not be confirmed.

13. Failure to Establish a County Assembly Fund

Review of documents and information provided by Management revealed that the County Assembly Service Board had not established a County Assembly Fund for purposes of receiving grants, gifts, donations or bequests or monies from investments of the Board. This is contrary to Section 34 of the County Assemblies Service Act, 2017 which requires each County, to establish a County Assembly Fund, for any grants, gifts, donations or bequests, monies from investments of the Board and such fees imposed or levies administered by the Board and such monies as may, in the future, be appropriated from the Revenue Fund established for each County.

In the circumstances, Management was in breach of the law.

14. Irregular Allowances

The statement of receipts and payments as disclosed in Note 5 to the financial statements reflects other operating expenses of Kshs.33,520,126, out of which an amount of Kshs.697,880 was in respect of payment to police officers providing security to the County Assembly offices. It was not explained why the allowances were paid direct to the officers instead of the National Police Service who is their employer.

In the circumstances, the propriety of other operating expenses of Kshs.697,880 could not be confirmed.

15. Non-Compliance with One Third Rule in Salary Deduction

Audit review of payroll revealed that several employees committed their salaries beyond two-thirds of basic salaries, contrary to the provisions of Section 19(3) of the Employment Act, 2007. In particular, two (2) employees earned Nil salaries throughout the year indicating their actual existence is doubtful.

In the circumstances, Management was in breach of the law.

16. Non-Compliance with Gender Requirements

Review of personnel records revealed that as at 30 June, 2022, the County Assembly had a total of eighty-three (83) staff members, out of whom fifty-eight (58) or 70% are of the male gender while only twenty-five (25) or 30% belong to the female gender. Further, out of the eleven (11) new staff members appointed only two (2) were of the female gender which constitutes 19%. This is in contravention to Article 27(8) of the Constitution of Kenya, 2010 which states that, 'not more than two-thirds of the members of elective or appointive bodies shall be of the same gender'.

In the circumstances, Management was in breach of the law.

17. Failure to Comply with Law on Ethnic Composition

Review of personnel records revealed that as at 30 June, 2022, Kwale County Assembly had a total of eighty three (83) employees, out of whom seventy (70) or 84% were from one ethnic community, contrary to Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 which states that, all Public Offices shall seek to represent the diversity of the people of Kenya in employment of staff and that of Public Institution.

In the circumstances, Management was in breach of the law.

18. Termination of Employment Contract of the Clerk of the County Assembly

As reported in the previous financial year, the County Assembly Service Board terminated the contract of the Clerk of the County Assembly through letter dated 11 December, 2019. His employment contract was eventually terminated through a court process in May, 2022. Following the suspension of the Clerk, the Deputy Clerk was immediately appointed in an acting capacity as the Clerk to the County Assembly. However, as at the time of the audit in July, 2022, the Deputy Clerk was still acting as the Clerk of the County Assembly contrary to Section 34(3) of Public Service Commission Act No.10 of 2017 which states that an officer may be appointed in an acting capacity for a period of at least thirty days but not exceeding a period of six months.

In the circumstances, Management was in breach of the law.

19. Irregular Payment of Salaries to Staff on Extended Leave

As previously reported, review of the County Assembly's staff personal files revealed that one officer was issued with a show cause letter by the Acting Clerk. On the same day, another show cause letter with the same reference number was issued by the Board indicating that the officer failed to forward information to the Human Resources Office to effect payroll deductions from four (4) officers, including his, for purposes of effecting monthly deductions.

Further, records showed that the officer was issued with another letter dated 22 February, 2021 stating that the matter had been referred to the Board which resolved that the matter be referred to the Staff Advisory Committee and that the officer was to proceed on a twenty-one-day leave from the date of the letter. The officer was later invited to the Staff Advisory Committee meeting on 23 March, 2021 which approved further extensions of his leave from 16 April, 2021 to 19 August, 2021. However, it was noted that while on leave, the officer received full salary and allowances totalling TO Kshs.627,640 from the County Assembly up to 30 June, 2022. No satisfactory explanation was provided for the approval of extensions of leave with full pay to staff facing disciplinary proceedings.

In the circumstances, Management was in breach of the law.

20. Irregularities in Procurement and Construction of Members of County Assembly Ward Offices

20.1 Delayed Construction of Kubo Ward Office

During the year under review, the County Assembly paid an amount of Kshs.4,205,200 to a contractor for construction of the Member of County Assembly Ward Office in Kubo South Ward. The contract was awarded on 18 June, 2019 at a contract sum of Kshs.9,817,225 with expected completion date being 7 September, 2020. However, the performance bond of Kshs.196,345 required for the work was not provided for audit review. Further, the first payment certificate was issued in March, 2021, while the 2nd and 3rd certificates were issued on 14 October, 2021 and 16 June, 2021 respectively after the expiry of the contract period.

Further, physical verification of the project on 02 November, 2022 revealed that the project was still incomplete, with only wall and roofing done, nine (9) months after the last contract extension. Management did not provide documentary evidence of efforts to recover liquidated damages from the contractor due to delay in implementing the project.

20.2 Delayed Construction of Vanga Ward Office

The tender for construction of the Member of County Assembly office at Vanga Ward was awarded to a local contractor in May, 2018 at a contract price of Kshs.6,508,690. The contract indicated the completion period of 180 days after signing of the contract which was signed on 28 June, 2018. The expected completion date was December, 2018. The 1st interim certificate was issued in September, 2018 while the completion certificate for Kshs.1,470,765 being issued and settled in October, 2021, or 35 months after the contract period had elapsed.

However, Management did not provide reasons and evidence of extension of the contract or evidence of efforts to recover liquidated damages from the contractor due to delay in implementation of the project.

The project implementation may occasion loss of public funds due to cost escalation and failure to claim liquidated damages.

20.3 Irregularities on Construction of Ukunda Ward Office

The tender for construction of the Member of County Assembly's (MCA) Ward office in Ukunda Ward was awarded through open tender method of procurement. Although the Accounting Officer appointed a seven (7) member adhoc evaluation committee, only six (6) members approved the tenders. No evidence was provided to show that one member rejected the appointment. Further, the secretary to the committee was not the person in charge of the procurement function, contrary to Regulation 29(4) of the Public Procurement and Asset Disposal Regulations, 2020. Although records indicate that notification of award and regret letters were sent, there was no evidence indicating that regret letters were received by the unsuccessful bidders.

In addition, the contract was signed on 28 June, 2021 with a contract period of 180 days beginning the same date. However, records revealed that by 28 October, 2021, the contractor had not been shown the construction site and therefore indicated a desire to discontinue the contract in March, 2022.

At the time of the audit in October, 2022, Management had not terminated the contract or given any explanation for the failure to provide site for construction denying the public benefits that could have accrued from the project.

In the circumstances, value for money in implementation of the project has not been realized.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

21. Lack of ICT Strategic Committee and Approved ICT Strategic Plan

Review of information and documents provided by the Management indicated that the County Assembly had not constituted an IT Strategic Committee to provide strategic advice on ICT initiatives and investments to the board.

Further, an approved ICT Strategic Plan was not provided to confirm that the County Assembly has a clear IT vision and mission that define how it plans to improve internal processes in order provide efficient services to businesses and citizens.

In addition, review of appointment letters of ICT Steering Committee revealed that the County Assembly constituted an IT Steering Committee on 28 October, 2021. However, there was no documentary evidence to confirm that the committee was functional or has undertaken any activities since its appointment.

In the circumstances, the existence of an effective ICT governance could not be confirmed.

22. Lack of ICT Risk Framework

The County Assembly of Kwale provided for audit review a Draft ICT Risk Framework. However, the draft policy did not indicate that the Assembly had developed a risk strategy, set acceptable risk standards and undertaken risk assessment for identification, recording, analysis and designing of mitigation measures.

In the circumstances, the County Assembly is exposed to losses and interruptions of operations due to failure to formulate a risk management policy.

23. Voided Transactions in IFMIS

Analysis of the Integrated Financial Management Information System payment reports indicated that seventy-six (76) transactions totalling to Kshs.124,259,440 were voided

during the year 2021/2022. However, Management did not provide reasons for voiding the indicated payments neither were the transactions traced in the pending bills report.

Voiding of transactions is a pointer to weak internal controls and may result to application of funds for purposes not approved by the Controller of Budget.

24. Cash Payments as Per IFMIS System Reports

Audit analysis of the payment details report revealed seventy-seven (77) transactions with an amount of Kshs.722,237,522 relating to payments to various payees in cash as per the item description in IFMIS System. Given the high risk of cash payments, there could be misuse of cash by the County Assembly staff.

25. Payment Transactions in IFMIS System not in Payment Details Reports

An analysis of the IFMIS system payment reports against the payments details reports revealed that there are fifty-nine (59) transactions with amount totalling Kshs.121,123,996 that were paid through IFMIS but not captured in payment details as at 30 June, 2022. The discrepancy between the transactions processed in IFMIS and the payments report of Kshs.121,123,996 is an indication of possible data manipulation in the system.

In the circumstances, controls for payment through IFMIS appears inadequate and may result in loss of funds.

26. Inefficient Management of Motor Vehicles

Review of the motor vehicle records revealed that the County Assembly had six (6) motor vehicles. Review of the work tickets revealed that only two vehicles were serviceable and in use at time of audit while four vehicles were grounded, prompting the Management to hire vehicles from local car hire service providers. Further, details of the defects and reasons why the same had not been rectified were not provided for audit review. Management did not provide work tickets for two vehicles which were previously used by the Speaker to the County Assembly before they were grounded.

In the circumstances, the existence of effective controls on acquiring, using or disposing of the assets, could not be confirmed.

27. Lack of Financial Procedures Manual

Review of information provided for audit indicated that the County Assembly does not have a Financial Procedures Manual to guide the operations of Finance Department and other financial transactions, contrary to Regulation 9(1) of the Public Finance Management(County Governments) Regulations, 2015 which states that ‘the County Treasury shall publish financial manuals and forms which may be used by County Government entities to support implementation of these Regulations while Regulation 9(4) states that, ‘The financial manuals shall contain relevant procedures for the budget preparation, budget execution, keeping of books of accounts, formats of financial statements and Government standard chart of accounts issued by the National Treasury’.

In the circumstances, the existence of systems and strategies put in place for proper financial management could not be confirmed.

28. Payment of Salaries Outside Integrated Personnel and Payroll Database (IPPD)

Payroll records provided for audit indicated that an amount of Kshs.3,138,490 was paid to staff of the County Assembly those were on permanent and pensionable terms outside IPPD, contrary to Regulation 120(2) of the Public Finance and Management (County Governments) Regulations, 2015.

In the circumstances, the control system on issuance of personal numbers was not effective.

29. Lack of a Training Committee

Documents provided for audit indicate that despite there being a Human Resource Management and Development Department, there was no evidence that the Clerk of the County Assembly appointed a training committee to manage the training function as required by Kwale County Assembly Human Resources Policy Manual, 2019 No.7.2(1) which states that, 'the Management and co-ordination of training function in the County Assembly will be the responsibility of the Human Resource Management and Development Department. The Clerk will appoint a Training Committee whose mandate will be to manage the training function guided by the Human Resource Management Development Department'.

In the circumstances, the control system on training was not effective.

30. Weakness in Management of Human Resource

Review of staff records revealed that the County Assembly had eighty-three (83) employees. However, the Management did not provide for audit review an approved staff establishment indicating positions available, number of staff per position and details of vacant positions to confirm the need for the recruitment.

Further, the County Assembly advertised eight (8) positions during the previous financial year through advertisement Ref. No.012/2020/KWLCASB for office cleaners following approval of the County Assembly Service Board. However, the County Assembly recruited eleven (11) staff. No explanation and approval of the Board was provided for recruiting the three-extra staff.

In the circumstances, the existence of an effective mechanism to regulate management of human resource could not be established.

COUNTY ASSEMBLY OF KILIFI – NO.3

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

31. Variance Between County Executive and County Assembly Transfers

The statement of receipts and payments reflects an amount of Kshs.997,886,898 as Exchequer releases from the County Executive while the financial statements of the County Executive reflects an amount of Kshs.1,043,413,898 as transfer to the County Assembly. The resultant variance of Kshs.45,527,000 was not explained or reconciled.

In the circumstances, the accuracy and completeness of Exchequer releases of Kshs.997,886,898 could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

32. Non-Compliance with the Law on Fiscal Responsibility – Wage Bill

The statement of receipts and payments reflects expenditure on compensation of employees totalling to Kshs.427,461,249 representing 42% of the total receipts of Kshs.997,886,898 contrary to Regulation 25(1)(b) of the Public Finance Management (County Governments) Regulations, 2015 which limits the County Government's expenditure on wages and benefits to a maximum of 35% of the total revenue for the year.

In the circumstances, Management was in breach of the law.

33. Irregular Payment of Subscriptions to SOCATT

The statement of receipts and payments reflects expenditure on use of goods and services totalling to Kshs.466,434,651, out of which an amount of Kshs.20,069,663 was incurred in respect of other operating expenses. Included in other operating expenses is an amount of Kshs.650,000 paid as annual subscriptions to the Speakers at the Table (SOCATT). However, the Management did not provide details and justification for the payment since the beneficiary organization is not anchored in law.

In the circumstances, Management was in breach of the law.

34. Stalled Project - Construction of County Assembly Offices

As reported previously, the project for construction of County Assembly offices was awarded to a company on 12 February, 2016 at a contract sum of Kshs.508,549,884. Due to poor performance, the contract was terminated on 15 August, 2017. After termination, Management engaged another contractor to undertake completion of the construction of the County Assembly Office at a contract price of Kshs.408,654,300 and a sub-contractor to undertake electrical, mechanical and Information Communication Technology works at a contract price of Kshs.215,551,706. However, following a Circular from The National Treasury on County Infrastructure Expenditure, that set the expenditure limit for County Assembly offices at Kshs.350,771,955, the contract for completion of the County Assembly offices was scaled down to Kshs.259,178,875 through an addendum contract agreement issued on 18 March, 2019 while the contract price for the sub-contractor was scaled down to Kshs.91,593,080. The initial contract completion date of 15 September, 2019 was also extended to 22 May, 2020. On 10 March, 2021, the main contractor requested for winding-up of the contract, which was subsequently terminated on 2 April, 2022. At the date of termination, the value of works done as per final valuation No.9 was Kshs.155,985,743.

Audit inspection of the project on 6 November, 2022, revealed that works had stalled. During the year ended 30 June, 2022, the County Assembly advertised a new tender for completion of the project works but none of the bidders were found to be responsive.

In the circumstances, the delayed completion and additional costs of the project has denied the public value for money.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

- 35.** There were no material issues raised on internal controls, risk management and governance.

COUNTY ASSEMBLY OF TANA RIVER – NO.4

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

36. Unsupported Mileage Allowances

The statement of receipts and payments reflects compensation of employees' expenditure of Kshs.349,104,551 which includes mileage allowances amounting to Kshs.21,284,138 paid to Members of the County Assembly (MCAs). However, a report from the Ministry of Transport and Public Works confirming the distance between the MCAs' homes and the County Assembly Headquarters was not provided for audit.

In the circumstances, the regularity of the expenditure amounting to Kshs.21,284,138 could not be confirmed.

37. Failure to Remit Statutory Deductions

Examination of bank statements reflects Pay-As-You-Earn and National Hospital Insurance Fund deductions amounting to Kshs.21,645,321 and Kshs.312,900, respectively, were not remitted to the relevant bodies. Further, Pay-As-You-Earn and National Hospital Insurance Fund deductions from excel payroll amounting to Kshs.645,984 and Kshs.161,850, respectively were not remitted, but reported in the financial statements as other pending payables.

Further, recurrent bank statement reflects remittances to Kenya Revenue Authority amounting to Kshs.47,483,245. However, it could not be confirmed whether the remittances were in respect of Pay-As-You-Earn deductions or penalties while payment vouchers and related documents supporting remittances amounting to Kshs.26,331,501 were not provided for audit review.

In addition, analysis of the excel payroll data indicates that some staff members were paid salaries amounting to Kshs.3,510,360 without deducting the statutory dues. This was contrary to Section 19(1) of the Employment Act, 2007 which allows an employer to deduct from employee's salary any amount as a contribution to any fund or scheme approved by the Commissioner for Labour to which the employee has agreed to contribute to. Failure to remit statutory deductions on time may result in the County Assembly incurring interests and penalties.

In the circumstances, regularity of expenditure could not be confirmed.

38. Unsupported Expenditure - Use of Goods and Services

The statement of receipts and payments, and as disclosed in Note 3 to the financial statements, reflects use of goods and services expenditure of Kshs.246,976,069. However, the following unsatisfactory matters were noted:-

38.1 Payments on Car Hire and Rent

The balance includes rental of produced assets amount of Kshs.5,463,000 out of which an amount of Kshs.3,540,000 was incurred on car hire. However, the supporting documents such as local service order, requisitions from the user department, copy of logbooks, drivers' licenses and temporary work tickets for the hired vehicles were not provided for audit.

38.2 Domestic Travel and Subsistence

Further, balance includes domestic travel and subsistence amount of Kshs.185,327,269 out of which, an amount of Kshs.25,007,800 was paid to several officers who attended workshops, trainings and other official duties outside the County. However, invitation letters, pre-travel approval, training programs, workshop attendance registers, bus tickets, work tickets or air tickets and back to office reports in support of the amount were not provided for audit.

38.3 Foreign Travel and Subsistence

In addition, balance includes foreign travel and subsistence amount of Kshs.721,600 paid to a Member of County Assembly for attending a workshop on strengthening the devolved system of governance through robust and sustainable resources mobilization that was held from 08 to 16 October, 2021 in Dubai, United Arab Emirates. However, documents supporting the amount such as invitation letter from the organizers of the training conferences, venue, programmes, purpose and responsibility of the County Assembly in terms of facilitation; letter of approval from Ministry of Devolution to travel abroad; provision of travel insurance; copies of passport showing date of entry into and exit from the foreign country; boarding passes or mode of transport from County Headquarters to the airport and back; and report and value the conference attended brought to the citizens of the County Assembly were not provided for audit.

In the circumstances, the accuracy, completeness, and regularity of the on use of goods and services amounting to Kshs.29,269,400 could not be confirmed.

39. Unsupported and Misclassified Payments for Travelling Allowances

The statement of receipts and payments reflects acquisition of assets expenditure of Kshs.273,903,977 which includes temporary imprests amounting to Kshs.4,944,000 paid as travelling allowances. However, list of staff members who were paid, reasons for travelling and back to office reports were not provided for audit. Further, the treatment of Kshs.4,944,000 as acquisition of assets was erroneous as the imprests had not been accounted for or surrendered as at 30 June, 2022. The amount should have been classified as accounts receivable-outstanding imprests in the statement of financial assets and liabilities under financial assets. Further, had the imprests been surrendered, the amount would have been recognized as expenditure under use of goods and services, not acquisition of assets.

In the circumstances, the accuracy, completeness, presentation and disclosure of the amount of Kshs.4,944,000 could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

40. Unauthorized Expenditure on Sitting Allowances

The compensation of employees' expenditure of Kshs.349,104,551 includes sitting allowances amounting to Kshs.16,787,790 paid to twenty-three (23) Members of County Assemblies (MCAs), which exceeded an amount of Kshs.15,048,000 approved by the Clerk of the Assembly, resulting in unauthorized payments of sitting allowances amounting to Kshs.1,739,790.

In the circumstances, Management was in breach of the law.

41. Excess Staff at the County Ward Offices

During the year under review, the County Assembly had a total of one hundred and fifty-two (152) Ward Offices staff against a maximum of seventy-eight (78) approved by the Commission on Revenue Allocation resulting to an excess of seventy-four (74) employees. The County Assembly incurred expenditure totalling Kshs.14,736,000 on salaries and other benefits to the excess staff. This contravened Commission on Revenue Allocation Circular No. CRA/CSO/CMG/9/VOL.V(43) of 03 August, 2020 to County Assemblies on operationalization of ward offices for members of County Assembly, which allowed each Ward to employ a maximum of three (3) staff.

In the circumstances, Management was in breach of the law.

42. Non-Compliance with the One-Third Rule on Basic Salary

Review of the Integrated Personnel Payroll Data (IPPD) system for the year ended 30 June, 2022 revealed that in the months of July, 2021 to June, 2022 the net pay for forty-eight (48) employees amounting to Kshs.1,104,031 was less than a third of their corresponding basic pay of Kshs.3,777,660 contrary to Section D22 (2) of the County Public Service Human Resource Manual, 2016 and Section 19(3) of the Employment Act, 2007.

In the circumstances, Management was in breach of the law.

43. Non-Compliance with the Law on Fiscal Responsibility - Wage Bill

The statement of receipts and payments reflects compensation of employees expenditure of Kshs.349,104,551 or approximately 39% of the total receipts of Kshs.884,949,935. Regulations 25(1)(a) and (b) of the Public Finance Management (County Government) Regulation, 2015 contrary to this recommended threshold of 35%

In the circumstances, Management was in breach of the law.

44. Irregular Payment of Subscription and Contributions

The compensation of employees expenditure of Kshs.349,104,551, as disclosed in Note 3 to the financial statements, includes other operating expenses amount of Kshs.14,897,510 out of which, an amount of Kshs.1,450,000 was paid to the Society of Clerks at the Table (SOCATT) as annual subscription.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

45. Non-Establishment of Internal Audit Committee

During the year under review, the Management operated without an audit committee to safeguard against loss through offering checks and balance as well as ensuring the presence of adequate structure of controls.

In the circumstances, the existence of an effective risk management control and governance of the County Assembly could not be confirmed.

46. Incomplete Fixed Assets Register

During the year under review, the Management did not prepare a fixed asset register in a format prescribed with minimum requirements of identification or serial number, acquisition date, description of asset, location, class, cost of acquisition, accumulated depreciation, net book value and identification codes with which assets were tagged. Further, audit inspection of County Assembly's motor vehicles revealed that a total of eight (8) vehicles of varying models and engine capacities were grounded at the car park. No explanation was provided why the motor vehicles had not been disposed off or repaired.

In the circumstances, it was not possible to confirm existence of effective internal controls to safeguard the County Assembly's assets against misuse, theft or loss.

COUNTY ASSEMBLY OF LAMU – NO.5

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

47. Inaccuracies in the Financial Statements

Analysis of the Integrated Financial Management System (IFMIS) trial balance and balances in the ledgers supporting the financial statements revealed that the two sets of documents had variances in the expenditure items as detailed below:

Account Description	Financial Statements (Kshs.)	Ledger Amount (Kshs.)	Variance (Kshs.)
Utilities & Electricity	1,141,079	1,220,779	(79,700)
Domestic Subsistence	54,337,795	54,289,180	48,615
Foreign Travel Expenses	37,216,125	38,403,768	(1,187,643)
Advertising and Printing	1,392,760	1,382,460	10,300
Training Expenses	20,914,059	22,793,040	(1,878,981)
Hospitality Examination	6,326,970	5,977,704	349,266
Office and General Supplies	2,377,500	2,400,000	(2,500)
Other Operating Expenses	2,487,915	2,490,255	(2,340)
	126,194,203	128,957,186	

In the circumstances, the accuracy and completeness of the above balances reflected in the financial statements could not be confirmed

48. Unsupported Domestic Travel and Subsistence Allowances

As disclosed in Note 3 to the financial statements, the statement of receipts and payments reflects use of goods and services amount of Kshs.155,543,398. The amounts includes domestic travel and subsistence expenditure of Kshs.54,289,180. Examination of records revealed that fifteen (15) officers of the County Assembly were each paid imprests of over Kshs.2,000,000, all totalling to Kshs.57,326,524 to attend workshops, training and other official duties outside the County. Further, four (4) officers were paid over Kshs.5,000,000 each during the year under review. However, the breakdown of these payments including their purposes were not provided for audit.

Further, a local travel Company was paid an amount of Kshs.1,654,000 for processing of travel documents and ticketing but the details of the procurement process were not provided for audit.

In the circumstances, the propriety and completeness of the domestic travel and subsistence payments amounting to Kshs.54,289,180 could not be confirmed.

49. Unsupported Payments on Staff Car Loan and Mortgage

The statement of financial assets and liabilities reflects cash and cash equivalents balance of Kshs.16,889,980 as disclosed in Note 6A to the financial statements.

Included in the balance is an amount of Kshs.13,399,995 held in a local bank in respect of County Assembly Car Loan and Mortgage Scheme. Review of documents provided revealed that the County Assembly established a Staff Car Loan and Mortgage Scheme through Gazette Notice Number 7 of 12 May, 2015 and signed a Memorandum of Understanding (MOU) with a local bank on 05 March, 2016.

The Memorandum stipulated that Management was to deposit an amount of Kshs.100,000,000 which the bank would use to issue car loans and mortgage to the eligible members of staff. Upon execution of the MOU, the County Assembly transferred an amount of Kshs.40,000,000 as the first tranche to the bank and the remaining amount of Kshs.60,000,000 was to be deposited upon utilization of the first tranche. Thereafter, the County Assembly transferred an amount of Kshs.26,600,000 from the Car Loan and Mortgage account during the 2020/2021 financial year as transport facilitation allowance (car grants) to the Members of County Assembly (MCAs). However, Management did not provide sufficient appropriate documentation to support utilization of the initial deposit of Kshs.40,000,000 transferred to the Car Loan and Mortgage Account.

In the circumstances, the accuracy and completeness of transfers of Kshs.40,000,000 to the Staff Car Loan and Mortgage Account could not be confirmed.

Other Matter

50. Budgetary Control and Performance

The statement of comparison of budget and actual amounts - recurrent and development combined reflects final receipts budget and actual on comparable basis totalling to Kshs.578,000,000 and Kshs.346,897,160 respectively resulting in an underfunding of Kshs.231,102,840 or 40% of the budgeted receipts. Similarly, the statement reflects expenditure budget and actual on comparable basis of Kshs.578,000,000 and Kshs.345,588,701 respectively resulting in budget underutilization of Kshs.238,411,299 or 40%.

The underfunding of the budget may affect implementation of planned programs and activities to the detriment of the public.

51. Project Implementation Status

During the year under review, the County Assembly had budgeted to implement ten (10) projects amounting to Kshs.160,000,000 under development budget vote. The County Assembly received receipts of Kshs.15,073,820 as the total development vote from the County Executive. However, it was noted that seven (7) out of the ten (10) projects with budgeted amount of Kshs.144,000,000 were not implemented.

In the circumstances, planned projects were not implemented due to inadequate funding and this may negatively impact on the implementation of intended projects for the benefits of the public.

52. Unresolved Prior Year Matters

In the audit of the previous year, several issues were raised under Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Controls, Risk management and Governance. However, Management had not resolved the issues as at 30 June, 2022.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

53. Irregular Payment of Subscription

The statement of receipts and payments reflects use of goods and services expenditure of Kshs.162,584,403 as disclosed in Note 3 to the financial statements. Included in the expenditure is an amount of Kshs.2,490,255 for other operating expenses out of which an expenditure of Kshs.2,250,000 was paid as subscription fees to County Assembly Forum and Society of Clerks. However, the payments lacked supporting policy guidelines by the County Assembly, thus making the payment irregular. It was further noted that out of the payment of Kshs.2,250,000, an amount of Kshs.750,000 was not supported by official acknowledgement.

In the circumstances, Management was in breach of the law.

54. Non-Compliance with the Law on Staff Ethnic Composition

The Integrated Personnel and Payroll Database (IPPD) payroll for the month of June, 2022 revealed that the dominant ethnic community in the County represented fifty-five percent (55%) of the total County Assembly employees. This is contrary to Section 7(2) of the National Cohesion and Integration Act, 2008 which stipulates that no public establishment shall have more than one third of its staff from the same ethnic community.

In the circumstances, Management was in breach of the law.

55. Failure to prepare Financial Statements

The Assembly operates a Car Loan and Mortgage Fund but it has failed to prepare and submit its financial statements for audit contrary to Section 47(1) of the Public Audit Act, 2015 requires public entities to submit their financial statements to the Auditor General three (3) months after the closure of the fiscal year.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

56. Failure to Establish an Internal Audit Function and Internal Audit

During the year under review, the County Assembly operated without an established internal audit department and did not have an appropriate arrangements for conducting internal audit.

Further, County Assembly had not constituted an Audit Committee to oversee its governance mechanisms and promote transparency and accountability in the management of its resources.

In the circumstances, it was not possible to confirm existence of effective overall Internal control mechanism and governance of the County Assembly.

57. Lack of an Updated Fixed Asset Register

Annex 2 to the financial statements for the year ended 30 June, 2022 reflects County Assembly assets totalling to Kshs.601,072,040 as at 30 June, 2022. It was noted that the County Assembly maintained a fixed assets register but assets totalling to Kshs.12,387,000 were not tagged and thus not possible to reconcile the fixed assets register against the physical assets. Further, included in the summary of assets register is the historical costs of the County Assembly chambers amounting to Kshs.250,760,696. However, the County Assembly did not disclose the cost of the land where the County Assembly is constructed, or provide ownership documents such as the title deed for the land.

In the circumstances, existence of a proper management system of assets could not be confirmed.

COUNTY ASSEMBLY OF TAITA/TAVETA – NO.6

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

58. Variance in the Transfers from County Executive to the County Assembly

The statement of receipts and payments reflects receipts from Exchequer amount of Kshs.739,183,677. However, the financial statements for the County Executive of Taita Taveta reflects transfers to the County Assembly amounting to Kshs.4,000,000, as disclosed in Note 7 to the financial statements resulting in an explained and unreconciled variance of Kshs.735,183,677 between the two sets of financial statements.

In the circumstances, the accuracy and completeness of the transfers to the County Assembly amount of Kshs.739,183,677 could not be confirmed.

59. Irregular Payment of Transport Allowance

The statement of receipts and payments reflects expenditure on compensation of employees totalling to Kshs.295,365,400, out of which an amount of Kshs.79,871,928 was incurred in respect of personal allowances paid as part of salary as disclosed in Note 4 to the financial statements. Included in the personal allowances is an amount of Kshs.28,343,778 in respect of transport allowances paid to Members of County Assembly. However, supporting documents indicating the distances between each Member of County Assembly's ward office and County Assembly Offices were not provided for audit verification.

Further, included in the transport allowances of Kshs.28,343,778 is an amount of Kshs.4,743,360 paid to ten (10) Members of County Assembly (MCA) at the rate of Kshs.39,528 per MCA per month, instead of Kshs.22,133 per MCA per month as provided in the Gazette Notice No. Vol CXIX No.89 of 07 July, 2017, resulting to irregular payment of transport allowance totalling to Kshs.2,087,400.

In the circumstances, the propriety of the expenditure on transport allowances totalling to Kshs.28,343,778 could not be confirmed.

60. Unsupported Rental of Produced Assets

As disclosed in Note 5 to the financial statements, the statement of receipts and payments reflects an amount of Kshs.331,657,737 under use of goods and services which includes expenditure on rental of produced assets amount of Kshs.3,389,200. Included in the expenditure is an amount of Kshs.756,000 in respect of six (6) Ward Offices whose lease agreements were not provided for audit verification. Further, the balance includes rent amount of Kshs.324,000 for two ward offices, against the contract sum of Kshs.144,000 provided for in the lease agreements, resulting to an overpayment of Kshs.180,000.

In the circumstances, the propriety of the expenditure on rental of produced assets amounting to Kshs.936,000 could not be confirmed.

61. Inaccurate Pending Bills Payments

The statement of receipts and payments reflects other payments which as disclosed in Note 12 to the financial statements relates to payment of pending bills of Kshs.235,052,374. However, IFMIS pending bills report showed payments of Kshs.40,969,076, resulting to a variance of Kshs.5,916,702 which was not explained or reconciled. Further, other disclosures in Note 1 and 2 reflects pending accounts payables amount paid of Kshs.37,837,614 and pending staff payables balance of Kshs.3,644,700, all totalling to Kshs.41,482,314 resulting to a variance of Kshs.6,429,940 which was not explained or reconciled.

In the circumstances, the accuracy and completeness of the expenditure on other payments on pending bills paid could not be confirmed.

62. Unsupported Acquisition of Assets

The statement of receipts and payments reflects expenditure on acquisition of assets totalling to Kshs.69,643,279 which as disclosed in Note 10 to the financial statements includes an expenditure on other domestic accounts receivables of Kshs.46,194,226 which was supported by a list of other domestic accounts payables for operating expenses which does not relate to acquisition of assets.

In the circumstances, the accuracy and completeness of the expenditure on other domestic accounts amount of Kshs.46,194,226 could not be confirmed.

63. Unsupported and Inaccurate Fixed Assets Balance

Annex 4 - Summary of Fixed Assets Register reflects historical costs balance of Kshs.183,799,278 while the Fixed Assets Register provided for audit reflects a balance of Kshs.181,140,742 resulting to unreconciled and unexplained variance of Kshs.2,658,536. Further, the ownership documents for the County Assembly Headquarters land valued at Kshs.2,000,000 were not provided for audit verification.

In the circumstances, the accuracy and completeness of the fixed assets balance of Kshs.183,799,278 could not be confirmed.

64. Unsupported Prior Year Adjustment

The statement of financial assets and liabilities reflects a prior year adjustment balance of Kshs.11,915,631, comprising bank credit adjustment of Kshs.14,355,012 and accounts receivable debit adjustment of Kshs.2,439,381 as disclosed under Note 17 to the financial statements. However, details of the adjustments have neither been disclosed in these financial statements nor journal entries provided to support the balance.

In the circumstances, the accuracy and completeness of prior year adjustment of Kshs.11,915,631 could not be confirmed.

65. Unsupported Payments for Construction

The statement of receipts and payments reflects expenditure on acquisition of assets totalling to Kshs.69,643,279, out of which amounts of Kshs.6,814,048 and Kshs.10,106,700 relate to purchase and construction of buildings, respectively as disclosed in Note 10 to the financial statements. However, the supporting payment vouchers indicated that the total expenditure of Kshs.16,920,748 was incurred on construction of an office block as a contract price of Kshs.100,694,869. However, review of records further showed that the project's initial cost was Kshs.75,634,848 with the additional cost of Kshs.25,060,048 attributed to additional works for an extra floor. However, the payment vouchers were not supported by completion certificates and bills of quantities.

In the circumstances, the accuracy and completeness of the expenditure incurred on acquisition of assets amounting to Kshs.16,920,748 could not be confirmed.

Other Matter

66. Unresolved Prior Year Issues

The report for the previous year highlighted unsatisfactory matters in relation to several balances reflected in the financial statements, and on lawfulness and effectiveness in use of public resources. Although the Management has indicated that the issues were resolved, the recommendations by the Senate Committee had not been implemented.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

67. Irregular Payments of Ex-gratia

The statement of receipts and payments reflects expenditure totalling to Kshs.331,657,787 in respect of use of goods and services. Included in the amount is an expenditure of Kshs.39,319,194 in respect of insurance costs as disclosed in Note 5 to the financial statements, out of which an amount of Kshs.7,490,000 relates to ex-gratia payments to Members of County Assembly. However, evidence of prior approval by the County Treasury or relevant authority to the Accounting Officer to pay the ex-gratia was not provided for audit verification. This is contrary to Regulation 124 of the Public Finance Management (County Governments) Regulations, 2015 which states that, 'no offer of compensation in settlement of any claim against the County Government or ex-gratia payment may be made without prior authority of the County Treasury, except where powers are available to Accounting Officer to settle such claims'. Further, the Management did not justify the charging of all the ex-gratia under insurance vote yet the item had unutilized budget of Kshs.2,418,976.

In the circumstances, Management was in breach of the law.

68. Non-Compliance with Public Procurement and Asset Disposal Regulations, 2020

During the year under review, the Management did not provide for a minimum of twenty percent (20%) budgetary allocation for preferences and reservations for resident tenderers of the county, and at least thirty percent (30%) of the County Assembly's annual procurement budget for the purposes of procuring goods, works and services from enterprises owned by youth, women and persons living with disabilities. This is contrary to Regulation 149 of the Public Procurement and Asset Disposal Regulations, 2020.

In the circumstances, Management was in breach of the law.

69. Lack of Ethnic Diversity

Examination of staff records revealed that 81% of all members of staff of the County Assembly under permanent and contract terms were from one community. This is contrary to Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 which states that all public establishments shall seek to represent the diversity of the people of Kenya in the employment of staff and no public establishment shall have more than one third of its staff from the same ethnic community.

In the circumstances, Management was in breach of the law.

70. Idle Asset - ICT Equipment

Annex 4 - summary of fixed assets reflects a balance of Kshs.11,358,002 in respect of ICT equipment cost, out of which Kshs.1,392,000 relates to the cost of integrated biometric system acquired in 2017. However, the system was not functional and had not generated any reports as at 30 June, 2022.

In the circumstances, value for money has not been realized on the ICT equipment acquired at a cost of Kshs.1,392,002.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

71. Lack of ICT Risk Framework and ICT Strategic Plan

During the year the County Assembly did not have an ICT Risk Framework to confirm or developed a risk strategy, set acceptable risk standards and undertaken risk assessment for identification, recording, analysis and designing mitigation measures.

Further, the County Assembly did not have an approved ICT Strategic Plan to confirm clarity of IT vision and mission that defines how it plans to improve services stakeholders. Lack of an approved IT Policy and Risk Management may result in

unclear direction regarding maintenance of information security across the organization and safeguarding the Assembly's ICT assets.

In the circumstances, the existence of an effective policy, strategies and procedures put in place to assess, identify, measure, prioritize and mitigate ICT risks could not be confirmed.

COUNTY ASSEMBLY OF GARISSA – NO.7

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

72. Unsupported Domestic Travel and Subsistence

The statements of receipts and payments reflects an amount of Kshs.221,952,572 in respect of use of goods and services which includes domestic travel and subsistence amount of Kshs.112,456,876. However, review of records and documents provided for audit revealed that an amount of Kshs.5,266,200 was advanced to twelve (12) officers but had not been supported with details of the number of days of travel, evidence and purpose of travel. Further, an amount of Kshs.8,345,000 paid from the salaries bank account was expensed as domestic travel without supporting documentation.

In the circumstances, the accuracy and completeness of domestic travel and subsistence allowances of Kshs.13,611,200 could not be confirmed.

73. Unaccounted Transfers to Other Government Entities

The statement of receipts and payments reflects transfers to other government entities amount of Kshs.84,000,000 as disclosed in Note 4 to the financial statements. The amount is in respect of transfers to the County Assembly's Car Loan and Mortgage Scheme Fund. However, Management has not accounted for the transfers as the Fund Administrator did not prepare and submit financial statements for audit. In addition, although Note 4 discloses the transfers as car grants, details of the grants' beneficiaries were not provided for audit.

In the circumstances, accuracy and completeness of the car grants amount of Kshs.84,000,000 could not be confirmed.

74. Understatement of Imprests and Advances

The statement of financial assets and liabilities reflects imprests and advances balance of Kshs.697,767. Review of bank reconciliations for the month of June, 2022 revealed that the operation account included payments in cashbook not in bank statement totalling to Kshs.8,099,400 which relate to payments of staff domestic travel allowances. However, the payments were expensed instead of disclosing them as outstanding imprests in the financial statements.

In the circumstances, the accuracy and completeness of the outstanding imprest and advances balance of Kshs.697,767 could not be confirmed.

Other Matter

75. Prior Years Audit Issues

Various prior year audit issues remained unresolved as at 30 June, 2022. Management has not provided reasons for the delay in resolving the prior year audit issues.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

76. Long Outstanding Imprest

The statement of financial assets and liabilities reflects imprests and advances balance of Kshs.697,767 in respect of imprest issued to a Member of the County Assembly though due had not been accounted for as at 30 June, 2022. This was in contravention of Regulation 95(5) of the Public Finance Management (County Governments) Regulations, 2015, which provides that a holder of a temporary imprest shall account or surrender the imprest within seven (7) working days after returning to duty station. Management did not provide a satisfactory explanation for the failure by the Member to account for the imprest.

In the circumstances, Management was in breach of the law.

77. Irregular Payment of Subscription Fees

The statement of receipts and payments as disclosed in Note 3 to the financial statements reflects an expenditure of Kshs.14,565,400 in respect of other operating expenses which includes an amount of Kshs.4,000,000 paid to the County Assemblies Forum and Kshs.750,000 paid as subscription fees to the Society of Clerks at the Table (SOCATT). However, the enabling legislations supporting the contribution to the Forum and the Society were not provided for audit.

In the circumstances, Management was in breach of the law.

78. Unsupported Construction of Office Block

The statements of receipts and payments reflects an amount of Kshs.43,584,817 in respect of acquisition of assets as disclosed in Note 6 to the financial statements which, includes an amount of Kshs.39,386,128 incurred on construction of an office block at Garissa County Assembly. Review of records indicate that the contract was awarded contract on 24 June, 2021 at a contract sum of Kshs.59,533,850 for a period of one year. By the end of the financial year at 30 June, 2022, an amount of Kshs.39,386,128 had been paid representing 66% of the contract sum.

However, physical verification carried out in the month of August, 2022, revealed that the contractor was on-site and work was on-going. However, the valuation certificates for the works and progress reports as required by Section (151) (2)(a)(b)(d) of the Public Procurement and Asset Disposal Act, 2015 were not provided.

In the circumstances, value for money on the resources spent on this project could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

- 79.** There were no material issues raised on internal controls, risk management and governance.

COUNTY ASSEMBLY OF WAJIR – NO.8

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

80. Unsupported Payment of Sitting Allowances

The statement of receipts and payments reflects amount of Kshs.445,756,532 in respect of compensation of employees which as disclosed in Note 2 to the financial statements includes in this amount is personal allowances paid as part of salaries amounting to Kshs.131,643,795 out of which an amount of Kshs.11,912,800 was in respect of Members of County Assembly sitting allowances for committee and plenary sittings. However, the payment vouchers were not supported with attendance registers for the plenary sittings and minutes of the committee sittings.

In the circumstances, the propriety of the expenditure could not be confirmed.

81. Use of Goods and Services

The statement of receipts and payments and as disclosed in Note 3 to the financial statements reflect use of goods and services expenditure of Kshs.365,657,970. The following observations were made:

81.1 Over Payment of Mileage Allowances

The balance includes domestic travel and subsistence allowances amounting to Kshs.188,712,657 which further includes an amount of Kshs.141,229,992 in respect of mileage allowances to Members of the County Assembly. However, comparison of the distances reflected in the mileage claims with the actual distances from Wajir to their respective wards revealed that the claims were exaggerated. Analysis of the claims based on actual distances from Wajir to the respective wards as provided by the Ministry of Transport and Infrastructure, payable to the Members amounted to Kshs.38,789,176 resulting to an over payment of Kshs.102,440,816.

81.2 Unsupported Legal Expenditure

Included in the expenditure is an amount of Kshs.38,717,497 in respect of other operating expenses out of which an amount of Kshs.34,000,000 was paid as legal fees to two local law firms. However, review of the payment documents provided for audit revealed that a payment of Kshs.3,000,000 paid to one of the law firms was not supported by fee notes. Further, one of the legal firms that was paid a total of Kshs.15,000,000 was single sourced as there was no evidence of competitive bidding from the list of prequalified legal firms. This was in contravention of Section 91(1) of the Public Procurement and Asset Disposal Act, 2015 which states that open tendering shall be the preferred procurement method for procurement of goods, works and services.

81.3 Cash Reimbursements - Hospitality Supplies and Services

The expenditure includes an amount of Kshs.33,136,061 in respect of hospitality supplies and services. Review of payment records revealed that some of the goods and services for office operations were purchased in cash by officers who later sought reimbursement of the amount spent. From a sample of documents examined, cash reimbursements to officers amounted to Kshs.6,180,000. Management did not explain how the officers financed the operations of the County Assembly using their own resources.

81.4 Wrongly - Charged Account

Review of the expenditure of IFMIS vote book and payment details revealed that expenditure totalling to Kshs.119,268,634 was charged under cash vote code 6580101 in IFMIS instead of the respective votes budgeted for. This could have arisen from utilization of funds that were meant to settle specific invoices being applied on unbudgeted and unauthorized expenditures leading to accumulation of pending bills.

In the circumstances, the propriety of the expenditure of Kshs.365,657,970 in respect of goods and services expenditure could not be confirmed.

82. Payments Made Outside Integrated Financial Management Information System (IFMIS)

During the year under review, an amount of Kshs.15,782,359 was transferred from the recurrent account held at Central Bank of Kenya to the standing imprest account. Payments from this account totalling to Kshs.15,037,516 were made to finance normal operations including domestic travel and subsistence allowance but payments were not processed through IFMIS.

In the circumstances, the regularity and completeness of payments amounting to Kshs.15,037,516 could not be confirmed.

83. Pending Bills

Annex 1 to the financial statements reflects pending accounts payable balance of Kshs.74,769,497 for which creditors ledger, projects files and supplier invoices were not provided for audit review. Further, detailed information including name of the supplier, date contracted and movement of the balances during the year were not disclosed in the financial statements. In addition, the IFMIS pending bills report reflects pending bills balance of Kshs.156,690,026 while the financial statements under Annex 1 reflects an amount of Kshs.74,769,497 resulting to a variance of Kshs.81,920,529 which was not been explained or reconciled.

In the circumstances, the completeness and existence of the pending bills balance of Kshs.74,769,497 could not be confirmed.

Other Matter

84. Budgetary Control and Performance

The statement of comparison of budget and actual amounts – development reflects final receipts budget and actual on comparable basis of Kshs.40,000,000 and Nil amount respectively resulting to an underfunding of 100% of the budget.

The underfunding affected planned development activities and may have impacted negatively on service delivery to the public.

85. Prior Years Audit Issues

During previous financial years, various audit issues were raised by the Auditor-General. The reports were discussed by County Public Accounts and Investment Committee of the Senate and recommendations made. However, the Management did not provide evidence of any efforts made to implement the recommendations and resolve the issues. Further, no report was provided by the Management indicating how it has addressed the audit recommendations and findings of the previous years' audits and the issues remain unresolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

86. Compensation of Employees

86.1 Non-Compliance with Staffing Level Ceiling

Review of the County Assembly payroll for the month of June, 2022 indicated the County Assembly had a total of one hundred and ninety-four (194) employees. The Commission on Revenue Allocation recommendation through Circular No. CRA/FA/01 VOL 11 (22) dated 28 June, 2018 on County Government Recurrent Expenditure ceilings addressed to County Governors and Speakers of County Assemblies, capped the maximum number of employees of County Assemblies under group 2 under which County Assembly of Wajir falls, at one hundred (100). This implies that The County Assembly exceeded the maximum number of employees by ninety-four (94). Further, the County Assembly did not maintain a comprehensive approved staff establishment that indicates the optimal number of staffs for each category, the number in post and the variance.

86.2 Manual Processing of Personnel Emoluments

Review of the County Assembly's payroll revealed that the Assembly maintained two sets of payrolls. One payroll in the Integrated Personnel and Payroll Database (IPPD) with a total of 234 employees and Members of County Assembly (MCAs) while the other was in Excel spreadsheet with a total of four (4) employees, three (3) Members of County Assembly and one (1) Board member, contrary to Section 1.5.1 of the

Financial Accounting Recording and Reporting manual which requires each County Government Department to populate the Integrated Personnel and Payroll Database (IPPD) with the data and information on each of its employee and issue each one of them with a unique payroll number from the system upon appointment.

86.3 Non-compliance with Law on Fiscal Responsibilities – Wage Bill

The statement of receipts and payments reflects compensation of employees amount of Kshs.445,756,532. This represents 53% of the total receipts for the year under review of Kshs.843,071,694. This is contrary to Regulation 25(1) and (b) of the Public Finance Management (County Governments) Regulations, 2015 which provides that (a) the County Executive Committee Member with the approval of the County Assembly shall set a limit on the County Government's expenditure on wages and benefits for its public officers pursuant to Section 107(2) of the Act. (b) the limit set under paragraph (a) above, shall not exceed thirty-five (35) percent of the County Executive's total revenue.

In the circumstances, Management was in breach of the law.

87. Irregular Payment of Subscription Fees

The statement of receipts and payments as disclosed in Note 3 to the financial statement reflects other operating expenses amount of Kshs.38,717,497, which includes an amount of Kshs.750,000 paid as subscription fees to Society of Clerks-at-the Table (SOCATT). The organisation is not anchored in law and therefore payments made to the organisation cannot be considered as proper charge to public funds.

In the circumstances, Management was in breach of the law.

88. Lack of Training Policy

The statement of receipts and payments reflects use of goods and services amounting to Kshs.365,657,970. Included in the expenditure is an amount of Kshs.18,598,196 in respect of training expenses. However, the County Assembly did not have a training policy in place and training needs assessment was not done before the trainings.

In the circumstances, value for money for the payments amounting to Kshs.18,598,196 could not be confirmed.

89. Failure to Prepare Annual Report

The County Assembly Service Board as established by Section 12 of the County Governments Act, 2012 is required by Section 36(1) of the County Assembly Services Act, 2017 to prepare an annual report of the operations of the Board. It was, however, noted that the Board did not prepare an annual report of the Board's operations.

In the circumstances, the Board was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

90. Non-Functional Internal Audit Function

Review of the operations of the Internal Audit Department revealed that the County Assembly had an internal audit unit in place. However, during the year under review, the Department did not prepare any report and annual plan. This was contrary to provisions of Regulation 155(2)(a) of the Public Finance Management (County Governments) Regulations, 2015, which provides that an Accounting Officer shall ensure that the organizational structure of the internal audit unit facilitates the entity to accomplish its internal audit responsibilities.

In the circumstances, the existence of an effective internal control mechanism could not be confirmed.

91. Failure to Establish an Audit Committee

As previously reported, the County Assembly did not establish an audit committee contrary to Regulation 167(1) of the Public Finance Management (County Governments) Regulations, 2015 which requires every County Government entity to establish an Audit Committee in accordance with prescribed regulations to monitor the entity's accountability processes and control systems, and offer objective advice on issues concerning risk, control, regulatory requirements and governance of the County.

In the circumstances, the existence of effective overall governance in the County Assembly could not be confirmed.

92. Lack of Risk Management Policy

Review of records and interviews with Management revealed that the County Assembly did not establish risk management systems. In addition, an effective reporting system that entailed hotlines, reporting centres and whistle blower facilities had not been established to support accountable and effective management of the financial and other managerial operations of the County Assembly.

In the circumstances, Management may not identify and effectively respond to risks in order to minimize or prevent their impact.

93. Information Technology (IT) Internal Controls Weaknesses

During the year under review, Management did not establish Information Technology (IT) strategy and IT steering committees, IT policy, disaster management and recovery policies and business continuity plan and IT continuity plan to ensure smooth running of its operations.

In the circumstances, the existence of an effective policy under the sustain continuity of the operations could not be confirmed.

94. Summary of Fixed Assets

Annex 4 to the financial statements on summary of fixed assets reflects a balance of Kshs.84,865,921 in respect of assets owned by the County Assembly as at 30 June, 2022. However, the asset register provided for audit review did not include the land and buildings occupied by the County Assembly that was inherited from the defunct Wajir County Council. Further, physical verification revealed that office chairs which were acquired at a cost of Kshs.2,700,000 during the year under review were not tagged or coded for ease of identification and tracking as required by Regulation 132(1) of the Public Finance Management (County Governments) Regulations, 2015.

In the circumstances, existence of effective internal controls on assets could not be confirmed.

COUNTY ASSEMBLY OF MANDERA – NO.9

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

95. Compensation of Employees

The statement of receipts and payments reflects compensation of employees expenditure balance of Kshs.476,006,797, which as disclosed in Note 2 to the financial statements, includes personal allowances paid as part of salary amount of Kshs.279,379,360 out of which an amount of Kshs.100,000,000 was transferred to Mandera County Assembly Car Loan and Mortgage Scheme on 31 August, 2021 but was not captured in the Scheme's financial statements.

Further, the amount was subsequently paid to the Members of County Assembly (MCAs) and the Speaker of the County Assembly as car grants. However, examination of payment vouchers and bank payment schedule for car grants revealed that the Speaker was paid an amount of Kshs.4,000,000, contrary to the Directive of the Council of Governors Reference Number COG/6/1/1A Vol.2 (63) dated 10 February, 2021, which recommends a car grant of Kshs.2,000,000 for the speaker of a County Assembly.

In addition, the car grants were transferred to the beneficiaries without deducting income tax amounting to Kshs.30,000,000 through Pay As You Earn (PAYE) and remitting the same to the Kenya Revenue Authority (KRA) as required by Section 37(1) of the Income Tax Act. Thereafter, the County Assembly entered into an agreement with the beneficiaries to deduct the taxes from their monthly emoluments during their remaining elective period but KRA charged the Assembly interests and penalties amounting to Kshs.3,371,940 due to late remittance of the income tax.

In the circumstances, the propriety of the expenditure of Kshs.3,371,940 could not be confirmed.

96. Use of Goods and Services

The statement of receipts and payments, and as disclosed in Note 3 to the financial statements, reflects use of goods and services expenditure of Kshs.290,105,150. However, audit of this amount revealed that the balance includes foreign travel and subsistence amount of Kshs.22,000,000 out of which an amount of Kshs.6,841,432 was paid as imprests to members of staff to cater for foreign travel costs while attending a training in Turkey. The training took place between 16 and 23 August, 2022. Subsequently, the imprests were surrendered in the financial year ending on 30 June, 2023. The treatment of the outstanding imprests of Kshs.6,841,432 as expenditure for the year under review was contrary to the prescribed financial reporting template provided by the Public Sector Accounting Standards Board, which requires imprests not yet surrendered or accounted for as at the close of the financial

year to be reflected under financial assets in the statement of financial assets and liabilities.

Further, the balance includes domestic travel and subsistence allowances amount of Kshs.64,889,045 out of which an amount of Kshs.1,986,750 was in respect of security allowances paid to police officers guarding the County Assembly premises. However, the agreement between the National Police Service and the County Assembly providing the basis for the rates used for payment of the allowances was not provided for audit.

In the circumstances, the propriety and completeness of the expenditure of Kshs.23,986,750 could not be confirmed.

Other Matter

97. Budgetary Control and Performance

The statement of comparison of budget and actual amounts: recurrent and development reflects actual total budgeted receipts amounting to Kshs.1,083,301,739 and actual receipts of Kshs.849,173,172, resulting to a shortfall of Kshs.234,128,567 or 22% of the budget. Similarly, the County Assembly spent Kshs.849,171,848 against an approved budget of Kshs.1,083,301,739, resulting in an under-expenditure of Kshs.234,129,891 or 22% of the budget.

Further, no explanations were provided in the footnotes for material deviation between the budget and actual performance contrary to the prescribed reporting template, which requires underutilizations of more than 10% to be explained.

The underfunding and under-expenditure may affect and delay planned projects and activities, hence impacting negatively on performance of the County Assembly.

98. Unresolved Prior Year Matters

In the audit report for the previous year, several issues were raised under report on the financial statements and report on Lawfulness and Effectiveness in Use of Public Resources. However, Management had not resolved the issues as at 30 June, 2022 and no satisfactory reasons were given for the delay in solving the prior year's matters.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

Basis for Conclusion

99. Irregular on Subscription Fees

The statement of receipts and payments reflects use of goods and services expenditure of Kshs.290,105,150 which, as disclosed in Note 3 to the financial statements, includes other operating expenses amounting to Kshs.41,934,295 out of which, an amount of Kshs.5,200,000 was paid to the County Assembly Forum (CAF)

and Society of Clerks-At-The-Table in Kenya (SOCATT(K)) as subscription fees. However, the payment was not supported by any law or policy guidelines.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

- 100.** There were no material issues raised on internal controls, risk management and governance.

COUNTY ASSEMBLY OF MARSABIT – NO.10

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

101. Inaccuracies in Cash and Cash Equivalents

The statement of financial assets and liabilities and as disclosed in Note 13 to the financial statements reflects cash and cash equivalents balance of Kshs.2,668 which includes Nil balance in respect to a commercial bank account as at 30 June, 2022. However, review of the bank reconciliation statements for the same account reflects unpresented cheques totalling to Kshs.17,856,000 in respect of payments dating back to the closure of the previous financial year and which became stale in the course of the financial year under review. Similarly, new cheques replacing the stale ones were issued, but had not been cleared as at 30 June, 2022.

Although Management explained that they were gratuity expenses awaiting the approval of the County Public Service Board, no evidence was provided to demonstrate measures the County Assembly is taking to have the Board approve the payments.

In the circumstances, the accuracy and completeness of the cash and cash equivalents balance of Kshs.2,668 could not be confirmed.

102. Unsupported Domestic Travel and Subsistence Allowances

The statement of receipts and payments and as disclosed in Note 5 to the financial statements reflects an amount of Kshs.462,008,720 in respect to use of goods and services which includes an amount of Kshs.86,257,475 in respect of domestic travel and subsistence. The expenditure includes an amount of Kshs.8,812,300 paid as domestic travel and subsistence for various activities. However, supporting documents such as daily workshop attendance registers, trainings and retreats attended, motor vehicle work tickets or other documentary evidence to support the officer's mode of travel, back to office reports, hotel bookings and confirmation for the facilities where the workshops and seminars were held were not provided for audit.

In the circumstances, the accuracy and completeness of the expenditure of Kshs.8,812,300 could not be confirmed.

103. Unsupported Expenditure on Hospitality Supplies and Services

As disclosed in Note 5 to the financial statements, the statement of receipts and amounting to payments reflects use of goods and services expenditure of Kshs.462,008,720 which includes an amount of Kshs.47,674,469 in respect of hospitality, supplies and services. The balance includes an amount of Kshs.3,888,000 paid to County Assembly Public Service Board members. However, supporting documents such as the minutes of the meetings, signed attendance registers and activity work plans were not provided for audit.

Further, the ledger reflected an amount of Kshs.47,164,469 in respect of hospitality, supplies and services resulting to an unexplained and unreconciled variance of Kshs.510,000.

In the circumstances, the accuracy and completeness of the expenditure could not be confirmed.

104. Unaccounted for Fuel, Oil and Lubricants

The statement of receipts and payment and as disclosed in Note 5 to the financial statements reflects an expenditure of Kshs.462,008,720 in respect of use of goods and services which further includes an amount of Kshs10,000,000 paid for fuel, oil and lubricants out of which a total of Kshs.3,500,000 was paid to a supplier for the supply of fuel, oil and lubricants. However, the expenditure was not supported with customer statements and duplicate copies of the detail orders issued by the County Assembly for drawing fuel.

In the circumstances, the propriety of the expenditure could not be confirmed.

Other Matter

105. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects a final receipts budget of Kshs.1,072,935,867 and an actual receipts of Kshs.778,533,892 respectively, resulting to an under-funding of Kshs.294,401,975 or 27% of the budget. Similarly, the County Assembly spent an amount of Kshs.778,531,223 against an approved budget of Kshs.1,072,935,867 resulting to an under-expenditure of Kshs.294,404,644 or 27% of the budget.

The under-funding and under-performance affected the planned activities and may have impacted negatively on service delivery to the public.

106. Unresolved Prior Year Audit Matters

The audit report for the previous year highlighted several issues in respect of the financial statements, lawfulness, and effectiveness in use of public resources. Although the Management has indicated that the issues have been responded to, the matters have remained unresolved as the Senate has not met to deliberate on the same.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

107. Non-Submission of Financial Statements

The statement of receipts and payments and Note 12 to the financial statements reflect an amount of Kshs.44,162,996 in respect to other payments. The amount relates to

funds transferred to Staff Car Loan and Mortgage Fund. Review of records revealed that the County Assembly through the Marsabit County Legislative Supplement No. 1 of 13 January, 2019 established the Marsabit County Assembly Staff Car Loan and Mortgage Scheme Fund. However, Management did not prepare financial statements for the year ended 30 June, 2022 as required by Section 167(1) of the Public Financial Management Act, 2012 which states that the administrator of a County Public Fund established by the Constitution, an Act of Parliament or county legislation shall prepare financial statements for the Fund for each financial year in a form prescribed by the Accounting Standards Board.

In the circumstances, Management was in breach of the law.

108. Failure to Construct Speaker's Official Residence

The statement of receipts and payments and Note 5 to the financial statements reflects use of goods and services expenditure of Kshs.462,008,720 which includes an amount of Kshs.12,200,000 in respect to rental of produced assets. The balance includes an amount of Kshs.900,000 being payments to the County Assembly Speaker as housing benefit. Although the County Assembly budgeted to acquire land for the construction of the official residence for the Speaker during the year under review, Management had not acquired the residence. Further, the Salaries and Remuneration Commission circular Ref. No. SRC/TS/CGOVT/3/61 dated 24 October, 2016 had provided the guidelines on prioritization of funds for construction of speaker's official residence in the 2018/2019 budget cycle and in any case not later than 30 June, 2022.

In addition, the County Assembly was supposed to provide a status report on the implementation of the SRC guideline on construction of official residence of the Speaker within an interval period of six months so as to enable the Commission assess compliance with the guidelines and provide any interventions required. No evidence was provided to confirm that such reports were submitted to the Salaries and Remunerations Commission.

In the circumstances, Management was in breach of the law.

109. Irregular Payment of Special House Allowance

As disclosed in Note 4 to the financial statements, the statements of receipts and payments reflects an amount of Kshs.204,454,198 in respect to compensation of employees. The balance includes an amount of Kshs.604,200 paid as special house allowance to thirteen (13) employees. This was contrary to the terms and conditions of service as determined by SRC through Circular Ref. No SRC/ADM/1/13 Vol. III (126) of 10 December, 2014 that did not permit the payment of the special house allowance.

In the circumstances, Management was in breach of the law.

110. Unconfirmed Contributions to Staff Pensions Scheme

As disclosed in Note 9 to the financial statements, the statement of receipts and Payments reflects an amount of Kshs.32,417,163 in respect of social security benefits. The balance includes an amount of Kshs.6,550,000 being employer contribution National Social Security Schemes out of which gratuity payments of Kshs.2,958,855

paid to Local Trust Provident Fund was not supported by acknowledgement receipts from the payee. This was contrary to Regulation 104(1) of the Public Finance Management (County Governments) Regulation, 2015 which provides that payments voucher of public moneys shall be properly supported with appropriate authority and documentation.

In the circumstances, Management was in breach of the law.

111. Irregular Commitments of Local Service Orders

As disclosed in Note 5 to the financial statements, the statement of receipts and payments reflects an amount of Kshs.462,008,720 in respect of use of goods and services out of which an amount of Kshs.46,321,371 relates to printing, advertising and information supplies and services. The balance includes an expenditure of Kshs.3,960,000 for supply of services through the Local Service Orders (LSOs) which was committed in the vote books on 3 June, 2022 contrary to Regulation 50(1) of the Public Finance Management Regulations, 2015 which states that all commitments for supply of goods or services shall be done not later than the 31 May each year except with the express approval of the accounting officer in writing.

In the circumstances, Management was in breach of the law.

112. Delayed Construction of County Assembly Chambers

As disclosed in Note 10 to the financial statements, the statement of receipts and payments reflects an amount of Kshs.34,738,145 in respect of acquisition of assets. The balance includes payment certificate number 8 of Kshs.19,371,467 in respect of the construction of County Assembly Chambers. Review of records revealed that the County Assembly awarded the tender to a firm at a contract sum of Kshs.344,205,660 for a period of seventy (70) weeks and the Chamber was to be completed by 28 August, 2019. However, as previously reported, the project was still in progress by October, 2022, three (3) years past the completion date.

In the circumstances, the County Assembly did not realize value for money due to delays in completion of the project.

113. Lack of Assets Control Mechanisms

Annex 4 to the financial statements reflects a balance of Kshs.509,544,649 in respect to total historical costs carried forward for the non-current assets. However, no evidence was provided, to confirm that the County Assembly has established policies and procedures on assets management as required by Regulation, 132. (1) of the Public Finance Management (County Governments) Regulation, 2015 which states that the accounting officer of a county government entity shall take full responsibility and ensure that proper control systems exist for assets.

In the circumstances, Management was in breach of the law.

114. Irregular Payment of Subscriptions

As disclosed in Note 8 to the financial statements, the statement of receipts and payments reflects other grants and transfers amount of Kshs.750,000 paid as membership fees, dues and subscriptions to the Society of Clerks at The Table (SOCATT). However, review of records revealed that the body does not draw its mandate from the Constitution of Kenya or any Act of Parliament.

Further, the final approved budget for the year 2021-2022 did not make a provision for the payment of the subscriptions.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

115. Staff Payment Outside Integrated Payroll and Personnel Database (IPPD)

The statement of receipts and payments reflects an amount of Kshs.204,454,199 in respect of compensation of employees. This includes an amount of Kshs.445,329 processed outside the Integrated Payroll and Personnel Database (IPPD) during the year and paid to thirteen (13) staff members. It was not explained why Management did not pay all its employees using the IPPD.

In the circumstances, effectiveness of internal controls around the payroll could not be confirmed.

116. Lack of Risk Management Policy and Disaster Recovery Plan

During the year under review, the County Assembly did not have an approved Risk Management Policy and a Disaster Recovery Plan. It was, further, noted that Management did not carry out a risk assessment during the year under review and develops risk management strategies, a system of risk management and internal control that builds robust business operations.

In the circumstances, effectiveness of mechanisms to identify and respond to risk in order to minimize or prevent their impact could not be confirmed.

COUNTY ASSEMBLY OF ISIOLO – NO.11

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

117. Summary of Fixed Assets

Annex 4 to the financial statements reflects an amount of Kshs.516,270,846 in respect to summary of fixed assets. However, as reported in the previous year, the fixed asset register has not been updated since 2018. Although the County Assembly acquired assets during the financial year under review totalling to Kshs.1,983,960, the details of the assets have not been recorded in the asset register.

Further, the fixed assets register reflected assets totalling to Kshs.101,595,202 which differ from the financial statements balance of Kshs.516,270,846, resulting to unexplained variance of Kshs.414,675,644.

In the circumstances, the accuracy and completeness of the fixed assets amounting to Kshs.516,270,846 could not be confirmed.

Other Matter

118. Unresolved Prior Year Matters

The audit report for the previous year highlighted several issues on Report on the Financial Statements and Report on Lawfulness, and Effectiveness in Use of Public Resources. Management has not resolved the issues nor disclosed the prior year matter as required by the Public Sector Accounting Standards Board reporting template.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

119. Lack of a Procurement Plan

As reported in the previous year, the County Assembly did not have an approved procurement plan. This is contrary to Section 45(3)(a) of the Public Procurement and Asset Disposal Act, 2015 which states that all procurement processes shall be within the approved budget of the procuring entity and shall be planned by the procuring entity concerned through an annual procurement plan.

In the circumstances, Management was in breach of the law.

120. Lack of a Public Finance Management Standing Committee

As reported in the previous year, the Assembly did not have the Public Finance Management Committee (Standing Committee). This is contrary to Section 18(1) of

the Public Finance Management (County Governments) Regulations, 2015, which stipulates that there shall be established in every County Government entity a Public Finance Management Standing Committee to provide strategic guidance to the entity on Public Finance Management matters.

In the circumstances, Management was in breach of the law.

121. Failure to Prepare and Publish Quarterly Financial Reports

As reported in the previous year, the County Assembly did not prepare, publish and publicize quarterly financial reports as required by Section 166(1) of the Public Finance Management Act, 2012 which states that an Accounting Officer for a County Government entity shall prepare a report for each quarter of the financial year in respect of the entity. Further, Section 166(4)(c) states that not later than one month after the end of each quarter, the County Treasury shall publish and publicize the reports.

In the circumstances, Management was in breach of the law.

122. Irregular Procurement of Motor Vehicle Repair Services

The statement of receipts and payments reflects an amount of Kshs.132,904,916 in respect to use of goods and services as disclosed in Note 3 to the financial statements which includes an amount of Kshs.463,316 paid to a firm for servicing of a motor vehicles. However, documentary evidence of requisition for the repair services from the user department were not provided for audit review contrary to Regulation 71(1) of the Public Procurement Regulations, 2020 which requires the user department to initiate the procurement process.

Further, pre-inspection report to determine the defects of the vehicle and post inspection report on the repaired motor vehicle was also not provided for audit.

In addition, there was no evidence that the service provider was sourced competitively contrary to Regulation 112(2) of the Public Procurement and Asset Disposal Regulations, 2020 which requires the head of the procurement function to prepare a request for quotation or proposal or tender to source and identify the service providers competitively.

In the circumstances, Management was in breach of the law.

123. Irregular Payment of Subscriptions and Contributions

The statement of receipts and payments and Note 3 to the financial statements reflects Kshs.132,904,916 which includes Kshs.1,750,000 in respect to other operating expenses which further includes Kshs.750,000 paid to the Society of Clerks at The Table (SOCATT).

However, review of SOCATT operations reveal that this body do not draw their mandate from the Constitution of Kenya or an Act of Parliament. In addition, the final approved budget for the period 2021-2022 did not have a provision for the payment of these subscriptions. Therefore, payments to this institution was not based on any law

contrary to Regulation 105(1) of the Public Finance Management (County Governments) Regulations, 2015 which requires that an Accounting Officer may authorize payments provided such expenditure is in respect of and within the provision of the services in a County Treasury Warrant and in accordance with the law and regulations.

In the circumstances, the propriety of the amount of Kshs.750,000 could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

124. Lack of a Functional Audit Committee

Review of records provided for audit revealed that the County Assembly had an Audit Committee which was appointed on 19 October, 2020 as evidenced by the appointment letters presented. However, the Committee did not hold quarterly meetings and did not publish an annual report on the review of the effectiveness, independence, performance, and competence of the Internal Audit Unit.

In the circumstances, the effectiveness of the Audit Committee in discharging its mandate could not be ascertained.

125. Ineffective Internal Audit Unit

Review of the County Assembly's internal audit function revealed that it was not adequately staffed and lacked requisite tools such as audit system and analytical techniques to effectively deliver on its mandate to ensure that the organizational structure of the internal audit facilitates the entity to accomplish its internal audit responsibilities.

Further, although the Internal Audit Unit had developed a work plan for the financial year under review, there was no evidence of approval by the Audit Committee. There was no evidence of trainings/seminars for the internal audit staff or the internal audit committee in the year under review.

In the circumstances, the effectiveness of the Internal Audit Unit to provide an independent appraisal of the County Assembly's operations, internal controls and risk management could not be confirmed.

COUNTY ASSEMBLY OF MERU – NO.12

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

126. Variances in the Financial Statements

An analysis of the statement of comparison of the statement of receipts and payments and statement of comparison of budget and actual amounts indicates the following unreconciled variances and no reconciliation has been provided for review.

Item	Statement of Receipts & Payments (Kshs.)	Statement of Comparison of Budget & Actual Amounts (Kshs.)	Variance (Kshs.)
Exchequer Releases	961,074,283	115,586,086	845,488,197
Compensation of Employees	468,005,132	27,363,307	440,641,825
Use of Goods and Services	490,245,086	4,073	490,241,013
Transfer to Other Government Entities	248,245	20,222,771	(19,974,526)
Acquisition of Assets	2,820,000	68,000,000	(65,180,000)

In absence of any reconciliation, the accuracy and completeness of the financial statements could not be confirmed.

127. Variances in Expenditure on Staff Medical Insurance Cover

The statement of receipts and payments and as disclosed in Note 5 to the financial statements reflects an expenditure of Kshs.490,245,086 in respect of use of goods and services which includes an amount of Kshs.37,583,976 in respect of insurance costs. Included in the expenditure is an amount of Kshs.32,811,711 paid to an insurance firm in respect of insurance cover for staff. However, the Integrated Financial Management Information System (IFMIS) records reflects an amount of Kshs.33,435,206 resulting to an unreconciled and unexplained variance of Kshs.623,495.

Further, the list of the beneficiaries of the scheme detailing their job groups, the personal identification numbers and schedule from the insurer and the premium rate for each job group were not provided for audit while the original bid documents submitted by the bidders tender opening and evaluation minutes were not provided for audit.

In the circumstances, the accuracy, regularity and completeness of the expenditure amounting to Kshs.32,811,711 could not be confirmed.

128. Unsupported Expenditure - Use of Goods and Services

The statement of receipts and payments reflects an amount of Kshs.490,245,086 in respect of use of goods and services which, as disclosed in Note 5 to the financial statements which includes domestic travel and subsistence expenditure balance of Kshs.207,168,086. Included in the balance is an expenditure of Kshs.801,200 paid as facilitation fee to Sectoral Committee on Gender, Children and Community services to prepare the Committees work plan for the final half of the financial year 2021/2022. However, the supporting documents including the work tickets and signed payment schedule were not provided for audit.

Further, Management paid domestic travel and subsistence allowance amounting to Kshs.6,344,900 to staff and Members County Assembly (MCA's) while outside the precincts of the duty station to participate in various Committee meetings but the expenditure was not supported.

In addition, Management paid domestic travel and subsistence amounting to Kshs.3,714,900 as facilitation fee to staff for training in Nairobi. However, the expenditure was not supported with relevant documents including list of facilitators, their qualifications, how they were sourced and copies of the certificates of participation. The training took place in a Nairobi Hotel with all members who attended coming from Meru County Assembly contrary to The National Treasury Circular No. 20/2015 of 4 November, 2015 which states, that Accounting Officer shall ensure that all workshops and retreats with majority of participants drawn from one duty station are held within the precincts of the duty station.

The balance also includes an amount of Kshs.2,269,800 on routine maintenance - vehicles and other transport equipment, out of which an amount of Kshs.1,625,021 paid to various suppliers for repair of motor vehicles. However, review of supporting documents revealed that the pre and post inspection reports, mechanical defect report, work tickets and job cards for the services rendered to the motor vehicles were not provided for audit. However, the expenditure was not supported by appointment letters of the tender opening and evaluation committee, opening committee minutes, evaluation committee minutes, professional opinion, notification of award and inspection and acceptance committee as outlined in the Public Procurement and Asset Disposal Act, 2015.

In the circumstances, the accuracy, completeness and regularity of the expenditure on use of goods and services amounting to Kshs.14,755,812 could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

129. Non-Compliance with Law on Ethnic Composition

The statement of receipts and payments reflects an amount of Kshs.468,005,132 in respect of compensation of employees as disclosed in Note 4 to the financial

statements. Review of the staff establishment provided revealed that the County Assembly had a staff establishment of eighty-eight (88) staff out of which eighty-three (83) or 94% are from the dominant ethnic community in the County. This is contrary to Section 7(2) of the National Cohesion Integration Act, 2008. This law provides that no public establishment shall have more than one third of its staff from the same ethnic community.

In the circumstances, Management was in breach of the law.

130. Non-compliance with Fiscal Responsibility Principle on Wages and Benefits

During the year under review, the County Assembly spent an amount of Kshs.468,005,132 in respect of compensation of employees which is 49% of total revenue received in the year amounting to Kshs.961,074,283. This is contrary to Regulation 25(1)(a) & (b) of the Public Finance Management (County Governments) Regulations, 2015 which states that the County Executive Committee Member with the approval of the County Assembly shall set a limit on the County Government's expenditure on wages and benefits for its public officers pursuant to Section 107(2) of the Act, and the limit set under paragraph (a) above, shall not exceed 35% of the County Government's total revenue.

In the circumstances, Management was in breach of the law.

131. Irregular Committee Meetings

The statement of receipts and payments reflects an amount of Kshs.490,245,086 in respect of use of goods and services, which includes an amount of Kshs.26,999,994 on hospitality supplies and services and as disclosed in Note 5 to the financial statements. Included in the balance is an amount of Kshs.3,660,600 paid to staff and Members of County Assembly who participated in various Committee meetings outside the precincts of the duty station contrary to The National Treasury Circular Ref No 20/2015 of 4 November, 2015, which states that the all workshops and retreats with majority participants to be held within the precincts of the duty station.

In the circumstances, Management was in breach of the law.

132. Irregular Payment of Annual Subscriptions

The statement of receipts and payments and as disclosed in Note 5 to the financial statements reflects an amount of Kshs.490,245,086 in respect of use of goods and services which include Kshs.70,204,431 on other operating expenses. Included is an expenditure of Kshs.2,700,000 paid to County Assemblies Forum. However, the subscriptions were not supported by any law as a proper charge to public funds.

In the circumstances, Management was in breach of the law.

133. Use of a Manual Payroll

The statement of receipts and payments reflects an amount of Kshs.468,005,132 in respect of compensation of employees as disclosed in Note 4 to the financial statements. Review of records revealed that the County Assembly operated two payroll systems namely the manual payroll and the Integrated Payroll and Personnel Database (IPPD). The balance includes allowances totalling to Kshs.47,050,270 paid manually comprising of Kshs.3,913,505 and Kshs.43,136,765 paid to County Assembly staff and ward office employees respectively. There was no justification why the Management did not pay all its employees using the IPPD contrary to Section 6.7.6 of the County Financial Accounting and Reporting Manual which requires all payments for personal services should be paid through the payroll system.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE.

Basis of Conclusion

134. Failure to Establish Staff Advisory Committee

During the year under review, the Management had not established the Management Committee and Staff Advisory Committee to be responsible for advising the Board on matters relating to staff.

In the circumstances, the advisory required by the Board on matters relating to staff could not be confirmed.

135. Lack of Fuel Register

The statement of receipts and payments and as disclosed in Note 5 to the financial statements reflects an amount of Kshs.490,245,086 in respect to use of goods and services which include an amount of Kshs.2,000,000 on fuel, oil and lubricants. Included is an amount of Kshs.1,101,417 paid to a firm for supply of fuel.

However, Management did not maintain a fuel register showing registration number of motor vehicle that consumed fuel, volume of fuel consumed and the balance at a given period of time.

In addition, it was noted the County Assembly vehicles consumed fuel through fuel cards. However, the transport department had not set the limit of consumption on each card and that the drivers were at liberty to fuel the motor vehicles without control, which may lead to misuse of the facility.

In the circumstances, the effectiveness of internal controls on fuel could not be ascertained.

136. Incomplete Stores Records

The statement of receipts and payments and as disclosed in Note 5 to the financial statements reflects an amount of Kshs.490,245,086 in respect to use of goods and services which includes an amount of Kshs.7,428,000 on office and general supplies and services which further includes a balance of Kshs.292,862 paid for supply of CCTV materials and labor.

Review of the documents provided for audit revealed that the materials were delivered and received on 30 June, 2022. However, the materials were not taken on charge to the store's ledger.

In the circumstances, it has not been possible to confirm the existence of effective internal controls on recording and assurance of inventory.

COUNTY ASSEMBLY OF THARAKA-NITHI – NO.13

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

137. Irregular Expenditure on Domestic Travel and Subsistence Allowance

The statement of receipts and payments reflects use of goods and services amount of Kshs.178,976,966 which, as disclosed in Note 4 to the financial statements includes domestic travel and subsistence allowance amount of Kshs.94,216,200 out of which an amount of Kshs.250,000 was paid for airtime for an online senior management course which was not supported by the Tharaka-Nithi County Assembly Virtual Policy 2020 which forms the basis for approving the payment. In addition, a staff member was paid an amount of Kshs.108,000 for attending validation of civic education framework workshop which was not approved by Management. Further, an amount of Kshs.419,800 was paid to facilitate the Hon. Speaker and staff while at County Assembly Forum Workshop in Mombasa but the expenditure included an amount of Kshs.63,800 for capacity building needs assessment in public process for counties held in Isiolo in June, 2021.

In the circumstances, the accuracy and completeness of domestic travel and subsistence expenses amounting to Kshs.421,800 could not be confirmed.

138. Unsupported Hospitality Supplies and Services

The statement of receipts and payments reflects use of goods and services amount of Kshs.178,976,966 as disclosed in Note 4 to the financial statements. The expenditure includes office and general supplies and services amount of Kshs.1,943,400 out of which an amount of Kshs.350,900 was lunches for guests with the Clerk whose supporting documents were not provided for audit.

In the circumstances, the accuracy and completeness of hospitality supplies and services amount of Kshs.350,900 could not be confirmed.

Other Matter

139. Budgetary Control and Performance

The statement of comparison of budget and actual amounts - recurrent and development combined reflects final receipts budget of Kshs.449,413,000 and actual on comparable basis of Kshs.400,032,732 resulting to an under-funding of Kshs.49,380,268 or 11% of the budget. Similarly, the Assembly spent Kshs.400,032,732 against an approved budget of Kshs.449,413,000 resulting to an under-expenditure of Kshs.49,380,268 or 11% of the budget.

The underfunding and underperformance affected the planned activities and may have impacted negatively on service delivery to the public.

140. Unresolved Prior Year Audit Matters

In the audit report of the previous year, several issues were raised. However, no report or recommendations from the County Assembly Management and Oversight bodies were submitted for audit verification and clearance. Further, the issues remain unresolved contrary to Section 149(2)(i) of the Public Finance Management Act, 2012 which require Accounting Officers designated for County Government entities to try to resolve any issues resulting from an audit that remain outstanding.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

141. Incomplete Construction of the Speaker's Residence

The tender to construct the Speaker's residence was awarded on 20 May, 2021 at a cost of Kshs.33,709,617 for a period of two (2) years ending 20 April, 2023 and an amount cumulatively totalling to Kshs.5,938,864 has been paid. However, there was no evidence of publicizing the contract, the contract progress reports were not prepared on monthly basis, there was no project implementation plan or contract management plan and the status report was not provided for audit. In addition, payments to the contractor were delayed and physical verification in the month of July, 2022 revealed that the Speaker's house was incomplete and that the contractor was not on site. Further, the Salaries and Remuneration Commission through Circular no. SRC/TS/CGOVT/3/61/VOL.V(44) stipulated the deadline for leasing of County Assembly speaker's house to be 30 June, 2022 which has not been complied with.

In the circumstances, the value for money on the expenditure amounting to Kshs.5,938,864 on Speaker's residence could not be confirmed.

142. Irregular Meeting Outside the Offices

The statement of receipts and payments reflects use of goods and services amount of Kshs.178,976,966 as disclosed in Note 4 to the financial statements. The amount includes domestic travel and subsistence allowances amounting to Kshs.94,216,200 out of which an amount of Kshs.1,777,200 was paid as allowances for report writing and training held outside the precincts of the County Assembly. This was contrary to The National Treasury Circular No.20 /2015 of 04 November, 2015 which provides that Accounting Officer shall ensure that all workshops and retreats with majority of participants drawn from one duty station are held within the precincts of the duty station.

In the circumstances, Management was in breach of the law.

143. Failure to Publish and Publicize Awarded Tenders

During the year under review, there was no evidence that goods, works and services procured were publicized on the County's websites, public notice boards or the public regulatory authority platforms. This was contrary to the Executive Order No.2 of 2018

on procurement which states that all public procurement entities shall maintain and continuously update and publicize complete information of all the tenders awarded were not provided for audit.

In the circumstances, Management was in breach of the law.

144. Expenditure Outside the Procurement Plan

The statement of receipts and payments reflects use of goods and services amount of Kshs.178,976,966 as disclosed in Note 4 to the financial statements. The amount includes insurance costs of Kshs.14,086,499 which was not included in the annual procurement plan. This was contrary to Regulation 51(2) of Public Finance Management (County Governments) Regulations, 2015 which states expenditure commitments for goods and services shall be controlled against spending and procurement plans approved by the responsible Accounting Officer, based on allocations and allotments from approved budgets.

In the circumstances, Management was in breach of the law.

145. Gaps in the Procurement Plan

Review of the annual procurement plan revealed the following weaknesses;

- i. The annual procurement plan was not approved by the County Assembly Service Board contrary to Regulation 40(4) of the Public Procurement and Asset Disposal Regulations, 2020;
- ii. The schedule of the planned delivery, implementation or completion dates of all goods, works or services was not included contrary to Regulation 41(b) of the Public Procurement and Asset Disposal Regulations, 2020;
- iii. The plan did not indicate whether some procurements were to be procured within a single year period or under a multi-year period;
- iv. There was no indication whether any items may be aggregated for procurement as a single package or for procurement through any applicable arrangement for common user items;
- v. The annual procurement plan was not done in accordance with the format specified in the Third Regulation 42 of the Public Procurement and Asset Disposal Regulations, 2020.

In the circumstances, Management was in breach of the law.

146. Unsupported Pending Bills

Annex 1 to the financial statements reflects pending accounts payable balance of Kshs.71,720,931 which includes Kshs.24,817,381 relating to supply of services. However, the pending bills were not supported by requisitions, invoices, procurement records, contract agreements. This was contrary to Regulation 104(1) of the Public

Finance Management (County Governments) Regulations, 2015 which states that all payments and receipts of public monies shall be supported by pre-numbered receipts, payment vouchers, appropriate authority and documentation.

In the circumstances, Management was in breach of the law.

147. Irregular Use of Low Value Procurement Method

The statement of receipts and payments reflects use of goods and services amount of Kshs.178,976,966 as disclosed in Note 4 to the financial statements. The amount includes goods and services amounting to Kshs.5,240,750 that were procured using low value procurement method despite not meeting the conditions set in Section 107 of the Public Procurement and Asset Disposal Act, 2015. In addition, there was no evidence that requisition documents were approved.

In the circumstances, Management was in breach of the law.

148. Un-utilized Ablution Projects

The statement of receipts and payments reflects acquisition of assets amount of Kshs.6,862,494 as disclosed in Note 7 to the financial statements. The amount includes construction of buildings amount of Kshs.5,938,864 out of which an amount of Kshs.437,818 was spent on the construction of ablution block. However, despite the project being completed and ready for use as established during physical inspection done in July, 2022, the project has not been put to the intended use. Further, completion and hand over certificates for the project were not provided for audit review.

In the circumstances, value for money for the expenditure amount of Kshs.437,818 could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

149. Long Outstanding Accounts Receivables

The statement of financial assets and liabilities reflects accounts receivables balance of Kshs.1,382,729 as disclosed in Note 9 to the financial statements. The amount relates to imprests that has been outstanding for more than three (3) years and no recovery measures have been put in place. Further, Management has not formulated a policy on debt management.

In the circumstances, the effectiveness of controls on imprest management could not be confirmed.

150. Unstructured County Assembly Service Board Meetings

Review of the Board minutes revealed that the Members of the County Assembly Service Board met in the months of August, 2021, November, 2021, February, 2022, March, 2022 and April, 2022. Further, the minutes of these meetings were not signed contrary to the provisions of the Second Schedule of the County Assembly Services Act, 2017 on conduct of business and affairs of the County Assembly.

In the circumstances, the effectiveness of the Board's overall governance could not be confirmed.

151. Salary Paid Outside Integrated Personnel and Payroll Database (IPPD)

Analysis of the personnel records revealed that an officer who was confirmed on 19 February, 2014 to permanent and pensionable status had been paid a cumulative salary of Kshs.940,620 up to 30 June, 2022. However, the salary was processed through manual payrolls instead of the Integrated Personnel and Payroll Database (IPPD).

In the circumstances, the effectiveness of the controls of manual payrolls could not be confirmed.

152. Failure to Update Fixed Assets Register

The fixed assets register provided for audit was not updated and lacked critical information such as asset acquisition cost, tag number, date of acquisition, condition of asset, serial number, depreciation charged and net book value and some assets were omitted from the assets register.

Further, the County Assembly is located in the land and buildings inherited from the defunct local authority. However, these assets have not been revalued to comply with Paragraph 27 of IPSAS 17 on property, plant and equipment which requires assets acquired through non-exchange transactions to be measured at fair value as at the date of acquisition.

In the circumstances, the effectiveness of the controls on fixed assets management could not be confirmed.

COUNTY ASSEMBLY OF EMBU – NO.14

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

153. Variances Between the Financial Statements and IFMIS Balances

An analysis of the balances reflected in the financial statements and IFMIS trial balance reflects unexplained variances on various components as detailed below:

Particulars	Financial Statements Balance (Kshs.)	IFMIS Trial Balance (Kshs.)	Variance (Kshs.)
CBK Deposit Bank	11,551,964	13,662,820	(2,110,856)
Recurrent Bank Accounts	4,979,778	1,785,364,510	(1,780,384,732)
Cash in Hand	-	101,338,202	(101,338,202)
Temporary Imprests	-	4,084,614	(4,084,614)
General Withholding Tax	-	383,635	(383,635)
Contractors Retention Fee	12,551,964	9,602,070	2,949,894
Other Debtors and Prepayments	-	6,807,163	(6,807,163)

Management has not explained or reconciled the variances between the two records.

In the circumstances, the accuracy of the respective account balances could not be confirmed.

154. Unsupported Suspense Accounts

Examination of the balance reflected in IFMIS trial balance reflects an unsupported suspense account on various components as detailed below:-

Component	Amounts (Kshs.)
General Suspense Credit	3,000,000
General Deposits Credit	3,679,907
Salary Control Account	226,234,003
AP Liabilities	42,435,487
Cash Clearing	1,105,321,306
Exchequer Releases Provisioning	3,428,775,447

In the circumstances, the accuracy and completeness of the suspense accounts balances could not be confirmed.

155. Inaccuracies in the Cash and Cash Equivalents

The statement of financial assets and liabilities reflects a bank balance of Kshs.17,531,743 as disclosed in Note 6 to the financial statements which includes Central Bank of Kenya (CBK) Development Account balance of Kshs.1,000,001. However, the bank reconciliation statement for the month of June reflects a balance of Kshs.1,000,001 which differs with the cash book balance of Kshs.1 resulting to an unexplained variance of Kshs.1,000,000. Further, bank reconciliation statement for the CBK Deposit account with a balance of Kshs.11,551,964 was not provided for audit.

In the circumstances, the accuracy and completeness of the cash and cash equivalents balance of Kshs.17,531,743 could not be confirmed.

156. Unsupported Payment of Training Expenses and Insurance Costs

The statement of receipts and payments reflects an amount of Kshs.318,879,421 in respect of use of goods and services which, as disclosed in Note 3 to the financial statements includes an amount of Kshs.86,812,967 on other operating expenses. Included in the expenditure is an amount of Kshs.1,072,000 paid to staff members attending a training which had taken place in November, 2021. However, the expenditure was not supported with appropriate authority and documentation.

Further, the balance includes an amount of Kshs.25,958,494 in respect of insurance costs. Included in the expenditure is an amount of Kshs.575,408 spent on procurement of comprehensive insurance policy for two vehicles. However, the insurer calculated premiums based on amount of Kshs.15,200,000 instead of valuation reports value of Kshs.13,500,000 resulting in over valuation of vehicles by Kshs.1,700,000. No justification was provided for using different rates from valuation report values.

In the circumstances, the propriety and accuracy of the training and insurance costs could not be confirmed.

157. Unexplained Variances Between the Fixed Assets Register and the Financial Statements

Annex 3 to the financial statements reflects summary of fixed asset register historical cost balance of Kshs.189,998,406. However, the fixed assets register as at 30 June, 2022 reflected a balance of Kshs.190,373,338 resulting to an unexplained variance of Kshs.374,932. Further, as reported in the previous year, the value of land was not reflected in Annex 3 to the financial statements and the County Assembly does not have land ownership records.

In the circumstances, the accuracy, completeness and ownership of the fixed assets balance of Kshs.189,998,406 could not be confirmed.

158. Inaccuracies in Pending Bills

According to Note 1(other important disclosures) to the financial statements, the County Assembly had pending accounts payable totalling to Kshs.110,766,765 (2021: Kshs.83,286,902) as at 30 June, 2022. Management has not explained why the bills

were not settled during the year when they occurred. The County Assembly is at risk of incurring significant interest costs and penalties with their continued delay in payment. The pending accounts payable balance of Kshs.110,766,765 excludes an amount of Kshs.3,540,900 relating to construction and renovation of building.

Further, Annex 1 to the financial statements reflects a balance of Kshs.3,540,900 relating to construction and renovation of building. However, re-computation gives a negative balance of Kshs.9,542,099 resulting to a variance of Kshs.13,082,999 while the pending accounts payable balance of Kshs.70,097,127 in respect of supply of services which includes services totalling to Kshs.6,326,116 that do not indicate dates contracted contrary to Annex 3 of the Public Sector Accounting Standards Board template which requires dates contracted to be indicated.

In addition, Annex 2 to the financial statements reflects pending staff payables balance of Kshs.40,669,636 which excludes a balance of Kshs.639,450 for the year under review.

In the circumstances, the accuracy, completeness, presentation and disclosure of pending accounts payable balance of Kshs.110,766,765 could not be confirmed.

Other Matter

159. Budgetary Control and Performance

The statement of comparison of budget and actual amounts-recurrent and development combined reflects final receipts budget and actual on a comparable basis of Kshs.757,069,773 and Kshs.613,862,001, respectively resulting in an underfunding of Kshs.143,207,772 or 19% of the budget. Similarly, the County Assembly spent Kshs.613,842,220 against an approved budget of Kshs.757,069,773 resulting to an under expenditure of Kshs.143,227,553 or 19% of the budget.

The underfunding and underperformance affected the planned activities and may have impacted negatively on service delivery to the public.

160. Previous Year Audit Issues

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, the Management had not resolved the issues or given any explanation for the failure to implement the recommendations.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

161. Irregular Use of Temporary Imprests

The statement of assets and liabilities reflects cash and cash equivalents balance of Kshs.17,531,743 as disclosed in Note 6 to the financial statements. However, review

of payment vouchers reflected cash purchases amounting to Kshs.1,015,000 instead of using request for quotations procurement method contrary to Regulation 93(3) of Public Finance Management (County Governments) Regulations, 2015.

In the circumstances, Management was in breach of the law.

162. Irregular Payment of Subscriptions

The statement of receipts and payments reflects use of goods and services amount of Kshs.318,879,421 which, as disclosed in Note 3 to the financial statements includes an amount of Kshs.86,812,967 in respect of other operating expenses. Included in the expenditure is an amount of Kshs.4,700,000 relating to subscriptions to County Assembly Forums (CAF) and Society of Clerks at the Table (SOCATT). The two Institutions are not anchored in law and were not budgeted for.

In the circumstances, Management was in breach of the law.

163. Non-Compliance with the Public Procurement and Asset Disposal Act, 2015

The statement of receipts and payments and as disclosed in Note 3 to the financial statements reflects an amount of Kshs.318,879,421 in respect of use of goods and services which includes an amount of Kshs.86,812,967 on other operating expenses. Included in the expenditure is an amount of Kshs.7,200,000 incurred on ward offices expenses. However, procurement plans and supporting documents were not provided for audit. This is contrary to Section 44(2)(c) of Public Procurement and Asset Disposal Act, 2015 which states that in the performance of the responsibility under Subsection (1), an Accounting Officer shall ensure procurement plans are prepared in conformity with the medium-term fiscal framework and fiscal policy objectives and, subject to subsection (3), submit them to The National Treasury.

Further, the balance includes an amount of Kshs.25,958,494 in respect of insurance costs. Included in the expenditure is an amount of Kshs.4,800,000 paid for extension of a contract for provision of Group Medical Insurance Cover. However, the signed amended contract and insurance cover policy documents were not provided for audit. This is contrary to Section 139(1)(2) of Public Procurement and Asset Disposal Act, 2015 which states that an amendment or a variation to a contract resulting from a procurement proceeding is effective only if the variation or amendment has been approved in writing by the respective tender awarding authority within a procuring entity and that an Accounting Officer of a procuring entity, on the recommendation of an evaluation committee may approve the request for the contract variation.

In addition, the balance includes an amount of Kshs.86,812,967 in respect of other operating expenses. Included in the expenditure is an amount of Kshs.2,996,976 paid for development of a five (5) year (2022 - 2026) Strategic Plan. However, the Strategic Plan was not supported with County Assembly Service Board minutes and Inspection and Acceptance Committee reports contrary to Section 48(3)(a) of Public Procurement and Asset Disposal Act, 2015.

In the circumstances, Management was in breach of the law.

164. Irregular Payment of Conference Facilities and Allowances

The statement of receipts and payments reflects an amount of Kshs.318,879,421 in respect of use of goods and services which as disclosed in Note 3 to the financial statements includes an amount of Kshs.15,195,904 on hospitality supplies and services. Included in the expenditure is an amount of Kshs.12,323,800 paid for conference facilities for committee sittings held outside the precincts of the County Assembly.

Further, the expenditure includes an amount of Kshs.118,906,988 in respect of domestic travel and subsistence. Included in the expenditure is an amount of Kshs.26,348,000 and Kshs.1,285,000 incurred on per diem and transport allowances to Members of County Assembly attending committee meetings in Nairobi at a standard rate of Kshs.5,000 each. This was contrary to Section 7 and 12 of The National Treasury Circular No. 20 of 2015, which requires workshops and retreats to be held within the precincts of the duty station.

In the circumstances, Management was in breach of the law.

165. Delay in Construction of Speaker's Residence

During the year, the County Assembly allocated an amount of Kshs.8,000,000 towards the purchase of land for construction of the Speaker's residence. Review of the IFMIS development expenditure status report reflects that the allocated amount was not utilized. Management explained that when the County Assembly advertised for purchase of land, no responsive bid was obtained and the procurement was deferred to a later date. However, it was noted that although the County Assembly had made efforts to procure land for construction of Speaker's residence, there was no communication on retendering. This was contrary to Salaries and Remuneration Commission (SRC) circular Ref. NO. SRC/TS/CGOVT/3/61/VOL.V (52) dated 12 July, 2021 requiring the Counties to hasten the construction of the official residences by allocating funds and prioritizing the construction and that the option for paying rents or leasing houses for eligible state officers to cease as at 30 June, 2022 and SRC Circular Ref No. SRC/ADM/11 dated 27 June, 2022 advised that the option for County Governments paying rent/leasing official residential house for Governors, Deputy Governors and County Assembly Speaker shall cease on 30 June, 2022.

In the circumstances, Management was in breach of the law.

166. Delay in the Completion of Renovation of County Assembly Chambers

The statement of receipts and payments reflects acquisition of assets amount of Kshs.29,476,438 as disclosed in Note 5 to the financial statements which includes an amount of Kshs.10,000,000 in respect of refurbishment of buildings. The County Assembly competitively procured the proposed renovation and alterations of County Assembly Chambers at a contract sum of Kshs.18,999,790 being the lowest evaluated bidder. The project was to be implemented within twelve (12) weeks from the date of

possession of site. The contractor commenced works on 18 October, 2020 with a projected completion date of 2 February, 2021.

However, five (5) contract extensions have since been made so far with a latest revised completion date of 15 July, 2022. The project is 97% complete and an amount of Kshs.15,458,890 had been paid as at 30 June, 2022.

Further, the contractor had carried out works totalling to Kshs.13,919,890 which includes builders work of Kshs.13,169,890 against the bills of quantities value of Kshs.12,149,179 resulting to extra works amounting to Kshs.1,020,711 on the specified items as instructed by the project manager. However, no authority or approval was provided for the contract variations amounting Kshs.1,020,711. This is contrary to Section 139(1)(2) of Public Procurement and Asset Disposal Act, 2015. Further, the cost of the project may increase significantly due to delayed completion of the project.

In the circumstances, value for money on the project could be confirmed.

167. Delay in Completion of Office Complex

The statement of receipts and payments reflects acquisition of assets amount of Kshs.29,476,438 which, as disclosed in Note 5 to the financial statements includes an amount of Kshs.13,082,999 in respect of purchase of building relating to construction of the County Assembly Office Complex. The project entailed construction of a seven storey office complex where project site was handed over on 23 June, 2015 and was intended to be a four-year multiyear project. The contract was awarded to a contractor on 4 July, 2019 at a contract sum of Kshs.349,707,101 with commencement date of 17 June, 2019 for a period of one hundred and four (104) weeks. An extension of the contract was made for a further seventy-eight (78) weeks after lapse of contract. At 30 June, 2022 the project had been allocated an amount of Kshs.314,423,665 out of which an amount of Kshs.110,287,979 had been paid to the contractor being 32% payment for construction works. However, the project completion was at 40% which was eight months to the expiry of the extended completion period. This was contrary to Regulation 137(c) of Public Procurement and Asset Disposal Regulations, 2020 which states that in managing complex and specialized procurement contracts under Section 151 of the Act, contract implementation shall be as per the project implementation plan agreed upon by the contractor and the procuring entity. No satisfactory explanation was provided for delay in implementation of this project since substantial funding had been allocated.

In the circumstances, value for money on the project could not be ascertained.

168. Lack of an Updated Fixed Assets Register and Tagging of Assets

Annex 3 to the financial statements reflects summary of fixed asset register historical cost carried forward 2021/2022 balance of Kshs.189,998,406. However, the fixed assets were not tagged. This is contrary to Regulation 132(1)(a) of Public Finance Management (County Governments) Regulations, 2015 which states that the Accounting Officer of a County Government Entity shall take full responsibility and ensure that proper control systems exist for assets and that preventative mechanisms

are in place to eliminate theft, security threats, losses, wastage and misuse. Further, the fixed asset register maintained did not include the breakdown of classes of the fixed assets and thus not updated.

In the circumstances, Management was in breach of the law.

169. Human Resource Management

169.1 Non-Compliance with the One Third of Basic Pay Rule

Review of the monthly payroll records revealed that a number of officers earned less than a third of their basic pay in the year under review. This was contrary to Section 19(3) of Employment Act, 2007.

169.2 Irregular Staff Promotion

Review of list of promotions during the year revealed the County Assembly promoted fourteen (14) employees. However, the basis for the promotion of the staff was not provided for audit contrary to Section 65(2) of County Governments Act, 2012.

169.3 Non-Compliance with Law on Staff Ethnic Composition

During the year under review, it was established that 49% of the ninety eight (98) County Assembly employees belonged to the dominant ethnic community. This was contrary to Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 which states that, “all public offices shall seek to represent the diversity of the people of Kenya in employment of staff and that no public institution shall have more than one third of its staff establishment from the same ethnic community”.

169.4 Penalties and Interest on Late Remittance of Statutory Deductions

During the year under review, the Kenya Revenue Authority imposed penalties and interest amounting to Kshs.2,456,047 and Kshs.2,533,371 for late payment of Pay As You Earn (PAYE). This was contrary to Section 72D of Income Tax Act, 2012 which states that where any amount of tax remains unpaid after the due date a penalty of twenty percent shall immediately become due and payable and Section 94(1) of Income Tax Act, 2012 which states that in addition to the penalty payable under Section 72D, a late payment interest of two per cent per month or part thereof shall be charged on the amount of tax remaining unpaid for more than one month after the due date until the full amount is recovered.

169.5 Non-Compliance with Fiscal Responsibility Principles on Wage Bill

The statements of receipts and payments reflects an expenditure of Kshs.232,587,870 on compensation of employees representing 38% of the total receipts of Kshs.613,862,001. This is contrary to Regulation 25(1)(b) of the Public Finance Management (County Governments) Regulations, 2015 which set the limit not to exceed thirty five (35) percent of the County Government's total revenue.

In the circumstances, Management was in breach of the law.

170. Late Remittance of Statutory Deductions

The statement of receipts and payments reflects compensation of employees amount of Kshs.232,587,870 as disclosed in Note 2 to the financial statements which includes Kshs.129,881,134 relating to basic salaries to permanent employees. Included in the expenditure is late remittance of employee deductions to Local Authority Provident Fund (LAPFUND) and Local Authority Pension Scheme (LAPTRUST) amounting to Kshs.24,708,853. This contravenes Section 53A(1) of the Retirement Benefits Act, 1997 Revised 2017 which states that where an employer, having, with the agreement of an employee who is a member of a scheme, made a deduction from the employee's emoluments for remittance to the scheme, fails to remit the amount within fifteen days of the deduction, the scheme may, after giving such employer not less than seven days' notice, institute proceedings for the recovery of the deduction.

In the circumstances, Management was in breach of the law.

171. Operations of the County Assembly Service Board

Review of records indicates that the County Assembly Service Board formed one committee – Management Advisory Committee instead of two committees namely; the Management Committee and Staff Advisory Committee as provided in the County Assembly Services Act, 2017. The Management committee was to advise the Board on matters relating to the functions and powers of the Board while the Staff Advisory Committee was to advise the Board on matters relating to staffing.

Further, the County Assembly Service Board has been in existence since 2017. However, a scheme of service has not been developed contrary to Section 25(1) of the County Assembly Service Act, 2017 which states that the Board shall formulate and disseminate to officers of the service, schemes of service setting out the terms and conditions for the appointment of the officers and other staff.

In addition, Management did not provide documents, information and explanations on pension scheme, medical fund, annual operations report and other Funds established by the County Assembly Service Board to contrary to Section 26(a)(b)and(c) of the County Assembly Service Act, 2017 which states that the Board shall establish a contributory pension scheme for all its employees, determine the rates of contribution to the pension scheme and may establish or adopt a contributory optional superannuation, provident or medical fund or any other scheme for its employees and may grant pensions, gratuities, retiring allowances or sickness or injury benefits to any employee. Further, Section 34(1) of the County Assembly Service Act, 2017 states that there shall be an establishment of a County Assembly Fund for each County, Section 36(1) of the County Assembly Service Act, 2017 states that within three months after the end of each calendar year, the Board shall prepare and lay before the County Assembly, a report of its operations during that year.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

172. Lack of Internal Audit and Audit Committee Charter

The County Assembly did not have an approved Internal Audit and Audit Committee Charters to ensure the internal auditor has sufficient authority to promote independence and to ensure broad internal audit coverage and adequate consideration of audit reports.

Further, the existing audit committee did not have any sitting and did not carry out its roles, duties and responsibilities as required by the law.

In addition, in the scope of the audit committee, reports of internal and external audit were not covered hence the risks may not have been identified and mitigated.

In the circumstances, the existence of an effective internal control mechanism could not be confirmed.

173. Lack of Risk Management Policy

The County Assembly had not developed a Risk Management Policy or documented strategies for identifying risks that may have potential effects on the operations of the County Assembly to ensure that the County Assembly by developing a risk management strategies, which include fraud prevention mechanism and develops a system of risk management and internal control that builds robust business operations. As a result, the risks affecting the operations have not been identified and recorded in a risk register.

In the circumstances, the County Assembly risk failing to control and mitigate against future risks.

174. Lack of Information Communication Technology (ICT) and Disaster Recovery Plan

Review of the County Assembly's ICT environment revealed that there was no formal approved ICT Strategic Plan, IT Continuity Plan, back up and retention strategy and Disaster Recovery Plan in place as at 30 June, 2022 to ensure that all its records, financial or otherwise kept in electronic form are adequately protected and backed up.

In the circumstances, effectiveness in internal controls could not be confirmed.

COUNTY ASSEMBLY OF KITUI – NO.15

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

175. Inaccuracies in the Financial Statements

During the year under review, the statement of receipts and payments reflects an amount of Kshs.917,705,807 in respect of total expenditure incurred by the County Assembly. Included in this expenditure is an amount of Kshs.27,121,021 incurred in the month of July, 2022. This was contrary to Regulation 97(1) of The Public Finance Management (County Governments) Regulations, 2015, which states that, 'Accounts of County Governments entities shall record transactions which take place during the financial year from 1 July to 30 June and Regulation 97(4) which stipulates that, actual cash transactions taking place after 30 June, shall not be treated as pertaining to the succeeding year.

Further, the statement of financial assets and liabilities and as disclosed in Note 13A to the financial statements reflects cash and cash equivalents balance of Kshs.30,455. However, the bank reconciliation statement as at 30 June, 2022 for Central Bank of Kenya account reflects a bank balance of Kshs.27,888 while the certificate of balances provided for audit reflected an amount of Kshs.27,148,909 resulting to an unexplained difference between the three sets of records.

In the circumstances, the accuracy and completeness of the total expenditure and cash and cash equivalents balance for the period ended 30 June, 2022 could not be confirmed.

Other Matter

176. Budgetary Control and Performance

The statement of comparison of budget and actual amounts - recurrent and development combined reflects final receipts budget and actual on comparable basis amount of Kshs.1,061,357,431 and Kshs.917,736,262 respectively, resulting to an under-funding of Kshs.143,621,169 or 14 % of the approved budget. Similarly, the County Assembly spent Kshs.917,705,807 against an approved budget of Kshs.1,061,357,431 resulting to an under-expenditure of Kshs.143,651,624 or 14 % of the budget.

The underfunding and underperformance affected the planned activities and may have impacted negatively on service delivery to the public.

177. Pending Bills

Annex 1 to the financial statements on budgetary analysis of pending accounts payable indicates that the County Assembly had pending bills amounting to Kshs.6,107,508 out

of which bill amounting to Kshs.359,700 were brought forward from the previous year period while bills totalling to Kshs.6,107,508 were for the current year. However, all the previous bills were settled during the current year.

Failure to settle pending bills in the year to which they relate adversely affects the implementation of the subsequent year's budgeted programs as the pending bills form the first charge.

178. Prior Year Matters

In the audit report of the previous year, several paragraphs were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. The issues remained unresolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

179. Non-Compliance with the Law on Staff Ethnic Composition

During the year under review, the County Assembly had seventy-eight (78) employees out of which seventy-four (74) or 95% were from one dominant ethnic community in the County. This was contrary to Section 7(2) of the National Cohesion and Integration Act, 2008 which requires that no public establishment shall have more than one third (1/3) of its employees from the same ethnic community.

In the circumstances, Management was in breach of the law.

180. Non-Compliance with a Third Rule on the Basic Salary

During the year under review, thirty-five (35) employees earned a net salary of less than a third of their basic salary contrary to Section C.1 (3) of the Public service Commission (PSC) Human Resource Policies, 2016. Management has not given explanations for failure to comply with the policy and may expose the staff to pecuniary embarrassment.

In the circumstances, Management was in breach of the law.

181. Delay in Construction of Speaker's Residence

Management invited a tender for the purchase of land for the construction of the Speaker's official residence within Kitui town through a restricted tender posted in the website and supplier portal. Through a statement of professional opinion dated 29 March, 2021, the Accounting Officer approved the process to proceed to the next stage. The minutes of the tender evaluation committee for purchase of land for construction of Speaker's official residence held on 30 April, 2021 (negotiation process) recommended that, the tender be re-advertised following the unsuccessful negotiation but this has not been done. This was contrary to Salaries and Remuneration Commission (SRC) circular Ref. NO. SRC/TS/CGOVT/3/61/VOL.V (52)

dated 12 July, 2021 requiring the Counties to hasten the construction of the official residences by allocating funds and prioritizing the construction and that the option for paying rents or leasing houses for eligible state officers to cease as at 30 June, 2022 and SRC Circular Ref No. SRC/ADM/11 dated 27 June, 2022 advised that the option for County Governments paying rent/leasing official residential house for Governors, Deputy Governors and County Assembly Speaker shall cease on 30 June, 2022.

182. Irregular Payment of Subscription

As disclosed in Note 5 to the financial statements, the statement of receipts and payments reflects use of goods and services amount of Kshs.38,036,249 relating to other operating expenses. Included in this amount are payments of Kshs.4,800,000 and Kshs.750,000 in respect to subscriptions paid to County Assemblies Forum and Society of Clerks respectively. However, it was noted that these entities are not established in law and therefore the payment amounting to Kshs.5,550,000 was irregular and not budgeted for.

In the circumstances, Management was in breach of the law.

183. Non-Compliance with the Law on Fiscal Responsibility-Wage Bill

The statement of receipts and payments reflects that the County Assembly collected revenue totalling to Kshs.917,736,262 while expenditure relating to wages and benefits for the County public staff amounted to Kshs.379,943,613 which is 41% of the total revenue collected. This exceeded the recommended rate of 35% as stipulated in Regulation 25(1) of the Public Finance Management (County Governments) Regulations, 2015.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

184. Lack of Risk Management Policy

The County Assembly did not have a Risk Management Policy and there was no evidence to show that any formal risk assessment was undertaken. The Accounting Officer has not developed risk management strategies, which include fraud prevention mechanism and develop a system of risk management and internal controls that build robust business operations.

In the circumstances, the County Assembly is exposed to losses and interruption of operations in the event risks happening.

185. Lack of a Disaster Recovery and Business Continuity Plans

During the year under review, the County Assembly operated without Disaster Recovery and Business Continuity Plans which would assist the Management to secure the County Government's ability to meet its obligations to provide basic services

or its financial commitments, identify the financial problems and be designed to place the County Government in a sound and sustainable financial condition as quickly as possible in case of disaster.

In the circumstances, the County Assembly is exposed to interruption of operations and loss of critical information in case of disaster.

186. Use of Manual Payroll

As previously reported, Management operates two parallel payrolls, a manual excel format payroll and Integrated Payroll and Personnel Database (IPPD). It was not explained why a spreadsheet payroll was operated parallel to IPPD instead of having all the staff managed in the recommended platform. Further, use of spreadsheet as the basis for maintaining payroll is not sanctioned by law and is prone to changes and manipulation with no audit trail.

In the circumstances, effectiveness of internal controls on the payroll could not be confirmed.

COUNTY ASSEMBLY OF MACHAKOS – NO.16

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

187. Variances Between the Statement of Receipts and Payments and Integrated Financial Management Information System (IFMIS) Ledger

Review of the statement of receipts and payments revealed balances that were at variance with the Integrated Financial Management Information System (IFMIS) ledger as detailed below;

Component	Statement of Receipts and Payments (Kshs.)	IFMIS Balance (Kshs.)	Variances (Kshs.)
Use of Goods and Services	430,281,383	398,240,543	32,040,840
Acquisition of Assets	97,949,037	86,466,840	11,482,197
Gratuity	37,570,656	38,204,197	(634,141)

In the circumstances, the accuracy and completeness of the expenditure reported in the financial statements for the year ended 30 June, 2022 could not be confirmed.

188. Unsupported Expenditure - Use of Goods and Services

The statement of receipts and payments reflects use of goods and services payments amounting to Kshs.430,281,383 and as disclosed in Note 5 to the financial statements. The amount includes an amount of Kshs.20,266,863, Kshs.5,410,800, and Kshs.17,777,528 in respect to hospitality supplies and services, other operating expenses and training expenses, respectively. However, expenditure amounting to Kshs.3,546,965, Kshs.1,094,420 and Kshs.588,600 charged to the three items respectively were not supported.

In the circumstances, the propriety and completeness of the expenditure amounting to Kshs.430,281,383 could not be confirmed.

189. Misstatement in Exchequer Receipts

The statement of receipts and payments reflects an amount of Kshs.1,048,995,897 in respect of Exchequer releases and as disclosed in Note 1 to the financial statements. However, included in this amount were Exchequer receipts totalling to Kshs.31,164,190 received in July, 2022 and therefore outside the reporting period contrary to Regulation 97(1) of the Public Finance Management County Government Regulations, 2015.

In the circumstances, the fair statement of the Exchequer releases of Kshs.1,048,995,897 could not be confirmed.

190. Un-Reconciled P.A.Y.E Returns

The statement of receipts and payments reflects an amount of Kshs.454,889,136 on compensation of employees which includes expenditure of Kshs.411,720,115 being payments of salaries and wages to Machakos County Assembly Members and Staff. Review of the Pay as You Earn (P.A.Y.E) filed return acknowledgement receipts against relevant payment vouchers revealed various discrepancies between what was paid as per the payment vouchers and what was filed as returns in the months of July, August, November, December and January, 2021 as shown below;

Month	P.A.Y.E Paid Kshs.	P.A.Y.E Filed for the Period Kshs.	Variance Kshs.
July, 2021	9,897,063	9,897,963	(900)
August, 2021	10,720,525	9,799,413	921,112
November, 2021	7,921,056	9,496,717	(1,575,661)
December, 2021	7,058,846	7,015,768	43,078
January, 2022	7,090,743	6,931,968	158,775
Total	42,688,233	43,141,829	

In the circumstances, the accuracy and completeness of the total PAYE paid for the five months could not be confirmed.

Other Matter

191. Budgetary Control and Performance

The statement of comparison of budget and actual amounts recurrent and development combined reflects final receipts budget and actual on comparable basis of amounting to Kshs.1,364,502,604 and Kshs.1,066,195,897 respectively resulting to an under-funding of Kshs.298,306,707 or 22 % of the approved budget. Similarly, the County Assembly spent an amount of Kshs.1,060,696,712 against an approved budget of Kshs.1,364,502,604 resulting to an under-expenditure of Kshs.303,805,892 or 22 % of the budget.

The underfunding and underperformance affected the planned activities and may have impacted negatively on service delivery to the public.

192. Pending Bills

Annex 1 to the financial statements on budget analysis of pending accounts payable indicates that the County Assembly had pending bills amounting to Kshs.99,255,368 which included bills totalling Kshs.55,360,351 carried forward from 2020/2021 financial year. Further, Management did not explain why the bills were not settled as the first charge during the year under review.

The County Assembly is at risk of incurring significant interest and penalties due to continued delay in settling suppliers and contractors bills.

193. Unresolved Prior Year Matters

In the audit report for the previous year several issues were raised under the Report on Financial Statements and Report on Lawfulness and Effectiveness in the Use of Public Resources. However, the Management has not resolved the issues and no explanation was been provided for the delay in resolving the issues.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

194. Non-Compliance with the One-Third Rule on Basic Salary

During the year under review, six (6) employees earned net salary of less than a third (1/3) of the basic salary contrary to section C1(13) of the Public Service Commission (PCS) Human Resource Policy 2016 which provides public officers shall not commit salaries beyond two thirds of basic salary as this may expose the staff to pecuniary embarrassment.

In the circumstances, Management was in breach of the law.

195. Irregular Inter-Entity Borrowing

The statement of receipts and payments and as disclosed in Note 3 to the financial statements reflects other receipts totalling to Kshs.17,200,000. The receipts relate to funds borrowed from the Housing Fund Account at KCB Bank by the County Assembly over the years and funds borrowed from the severance pay account at Family Bank. This is contrary to Regulation 71(4) of the Public Finance Management (County Governments) Regulations, 2015 which prohibits a County Government entity from giving another County Government entity cash donation to augment the budgetary resources of designated departments.

In the circumstances, Management was in breach of the law.

196. Delay in Completion of Speaker's Residence

The statement of receipts and payments reflects acquisition of assets amount of Kshs.97,949,037 which, as disclosed in Note10 to the financial statements includes construction of buildings amount of Kshs.75,731,514 out of which an amount of Kshs.23,702,775 was in respect of the construction of the Speaker's residence awarded at a contract sum of Kshs.33,609,129. Review of contractual documents revealed that the construction works commenced on 29 June, 2021 and was expected to be completed by 02 December, 2021. However, a request for project period extension was granted to 28 July, 2022. A site visit on 28 July, 2022 revealed that the project was not complete and no evidence of a further period extension had been

granted. No explanation was provided for the delay in the completion of the project. This was contrary to Salaries and Remuneration Commission (SRC) circular Ref. NO. SRC/TS/CGOVT/3/61/VOL.V (52) dated 12 July, 2021 requiring the Counties to hasten the construction of the official residences by allocating funds and prioritizing the construction and that the option for paying rents or leasing houses for eligible state officers to cease as at 30 June, 2022 and SRC Circular Ref No. SRC/ADM/11 dated 27 June, 2022 advised that the option for County Governments paying rent/leasing official residential house for Governors, Deputy Governors and County Assembly Speaker shall cease on 30 June, 2022.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVEESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

- 197.** There were no material issues raised on internal controls, risk management and governance.

COUNTY ASSEMBLY OF MAKUENI – NO.17

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

198. Double Compensation on Transport Expenses to Members of County Assembly (MCAs)

The statement of receipts and payments reflects compensation of employees' balance of Kshs.342,548,100 as disclosed in Note 4 to the financial statements. The amount includes a balance of Kshs.143,631,047 under personal allowances paid as part of salary that further includes Kshs.21,111,448 and Kshs.2,124,601 for transport allowance and mileage allowance, respectively for Members of the County Assembly (MCAs).

However, review of vehicle records revealed that three (3) MCAs had also been allocated personal vehicles fully maintained and fuelled by the County Assembly which would amount to double compensation on transport expenses.

In the circumstances, the completeness and propriety of Kshs.23,236,049 could not be confirmed.

199. Variances Between Financial Statements and IFMIS Payment Details

The statement of receipts and payments reflects total payments amounting to Kshs.747,368,367. However, analysis of Integrated Financial Management Information System (IFMIS) payment details against the amounts revealed variances on various expenditure items as shown below;

Expenditure Item	Financial Statement (Kshs.)	IFMIS Trial Balance (Kshs.)	Variance (Kshs.)
Insurance Cost	31,232,455	31,464,819	(232,364)
Office and General Supplies and Services	7,610,258	7,536,817	73,441
Routine Maintenance	4,357,332	3,710,248	647,085
Acquisition of Assets	17,175,276	28,029,751	(10,854,475)
Hospitality Supplies and Services	42,699,449	26,867,168	15,832,281
Training Expenses	3,063,875	5,474,918	(2,411,043)
Oil, Fuel and Lubricants	9,008,784	7,508,424	1,500,360
Other Operating Expense	121,871,753	110,473,989	11,397,764
Board Expenses		9,287,300	(9,287,300)
Domestic	82,660,005	78,239,316	4,420,689
Foreign Travel	19,763,423	14,157,008	5,606,415
Finance Costs (Car Grant Tax	30,000,000	24,000,000	6,000,000
Casual Workers-Ward Staff	27,727,374	29,089,696	(1,362,322)
Bank Charges	2,769,366	2,944,746	(175,380)

In the circumstances, the accuracy and completeness of financial statements for the year ended 30 June, 2022 could not be confirmed.

200. Irregular Ward Office Lease Agreements

The statement of receipts and payments reflects use of goods and services expenditure totalling to Kshs.365,352,090 which, as disclosed in Note 5 to the financial statements includes an amount of Kshs.3,206,500 in respect to rentals of produced assets. Review of the rental leasehold agreements revealed that the Ward lease agreements were entered into between the Ward representatives(lessee) and the landlord(lessor) instead of between the County Assembly of Makueni and the Landlord. Further, the lease agreement documents prepared were not signed or endorsed by an Advocate of the High Court or County Assembly head of legal services to validate the agreement. In addition, the agreements were not adequately supported with copies of title deeds for the landlords to show ownership of the land, registration of the land to be leased and ownership of the building that is being leased, or part thereof.

In the circumstances, the propriety and regularity of lease agreements of Ward offices could not be confirmed.

Other matter

201. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on the Financial Statements and Report on Lawfulness and Effectiveness in Use of Public Resources. However, the Management has not resolved the issues or given any explanation for failure to adhere to the provisions of the Public Sector Accounting Standards Board reporting template.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

202. Irregular Hiring of Contractual Ward Staff

The statement of receipts and payments reflects compensation of employees' expenditure amounting to Kshs.342,548,100 which, as disclosed in Note 4 to the financial statements includes an amount of Kshs.27,727,374 relating to basic wages of temporary employees. However, review of salary records revealed that the amount was incurred on employment of six (6) staff members per Ward in which five (5) were for MCA and one (1) was for nominated MCA per Ward. This is contrary to the provisions of the commission of Revenue Allocation circular which had specified three (3) Ward staff for all MCAs, both elected and nominated. Further, payments of contractual ward staff salaries were made outside the payroll of the County Assembly.

In the circumstances, Management was in breach of the law.

203. Failure to Maintain Imprest Records

The County Assembly Management undertook several safaris both foreign and domestic during the year under review. Review of a sample of expenditures incurred of Kshs.14,633,778.55 and Kshs.18,482,300 for foreign and domestic travel and subsistence respectively, revealed that officers were advanced imprests and the expenditure regularized after spending. This is contrary to imprest management regulations where individual officers make formal applications through an imprest warrant.

In the circumstances, Management was in breach of the law.

204. Lack of an Audit Committee

During the year under review, there was no Audit Committee in place. The previous committee members tenure had expired having been appointed on 1 January, 2019 for three (3) years. This was contrary to the provision Regulation 167 of the Public Finance Management regulations and Gazette Notice No. 40 of 2016- which requires the County Assembly to establish an audit committee.

In the Circumstances, Management was in breach of the law.

205. Failure to Deduct Income Tax

The statement of receipts and payments reflects use of goods and services expenditure totalling Kshs.365,352,090 which, as disclosed in Note 5 to the financial statements includes an amount of Kshs.30,000,000 relating to other operating expenses-car grant tax costs. The amount relates to payments made to Kenya Revenue Authority (KRA) on account of car grant benefit issued to members of the County Assembly through a Presidential pronouncement. The car grants of Kshs.2,000,000 per person was a taxable benefit to the members of the County Assembly. However, the Assembly did not deduct Income tax from the MCAs leaving the Assembly to bear the cost. In addition, at the time of the audit in November, 2022, assessment by the Kenya Revenue Authority reflected that the principal amount outstanding had attracted a penalty and interest of Kshs.10,500,000.

In the circumstances Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

206. There were no material issues raised on internal controls, risk management and governance.

COUNTY ASSEMBLY OF NYANDARUA – NO.18

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

207. Unsupported Payments

The statement of receipts and payments reflects compensation of employees amount of Kshs.309,749,234 which, as disclosed in Note 4 to the financial statements includes an amount of Kshs.5,571,000 paid as special house allowance. However, the Salaries and Remuneration Commission (SRC) approval for the special house allowance paid was not provided for audit review.

Further, the statement of receipts and payments and as disclosed in Note 5 to the financial statements reflects payments in respect of use of goods and services amounting to Kshs.293,103,801 which includes rentals of produced assets totalling to Kshs.3,783,000. The expenditure includes an amount of Kshs.300,000 was rental income tax deductions paid to Kenya Revenue Authority (KRA). However, the payment was not supported by KRA acknowledgement receipts and taxpayers' Personal Identification Numbers.

In the circumstances, the regularity of the payments of special house allowance and statutory deductions all totalling to Kshs.5,871,000 could not be confirmed.

Other Matter

208. Pending Bills

As disclosed under Annexure 1 and 2 to the financial statements, the County Assembly had pending bills amounting to Kshs.59,179,687 as at 30 June, 2022 out of which, bills amounting to Kshs.39,079,093 were brought forward from previous periods, while bills totalling to Kshs.278,847,884 were incurred during the year under review. However, only bills amounting to Kshs.258,747,291 were settled during the financial year. No satisfactory explanation was provided for failure to settle the pending bills.

Failure to settle pending bills on time affects the budget for the subsequent year as they form first charge.

209. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements and Report on Lawfulness and Effectiveness in Use of Public Resources. However, the Management has not resolved the issues or given any explanation for failure to resolve the issues.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

210. Failure to Implement of the E-Procurement System

Review of procurement records revealed that during the year under review, procurement of goods and services through request for quotations was done outside the Integrated Financial Management Information System (IFMIS) contrary to the requirements of Regulation 49(2) of the Public Procurement and Asset Disposal Regulations, 2020 which states that the conduct of e-procurement procedures for the supply of goods, works and services shall be carried out by a procuring entity using an e-procurement system which is integrated to the State Portal.

In the circumstances, Management was in breach of the law.

211. Non-Compliance with the Law on Ethnic Composition

Review of human resource records revealed that during the year under review, the County Assembly had two hundred and sixty-four (264) employees out of whom two hundred and fifty-three (253) were from one dominant ethnic community which translates to 96%. This is contrary to Section 7(2) of the National Cohesion and Integration Act, 2008 which states that no public establishment shall have more than one third of its staff from the same ethnic community.

In the circumstances, Management was in breach of the law.

212. Irregular Expenditure on Subscriptions to Professional Bodies

The statement of receipts and payments and as disclosed in Note 5 to the financial statements reflects payments of Kshs.293,103,801 in respect of use of goods and services which includes an amount of Kshs.33,254,558 being payments of other operating expenses out of which an amount of Kshs.7,950,000 made up of Kshs.750,000 and Kshs.7,200,000 was paid to Society of Clerks-at-the-Table (SOCATT) and County Assemblies Forum (CAF) as annual subscription fees respectively.

There is no existing law or policy in place authorizing the said payments of subscription fees and no verifiable document was provided for audit to support the two organizations Constitutional mandates.

In the circumstances, Management was in breach of the law.

213. Non-Submission of Financial Statements

Management did not submit the financial statements of the County Assembly Service Board for the year ended 30 June, 2022. This was contrary to the Public Audit Act, 2015 Section 47(1) which states that the financial statements required under the

Constitution, the Public Finance Management Act, 2012 and any other legislation, shall be submitted to the Auditor-General within three months after the end of the fiscal year to which the accounts relate.

In the circumstances, Management was in breach of the law.

214. Accounts Receivables - Outstanding Imprests

The statement of financial assets and liabilities reflects accounts receivables-outstanding imprests balance of Kshs.1,552,944 which though due had not been surrendered contrary to Regulation 93(5) of the Public Finance Management (County Governments) Regulations, 2015 which requires that a holder of a temporary imprest shall account or surrender the imprest within seven (7) working days after returning to duty station.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

215. There were no material issues raised on internal controls, risk management and governance.

COUNTY ASSEMBLY OF NYERI – NO.19

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

216. Irregular Payment of Subscription Fees

As disclosed in Note 5 to the financial statements, the statement of receipts and payments reflects an expenditure of Kshs.433,873,768 on use of goods and services which includes an amount of Kshs.56,485,563 in respect of other operating expenses. The amount includes a balance of Kshs.750,000 relating to subscription fees made to the Society of Clerks-at-the-Table (SOCATT). However, the Society is not anchored in law and the expenditure incurred could not be confirmed as a proper charge to public funds.

In the circumstances, the regularity of the expenditure of Kshs.750,000 on subscription fees to Society of Clerks-at-the-Table (SOCATT) could not be confirmed.

217. Irregular Expenditure on Ward Administration Expenses

The statement of receipts and payments reflects use of goods and services amount of Kshs.433,873,768 which, as disclosed in Note 5 to the financial statements includes an amount of Kshs.56,485,563 in respect of other operating expenses out of which Kshs.24,768,000 was spent on Ward administration expenses. However, review of payment records revealed that the County Assembly spent an amount of Kshs.48,000 on operations costs per ward per month. This is contrary to the Commission of Revenue Allocation of June, 2018 which set the total ward costs at Kshs.118,333 per ward per month, and operation cost at 30% or Kshs.35,500. This resulted to an over expenditure of Kshs.12,500 per month or Kshs.150,000 per year per ward thus translating to a total over expenditure of Kshs.6,450,000 for the forty-three (43) wards.

In the circumstances, the regularity of the excess expenditure of Kshs.6,450,000 could not be confirmed.

Other Matter

218. Unresolved Prior Year Audit Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, the Management had not resolved the issues or given any explanation for the delay in resolving the issues.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

219. Non-Compliance with Law on Ethnic Composition

During the year under review, the total number of employees was sixty-one (61) out of which fifty-six (56) or 93% of the total number were members of the dominant ethnic community in the County. This is contrary to Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 which requires all Public Officers to seek to represent the diversity of the people of Kenya in employment of staff and that no public institution shall have more than one third of its staff establishment from the same ethnic community.

In the circumstances, Management was in breach of the law.

220. Failure to Adhere to the Third Rule on Basic Salary

During the year under review, four (4) employees earned a net salary of less than one third (1/3) of the basic salary contrary to Section C.1(3) of the Public Service Commission (PSC) Human Resource Policies, 2016 and Section 19(3) of the Employment Act, 2007.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

221. Lack of Land Ownership Documents

As disclosed in Annex 4 (summary of non-current asset register), the historical cost of non-current assets was Kshs.230,149,950 as at 30 June, 2022, which includes a balance of Kshs.19,000,000 relating to land. However, land ownership documents were not provided for audit.

In the circumstances, the existence of an effective mechanism to safeguard the assets could not be established.

COUNTY ASSEMBLY OF KIRINYAGA – NO.20

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

222. Inaccuracies in the Financial Statements

The statement of receipts and payments for the year ended 30 June, 2022 reflects total payments of Kshs.911,274,794. However, a comparison with the ledger balances in the Integrated Financial Management System (IFMIS) records reflected an unreconciled total expenditure of Kshs.905,035,453 resulting in a variance of Kshs.6,239,341 which has not been reconciled.

In the circumstances, the accuracy and completeness of total expenditure of Kshs.911,274,794 could not be confirmed.

Other Matter

223. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Other Matter, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, the Management has not resolved some of the issues or given any explanation for the delay in resolving the issues.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

224. Irregular Contracts

Review of documents revealed that the County Assembly awarded a firm the tender for supply, installation, testing and commissioning of the Hansard System at a contract sum of Kshs.25,568,400 on 21 January, 2021 for an unspecified period. However, the works were incomplete at the time of audit in the month of October, 2022, with twenty-one (21) months having lapsed after the contract was awarded.

Further, the County Assembly on 30 April, 2021 awarded a contractor the construction of twenty (20) ward offices for an unspecified period, at a contract sum of Kshs.192,491,720. However, the works were incomplete at the time of audit in the month of October, 2022, eighteen months after the award of the contract.

In the absence of a specified contract period, the projects may become stalled and value for money on the Kshs.218,060,120 incurred in the two projects may not be confirmed.

225. Unutilized Projects

During the year under review, Management paid an amount of Kshs.199,963,428 for drilling and equipping of twenty (20) boreholes at the ward offices. However, physical verification of eleven (11) boreholes carried out in the month of October, 2022 revealed that the boreholes were complete but not in use.

In the circumstances, the value for money on the Kshs.199,963,428 incurred on the above projects could not be confirmed.

226. Failure to Adhere to the Third Rule on Basic Salary

Analysis of the payroll records revealed that ninety-five (95) employees of the County Assembly were paid net salaries of less than a third of their basic pay. This was contrary to Section 19(3) of the Employment Act, 2007 which provides that without prejudice to any right of recovery of any debt due, and notwithstanding the provisions of any other written law, the total amount of all deductions which under the provisions of subsection (1), may be made by an employer from the wages of his employee at any one time shall not exceed two thirds of such wages or such additional or other amount as may be prescribed by the Minister either generally or in relation to a specified employer or employee or class of employers or employees or any trade or industry.

In the circumstances, Management was in breach of the law.

227. Irregular Payment of Subscription Fees

Review of expenditure records maintained by the County Assembly indicated that during the year under review, Management paid a total of Kshs.3,510,000 in subscription fees to the County Assemblies Forum (CAF) and Society of Clerks at the Table (SOCATT). However, the payment was contrary to Section 37 of the Intergovernmental Relations Act, 2012 which provides that the operational expenses in respect of structures established in this Act shall be provided for in the annual estimates of the revenue and expenditure of the National Government.

In the circumstances, Management was in breach of the law.

228. Non-Submission of Financial Statements of the County Assembly Service Board

Management did not submit for audit the financial statements of the County Assembly Service Board for the year ended 30 June, 2022 to the Auditor-General with copies to the County Treasury, Controller of Budget and Commission on Revenue Allocation. Further, Management did not publish and publicize the financial statements as required by Section 32 of the County Assembly Services Act, 2017 which states that the Secretary shall submit to the Auditor-General the accounts of the Board for the year with copies to the County Treasury, Controller of Budget and Commission on Revenue Allocation; and publish and publicize the financial statements.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

229. There were no material issues raised on internal controls, risk management and governance.

COUNTY ASSEMBLY OF MURANG'A – NO.21

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

230. Variances between the Financial Statements and Integrated Financial Management System (IFMIS) Report

The statement of receipts and payments reflects an amount of Kshs.786,061,553 in respect of total payments. However, the IFMIS report reflects total payments of Kshs.774,750,194 resulting to an unexplained and unreconciled variance of Kshs.11,311,359.

In the circumstances, the completeness and accuracy of total payments totalling to Kshs.786,061,553 could not be confirmed.

231. Unreconciled Cash and Cash Equivalents Balance

As reported in previous year, the statement of financial assets and liabilities reflects bank balances of Kshs.1,886,209 as disclosed in Note 13 A to the financial statements. The balance consists of bank balances of Kshs.1,654,672, Kshs.391 and Kshs.231,146 held at Central Bank of Kenya in respect of development, recurrent and deposits accounts respectively. However, these balances were not supported with bank reconciliation statements for the month of June, 2022.

In the circumstances, the completeness, accuracy and existence of cash and cash equivalents balance of Kshs.1,886,209 could not be confirmed.

232. Lack of Ownership Documents of Motor Vehicles

As disclosed in Annex 4 to the financial statements, the summary of non-current assets register reflects summary of non-current assets with historical cost balance of Kshs.464,963,366 as at 30 June, 2022. Included in the balance is transport equipment balance of Kshs.41,440,000 out of which four (4) motor vehicles with a cost of Kshs.28,600,242 were registered in the name of Murang'a County Government. Further, as reported in previous year, the ownership document for one motor vehicle was not provided for audit.

In the circumstances, the ownership of the motor vehicles valued at Kshs.28,600,242 could not be ascertained.

233. Unsupported Hospitality Supplies and Services Expenditure

The statement of receipts and payments reflects an amount of Kshs.385,148,367 in respect of use of goods and services as disclosed in Note 5 to the financial statements. Included in the expenditure is an amount of Kshs.18,019,514 in respect of hospitality

supplies and services out of which an amount of Kshs.17,972,558 which was spent on workshops was not supported with attendance registers and workshop reports.

In the circumstances, the accuracy and occurrence of the hospitality supplies and services amount of Kshs.18,019,514 could not be confirmed.

234. Unsupported Expenditure – Use of Goods and Services

The statement of receipts and payments reflects an amount of Kshs.385,148,367 in respect of use of goods and services which, as disclosed in Note 5 to the financial statements includes an amount of Kshs.248,818,781 in respect of domestic travel and subsistence. Included in the expenditure is an amount of Kshs.786,000 spent on conference facilities which was not supported with approval of the activity, budget, work tickets and the outcome report of the conference.

Further, the domestic travel and subsistence expenditure includes an amount Kshs.358,280 paid as committee allowances for public participation on Building Bridges Initiative (BBI) Bill. However, there was no evidence of where the public participation took place, list of participants, timelines of events and the results of such meetings.

In the circumstances, the accuracy and regularity for conference facilities and committee allowances expenditure could not be confirmed.

Other Matter

235. Budgetary Control and Performance

The statement of comparison of budget and actual amounts - recurrent and development combined reflects final receipts budget and actual receipts on comparable basis totalling to Kshs.971,307,014 and Kshs.786,293,060, respectively, resulting to an underfunding of Kshs.185,013,954, or 19% of the final budget. Similarly, the County Assembly spent an amount of Kshs.786,061,553 against an approved budget of Kshs.971,307,014 resulting to an under-expenditure of Kshs.185,245,461 or 19% of the budget.

The underfunding and underperformance affected the planned activities and may have impacted negatively on service delivery to the public.

236. Unresolved Prior Year Issues

In the audit report of the previous year, several paragraphs were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, Management had not resolved the issues nor given any explanation for the failure to implement the recommendations.

237. Failure to Settle Pending Accounts Payables

As disclosed in Note 1 on other disclosures to the financial statements are pending bills totalling to Kshs.5,893,578 which comprise of amounts not settled during the year under review carried forward to 2022/2023 financial year.

Failure to settle bills during the year to which they relate distorts the financial statements for that year and adversely affects the provisions for the subsequent year to which they have to be charged.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

238. Failure to Fully Implement E-procurement Processes

As previously reported, Executive Order No.6 of 2015 of 7 May, 2015 required all Accounting Units in National and County Government to fully implement the end to end e-procurement processes within a period of two weeks from the date of the circular. Further, Executive Order No.2 of 2018 required that by the 1 of January, 2019, all public procuring entities to undertake all their procurements through the E-procurement module. However, review of County Assembly procurement process revealed that it was manual. No explanation was given for failure to adhere to the presidential directives.

In the circumstances, Management was in breach of the law.

239. Lack of Training Needs Assessment

The statement of receipts and payment reflects an amount of Kshs.385,148,367 in respect of use of goods and services which, as disclosed in Note 5 to the financial statements includes an amount of Kshs.20,748,637 in respect of training expenses paid to various institutions of learning as students' fees and allowances for trainings. However, the County Assembly did not carry out training needs assessment contrary to Part VII of County Assembly Human Resource Policies and Procedures which states that; training in the County Assembly Service shall be based on Training Needs Assessment, which shall be conducted every two years. County Assembly Directorates/Departments shall prepare training projections based on Training Needs Assessment report and recommendations to guide the training committee in nominating officers for training.

In the circumstances, value for money on the expenditure of Kshs.20,748,637 on training expenses could not be confirmed.

240. Non-Compliance with Law on Staff Ethnic Composition

During the year under review, the total number of employees of the County Assembly was one thirty-three (133) out of whom one twenty-five (125) or 94% of the total number were members of the dominant ethnic community in the County.

This was contrary to Section 7(1) & (2) and of the National Cohesion and Integration Act, 2008 which requires that Public establishments shall seek to represent of the diversity of the people of Kenya in employment of staff and that no public institution shall have more than one third of its staff establishment from the same ethnic community.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

241. There were no material issues raised on internal controls, risk management and governance.

COUNTY ASSEMBLY OF KIAMBU – NO.22

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

242. Irregular Appointments

The statement of receipts and payments and Note 4 to the financial statements reflect compensation of employees amounting to Kshs.597,675,366 which includes an amount of Kshs.2,977,600 paid as salaries to eight (8) newly recruited employees. However, Management did not provide supporting documents such as human resource plans, annual comprehensive job analysis and annual recruitment plans. Further, there were no confirmed minutes of the staff advisory committee and approval of recruitment of the eight members by the County Assembly Service Board (CASB) while official appointment letters by the Clerk, authentication of their academic certificates by Kenya National Qualification Authority, job description and personal numbers, were not provided for audit review.

Further, review of the human resource records indicated existence of two positions of Deputy Clerk – Administration for which the County Assembly paid salaries of Kshs.3,546,500 and Kshs.2,088,370, respectively. However, the two (2) positions were not in the approved staff establishment for the County Assembly.

In the circumstances, the propriety and completeness of compensation of employees expenditure of Kshs.8,612,470 could not be confirmed.

243. Use of Goods and Services

The statement of receipts and payments and Note 5 to the financial statements reflect payments for goods and services balance of Kshs.597,675,366. Review of payment and other documents revealed the following:

243.1 Misclassification of Payments

The balance includes payments amounting to Kshs.6,109,122 which were charged through various account codes which were different from the budget and account codes classification provided by the National Treasury as shown below:

Item	Amount (Kshs.)	Account Code	
		Charged	Correct
Return Air Tickets	782,400	2210600	2210400
Motor Vehicle Maintenance	70,000	2211200	2220100
Automobile Tyres	95,600	2211200	2220100
Office and General Supplies	1,788,200	2211100	3111000
Computer Personal (Laptop)	598,392	2220200	3111000
Reimbursement	199,994	2220200	2210800

Item	Amount (Kshs.)	Account Code	
		Charged	Correct
Supply and Delivery of Assorted Toners	721,305	2220200	2211100
Transfer to Car and Mortgage Fund	1,853,231	2210700	2610000
Total	6,109,122		

Necessary adjustments have not been affected to correct the mis-postings.

243.2 Unsupported Payments

The balance includes expenditure amounting to Kshs.465,643,292 in respect of domestic and foreign travel, training and other operating expenses, as detailed in the table below;

Item	Financial Statements (Kshs.)	Amounts Unsupported (Kshs.)
Domestic Travel and Subsistence	265,873,265	177,135,900
Foreign Travel and Subsistence	78,451,119	51,726,128
Training Expenses	90,530,466	59,118,090
Other Operating Expenses	30,788,440	30,788,440
Total	465,643,292	318,768,558

However, supporting records in respect of payments amounting to Kshs.318,768,558 under the four items were not provided for audit.

Further, the training expenses was not supported by needs assessment reports for purposes of establishing training needs and evidence of travel. Sitting allowances and expenses on hire of facilities for meetings totalling to Kshs.1,136,000 and Kshs.3,427,79 respectively incurred by the County Assembly Services Board while the expenditure was not supported by documents.

In the circumstances, the accuracy and propriety of the expenditure on use of goods and services could not be confirmed.

244. Un-supported Cash and Cash Equivalents Balance

The statement of financial assets and liabilities reflects a balance of Kshs.329 in respect of cash and cash equivalents balance, which was held in three (3) bank accounts as disclosed in Note 13A to the financial. However, the bank reconciliation statement for the Cooperative Bank account reflects unpresented cheques amounting to Kshs.2,879,965, whose detailed listing was not provided for audit verification while the bank reconciliation statement for the recurrent account reflects unpresented cheques amounting to Kshs.87,108,944 out of which an amount of Kshs.119,700 were already stale. Some of

the stale cheques date back to November 2021, and had not been reversed in the cash book.

Further, the bank reconciliation statements for the development cash book reflected receipts in cash book not in the bank statement of Kshs.4,621,012 whose details were not provided for audit review.

In addition, there was no evidence of submission of monthly bank reconciliation statements to The National Treasury and Auditor-General, by Management contrary to regulation 90 of the Public Finance Management (County Governments) Regulations, 2015 which provides that Accounting Officers shall ensure bank accounts reconciliations are completed for each bank account held by that Accounting Officer, every month and submit a bank reconciliation statement not later than the 10th of the subsequent month to the County Treasury with a copy to the Auditor-General and The National Treasury.

In the circumstances, the accuracy and completeness of the cash and cash equivalents balance of Kshs.329 could not be confirmed.

Other Matter

245. Budgetary Control and Performance

The summary statement of appropriation recurrent and development combined reflects receipts budget of Kshs.1,498,021,994 and actual receipts collection of Kshs.1,247,384,432 resulting in a revenue shortfall of Kshs.250,637,562 or 17% of the budget. Similarly, the County Assembly spent an amount of Kshs.247,384,103 against an approved budget of Kshs.1,498,021,994 resulting in an under-expenditure of Kshs.250,637,891 or 17% of the budget. Management attributed the variances to the Exchequer releases which were not disbursed to the County Assembly.

The underfunding and under expenditure affected the implementation of the budgeted programs during the year.

246. Pending Bills

Annex 1 and 2 to the financial statements reflects pending accounts payable and pending staff payables of Kshs.105,686,039 and Kshs.3,364,046 respectively. However, Management has not explained why the bills were not settled during the year when they occurred.

Failure to settle bills during the year to which they relate to distorts the financial statements and adversely affects the budgetary provisions for the subsequent years as they form a first charge.

247. Unresolved Prior Year Matters

Various prior year audit issues remained unresolved as at 30 June, 2022. Management has not provided progress on follow up of audit recommendations of 2019/2020 and 2020/2021 financial years, as required by the Public Sector Accounting Standards Board.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

248. Non-Compliance with Fiscal Responsibility Principles on Wage Bill

The statement of receipts and payments indicates that the County Assembly spent Kshs.591,499,585 on compensation of employees, representing 48% of the total revenue of Kshs.1,231,708,024. This is contrary to provisions of Regulation 25 of the Public Finance Management (County Governments) Regulations, 2015 which limits for expenditure on wages and benefits to not more than 35% of the total revenue for the year.

In the circumstances, Management was in breach of the law.

249. Non-Compliance with Law on Ethnic Composition

Review of the human resource records revealed that, the County Assembly had eighty-eight (88) staff members as at 30 June, 2022 out of whom, sixty-nine (69) or 78% were from the dominant community in the County. This is contrary to the provisions of Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 which states that all public officers shall seek to represent the diversity of the people of Kenya in employment of staff and that no public institution shall have more than one third of its staff establishment from the same ethnic community.

In the circumstances, Management was in breach of the law.

250. Stalled Projects

Note 1 on other important disclosures reflects pending accounts payable balance of Kshs.105,686,039 which includes construction of buildings totalling to Kshs.11,702,157 out of which, an amount of Kshs.9,661,240 was in respect of unpaid certificate of completion on construction of County Assembly Archives and Members Welfare Facility. Review of procurement records indicated that the project was awarded to a local company on 28 May, 2021 for a duration of thirty (30) weeks ending on 7 January, 2022 at a contract price of Kshs.43,942,230.

Physical inspection carried on in September, 2022 revealed that the project was at about 25% completion level implying that the project had stalled. This is contrary to Regulation 50 of the Public Finance Management (County Governments) Regulations, 2015 on commitment for goods, works or services, which require Management to carry out proper budgeting as well as expenditure commitment for any particular project, to avoid unpaid and stalled works.

In the circumstances, there is no value for money in the delayed project for the benefit the public.

251. Avoidable Interest Charge on Delayed Payments

The statement of receipts and payments indicate that an amount of Kshs.597,499,585 was incurred in respect of use of goods and services. Included in the payments is

expenditure totalling to Kshs.567,370 in respect of interest charges on delayed payments for the proposed construction of Ward offices at Karai, Kamburu and Bibirioni. The delayed payments resulted in wasteful expenditure which could have been avoided.

In the circumstances, value for money on interest charged could not be confirmed.

252. Overpayment for Partitioning Works of Nominated MCAs' Offices

The statement of receipts and payments reflects an expenditure of Kshs.23,057,542 in respect of acquisition of assets, which includes an amount of Kshs.2,175,031 paid to a local contractor for partition works at a building in town meant for nominated Members of the County Assembly. As previously reported, the contractor was paid Kshs.10,995,168 for the works of partitioning two floors at the building. However, the contract sum was Kshs.8,954,250 resulting to an overpayment of Kshs.2,040,918 which has not been recovered.

In the circumstances, value for money on the expenditure of Kshs.2,040,918 could not be ascertained.

253. Irregular Use of Framework Contracting

The statement of receipts and payments reflects that an amount of Kshs.597,499,585 in respect of use of goods and services. Included in the payments are expenditure totalling to Kshs.55,071,420 in respect of hospitality supplies and services which was mainly paid to two (2) hotels for conference facilities procured through framework contracts.

Review of the supporting documents revealed that the County Assembly entered into a framework contract for conference facilities with seven (7) establishments. However, out of the seven contracts, one contracts was not signed by the Company Directors while another did not indicate amount or rates for the service. The procurement was therefore based on five bids instead of the required minimum of seven contrary to Section 114 (1)(c) of the Public Procurement and Asset Disposal Act, 2015 which require that a minimum of seven (7) alternative vendors are included for each category.

Further, an amount of Kshs.3,931,430 was incurred on purchase of air tickets. However, only four (4) firms were contracted to provide the services instead of the minimum seven (7), contrary to Section 114 (3) of the Public Procurement and Asset Disposal Act, 2015.

in the circumstances, Management was in breach of the law.

254. Irregular Subscriptions

The statement of receipts and payments reflects an expenditure of Kshs.597,675,366 on use of goods and services which as disclosed in Note 5 to the financial statements includes an amount of Kshs.30,788,440 in respect of others operating expenses. The balance includes amounts of Kshs.750,000 and Kshs.500,000 in respect to subscription fees made to the Society of Clerks-at-the-Table (SOCATT) and to the County Assembly Forum (CAF) respectively. However, the payments were made without budget allocation and requisite in line with Regulation 31(a) and 50(2) of the Public Finance Management (county Governments) Regulations, 2015 which required

that all expenditure shall be entered into the budget and shall be committed only against allocation and commitments approval.

In the circumstances, Management was in breach of the law.

255. Unsupported Legal Fees

Included in use of goods and services is expenditure totalling to Kshs.3,992,510 in respect of legal fees for services offered to the County Assembly on six (6) petitions involving the County Assembly. The County Assembly has twenty (20) active law suits where various law firms are engaged to represent the County Assembly. However, the service level agreements, the itemised instructions made to the lawyers on the services required and other documents such as copies of judgements summary where applicable and evidence that the legal firms actually represented County Assembly, dates of commencement of the lawsuits and progress reports of the cases and certified valuation certificates on which the legal fees were based, were not provided for audit verification. In addition, opinion and no objection for engagement of the private legal firms by the Attorney General who is the principal legal advisor of the County Assembly, was not provided for audit verification.

In the circumstances, the regularity and completeness of the legal fees of Kshs.3,992,510 could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

256. Lack of Strategic, Disaster Recovery and IT Strategic Plans

During the year under review, the County Assembly had not developed an organizational strategic plan. Further, Management has not developed a Disaster Recovery Plan and IT Strategic Plan to develop risk management strategies, which would have included fraud prevention mechanism and a system of risk management and internal control which builds robust business operations.

In the circumstances, the effectiveness of the internal controls and risk management of the County Assembly could not be ascertained.

257. Summary of Non-Current Assets

Annex 4 to the financial statements reflects summary of non-current asset register which indicates that the County Assembly had various assets totalling to Kshs.629,135,036. However, detailed listing and analysis, ownership documents and other supporting documentation were not provided for audit verification.

In the circumstances, the existence of a proper control systems for assets and preventative mechanisms to eliminate theft, security threats, losses, wastage and misuse and ensuring that movement and conditions of the assets can be tracked could not be confirmed.

COUNTY ASSEMBLY OF TURKANA – NO.23

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

258. Inaccuracies in Cash and Cash Equivalents

The statement of financial assets and liabilities reflects cash and cash equivalents balance of Kshs.36,621,796 as at 30 June, 2022 as supported by the statement of cashflows for the period. However, the statement of cash and cash equivalents reflects comparative balances of cash and cash equivalents at the end of the previous year of Kshs.6,751,327 instead of the audited balance of Kshs.32,823,521 as at 30 June, 2021 resulting into an unexplained variance of Kshs.26,072,194.

Further, comparison of previous year audited financial statements and cashbook opening balances revealed discrepancies as shown below;

Account Name	Comparative Balance Financial Statements (Kshs.)	Opening Balance as Per Cashbook (Kshs.)	Variance (Kshs.)
Development	0	3,515	3,515
Recurrent	577	0	577
Deposit	32,822,694	33,284,501	461,808

In the circumstances, the accuracy and completeness of the cash and cash equivalents balance of Kshs.36,621,796 could not be confirmed.

259. Lack of Fixed Assets Register

The summary of non-current assets register at Annex 4 to the financial statements indicates that the County Assembly had an assets balance of Kshs.1,526,017,594. The balance excludes an unknown value of land and buildings inherited by the County Assembly from the defunct Municipal Council. Further, the County Assembly has not maintained a fixed assets' register showing breakdown of the assets, location, status, cost and other details of the assets owned.

In the circumstances, the ownership, accuracy and completeness of the non-current assets of Kshs.1,526,017,594 could not be confirmed.

260. Payments Outside IFMIS

Review of expenditure schedules revealed payments amounting to Kshs.77,719,921 out of the total expenditure of Kshs.258,684,301 was not processed through the IFMIS system.

In the circumstances, the accuracy and completeness of the expenditure of Kshs.77,719,921 could not be confirmed.

261. UnSupported Domestic Travel and Subsistence Expenses

The statement of receipts and payments and as disclosed in Note 5 to the financial statements, reflects use of goods and services payments of Kshs.278,264,998. The payments include domestic travel and subsistence expenses amount of Kshs.182,929,743. However, review of payment vouchers revealed that a total of Kshs.13,905,300 was paid to various County Assembly Staff and Members as imprests and allowances. However, the payments were not supported by work tickets, records of work done, attendance registers, or committee approvals for the expenditures incurred.

Further, the expenditure includes office and general supplies and services expenditure of Kshs.13,515,780. However, payments amounting to Kshs.1,227,650 were not supported by the relevant supporting documents such as approved requisitions, Local Purchase Orders, request, evaluation minutes, delivery notes, professional opinion and inspection and acceptance reports.

In the circumstances, the regularity, accuracy and completeness of expenditure on domestic travel subsistence of Kshs.13,905,300 on office and general supplies and services of Kshs.1,227,650 could not be confirmed.

Other Matter

262. Prior Year matters

In the previous year, several issues were raised. However, Management has not resolved the issues without giving satisfactory explanation.

263. Pending Bills

Annex 1 reflects pending accounts payables amount of Kshs.25,772,561 as at 30 June, 2022. However, review of the supporting documents revealed that payments for goods and services delivered and works done amounting to Kshs.11,595,151 have been accumulated since 2016 while pending bills amounting to Kshs.14,177,410 lacked evidence or information about the date the suppliers/contractors were contracted or aging analysis. No explanation was provided for the delayed payment of suppliers.

Failure to clear pending bills negatively affects subsequent years budget as they form a first change.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

264. Unauthorized Internal Borrowings

As previously reported, Management borrowed a total of Kshs.60,478,780 and Kshs.73,594,986 in 2020-2021 and 2021-2022 financial years respectively from The Members and Staff Car Loan and Mortgage Funds. The total amount of Kshs.134,073,766 for the two financial years has not been refunded contrary to Section

142(1) and (3) of the Public Finance Management Act, 2012 which provides that County Assembly may authorize short term borrowing by county government entities for cash management purposes only and a county government entity that has any such borrowing shall ensure that the money borrowed is repaid within a year from the date on which it was borrowed. No explanation has been given on why the inter entity borrowing was not cleared within the financial years. Further, the board minutes and County Assembly notification approving the borrowings were not provided for audit.

In the circumstances, Management was in breach of the law.

265. Lack of Authorized Staff Establishment

The County Assembly does not have an approved staff establishment to form the basis under which vacancies were declared and filled contrary to Section B. 5 (2) of the County Public Service Human Resource Manual, 2013 which requires that all vacancies must be declared in a prescribed format which must include: the number of vacancies; when the vacancy occurred; whether the vacancy is within the authorized establishment and other relevant details.

In the circumstances, Management was in breach of the law.

266. Irregular Staff Recruitment and Promotion

During the year under review, Management recruited thirteen (13) and promoted seventeen (17) staff. However, there was no evidence of advertisement for the seven (7) of the positions filled by the staff recruited while there were no recommendations from the respective supervisors to County Assembly Service Board as well as appointment letters for six (6) of the staff promoted.

Further, recruitment files containing; advertisements for the jobs, list of applicants, shortlisting panel, shortlisting list, interview selection panel, interview list with dates and location of interview, individual score sheets and combined evaluators score sheets were not provided. In addition, verification of personal files revealed instances where there were no curriculum vitae, application letters, relevant certificates and testimonials and non-conformity to advertisement criteria.

In the circumstances, it was not possible to ascertain the propriety of the recruitment and promotion processes.

267. Non-Remittance of Income Tax Deductions

The County Assembly deducted a total of Kshs.132,109,705 from staff salaries as Pay as You Earn (PAYE) out of which an amount of Kshs.131,909,239 was remitted to Kenya Revenue Authority resulting to an unexplained variance of Kshs.200,467. This was contrary to Section 37(1) of the Income Tax Act, which stipulates that, an employer paying emolument to an employee shall deduct therefrom, and account for tax thereon, to such extent and in such manner as may be prescribed.

In the circumstances, Management was in breach of the law.

268. Irregular Payment of Legal Fees

During the year under review, Management paid an amount of Kshs.2,000,000 as legal dues/fees, arbitration and compensation payments. No explanation has been given for not seeking guidance from the County Attorney who is their principal legal advisor. This was contrary to Section 7 of the Turkana County Office of the County Attorney Act, 2018 which provides that the County Attorney shall advise and represent the County Government in court or any other legal proceedings. Further, the basis upon which legal fee was arrived at was not explained.

In the circumstance, Management was in breach of the law.

269. Irregular Payment of Subscription Fees

The statement of receipts and payments reflects an amount of Kshs.278,274,998 under use of goods and services as disclosed in Note 5 to the financial statements, includes other operating expenses balance of Kshs.11,454,240 out of which an amount of Kshs.1,500,000 was paid to Society of Clerks and County Assemblies Forum. However, the basis of the payments was not stated and supported by the enabling legislation as required by Section 149 (1)(a) of the Public Finance Management Act, 2012.

In the circumstance, Management was in breach of law.

270. Irregular Procurement of Hospitality Supplies and Services

Review of records revealed that during the year, Management incurred an expenditure on hospitality supplies and services which included an expenditure amounting to Kshs.2,185,500 relating to payments for conference facilities that were done in cash above the low value cash purchase limit of Kshs.50,000. This was contrary to Regulation 92(a) of the Public Procurement and Asset Disposal Regulations, 2020 which provides that a procuring entity may use low value procurement method under Regulation 107(b) the Act, where the estimated cost of the goods, works or services being procured per item per financial is as per the threshold matrix in the Second Schedule.

In the circumstances, Management was in breach of the law.

271. Accounts Receivables - Outstanding Imprests

The statement of financial assets and liabilities indicates imprests and advances balance of Kshs.9,023,500 as analysed in Note 14 and Annex 5 to the financial statements. However, no reason has been provided for the failure to surrender the long-outstanding amounts as required by Regulation 93(5) of the Public Finance Management (County Governments) Regulations, 2015.

In the circumstances, Management was in breach of the law.

272. Stalled and Unused Motor Vehicles

Audit verification revealed that eight (8) vehicles belonging to County Assembly of Turkana were either grounded or remained idle within the County Assembly premises or in garages in Eldoret. No reports were provided of the status of the vehicles contrary to Section 149 (2)(m) of the Public Finance Management Act, 2012. It was not possible to ascertain that the best options had been exercised in the management of the vehicles and that value for money was derived from the cost of the vehicles

In the circumstances, prudent management of public resources could not be confirmed.

273. Irregular Refurbishment of County Assembly of Turkana

Management awarded a contract for refurbishment of former survey offices in Turkana at a cost of Kshs.65,000,020 through a contract agreement dated 27 May, 2016. The date of commencement of the works was on 27 June, 2016, the expected date of completion was 27 June, 2019 and the expiry of the contract was 26 June, 2020 after payment of the retention fee. However, the tender documents of the bidders, progress reports and interim payment certificates for the project were not provided for audit. It was therefore impossible to determine the percentage of completion and the projected completion dates for the project.

Further, physical verification in the month of August, 2022 revealed that intended refurbishment of the County Assembly of Turkana - Former Survey Offices was not complete 26 months after the expiry of the contract period.

In the circumstances, value for money for the expenditure on the project could not be confirmed.

274. Non-Implementation of e-Procurement

Review of procurement records indicated that Management did not use e-procurement as stipulated in Regulation 49(2) of the Public Procurement and Asset Disposal Regulations, 2020 which provides that the conduct of e-procurement procedures for the supply of goods, works and services shall be carried out by a procuring entity using an e-procurement system which is integrated to the state portal; and Part IV of the Executive Order No 2/2018 which required that by 01 January, 2019 all public procuring entities to undertake all their procurement through the e-procurement module in IFMIS.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

275. Weakness in Information Technology

Review of the information technology internal controls documentation revealed that an IT Continuity and Disaster Recovery Plan was not in place to ensure that the County Assembly recovers its functionality in case of an unplanned incident or disaster.

Further, even though appointment of members to the IT Steering Committee was done on 8 July, 2021, no meeting was held by the members during the year, an indication that the committee was not active.

In the circumstances, effectiveness of the IT internal controls could not be confirmed.

276. Control Weaknesses in Management of Cashbook

Review of the controls over cash and cash equivalents revealed that the cashbooks are not signed by the preparer to show ownership of the document while the officer who prepares the cash book and is the same officer who prepares the monthly bank reconciliation statements. The reconciliation statements are not signed by both the preparer and the approver as evidence of being prepared and checked by responsible personnel.

Further, spoilt cheques were not marked and fixed securely to the cheque counterfoil or register. This was contrary to Regulation 85(5) of the Public Finance Management (County Governments) Regulations, 2015 which provides that Spoilt cheques shall be marked prominently with the stamp “cancelled”, and fixed securely to the cheque-list used for controlling the cheques issued each day.

In the circumstances, proper controls over the cash book could not be confirmed.

277. Lack of Ownership Documents

County Assembly has three pieces of land which hosts County Assembly Headquarters, Modern Assembly Building and the Speaker’s Residence. However, the County Assembly does not have the ownership documents such as letter of allotment or title deeds for the parcels of land owned. It was therefore impossible to ascertain the land identification LR Number/Parcel Numbers, the location or description of the areas and the sizes of the parcels of land. Similarly, County Assembly did not provide the original motor vehicle log book for vehicle registration number under its control for audit.

In the circumstances, effectiveness in the control of assets could not be confirmed.

COUNTY ASSEMBLY OF WEST POKOT – NO.24

REPORT ON THE FINANCIAL STATEMENTS

Basis for Adverse Opinion

278. Unsupported Expenditure on Office and General Supplies.

The statement of receipts and payments reflects an amount of Kshs.231,921,391 in respect of use of goods and services which, as disclosed in Note 5 to the financial statements includes an amount of Kshs.3,691,190 incurred on office and general supplies. However, included in the expenditure is an amount of Kshs.930,490 that was not supported by payment vouchers and verifiable documentation.

In the circumstances, the accuracy and regularity of office and general supplies expenditure of Kshs.930,490 could not be confirmed.

279. Unsupported Expenditure on Purchase of Office Furniture and General Equipment

The statement of receipts and payments reflects expenditure totalling to Kshs.22,350,676 on acquisition of assets as disclosed in Note 10 to the financial statements. However, Annex 4 to the financial statements reflects additions for the year amounting to Kshs.23,349,670 which includes an amount of Kshs.999,000 in respect of purchase of ICT equipment that was not supported by schedules.

In the circumstances, the accuracy and completeness of the expenditure of Kshs.990,000 incurred on purchase of ICT equipment could not be confirmed.

280. Failure to Maintain Assets Register

The summary of fixed assets register - Annex 4 to the financial statements, reflects fixed assets at the beginning of the year with a historical cost of Kshs.473,087,911 and additions of assets during the year of Kshs.23,349,676 resulting to cumulative assets balance of Kshs.496,437,587 as at 30 June, 2022. However, the County Assembly did not maintain an accurate and up to date assets register to confirm the nature, number, physical location and fair value of the assets.

In the circumstances, the accuracy and completeness of the fixed assets balance of Kshs.496,437,587 could not be confirmed.

281. Failure to Maintain a Deposits/Retention Bank Account

The County Assembly did not maintain a deposits/retention bank account, cashbook and registers showing the receipts and payments in regard to retention money. In addition, schedules showing respective payee balances at the end of the financial year were not provided for audit review.

Review of records revealed that the County Assembly had withheld a total of Kshs.38,533,770 as at 30 June, 2022 in respect of retention deposit. However, this amount was not disclosed in the financial statements and no evidence was provided to disclose proof that the retention amount was safely kept and available for payment when due.

In the circumstances, the completeness and accuracy of the third-party deposits and retention of a nil balance reported in the statement of financial assets and liabilities could not be confirmed.

282. Irregular Engagement of Casual Employees

The statement of receipts and payments reflects compensation of employees' costs amounting to Kshs.346,626,218 which as disclosed in Note 4 to the financial statements includes an amount of Kshs.23,846,320 paid as basic wages of temporary employees. The amount was paid to casual employees engaged in the various offices within the County Assembly. However, no evidence was provided to confirm that the County Assembly Service Board had authorised the engagement of the casual workers. There was also no evidence of how the casual employees were hired, the tasks for which they were paid, their job descriptions, and their terms of engagement.

Further, the number of casual employees engaged at the County Assembly could not be confirmed as the standing list for all casual employees or monthly muster rolls were not maintained.

In the circumstances, the completeness, accuracy and propriety of the basic wages of temporary employees of Kshs.23,846,320 could not be confirmed.

283. Expenditure on Airtime

The statement of receipts and payments reflects an expenditure of Kshs.231,921,391 incurred on use of goods and services which, as disclosed in Note 5 to the financial statements includes an amount of Kshs.1,500,000 spent on communication supplies and services in respect of air time to various officers. However, the expenditure was not supported by an airtime policy guiding on purchase of airtime and the entitlement of the respective staff members. Further, there was no distribution list to confirm the recording in stores, issue and receipt of the air time by the officers.

In the circumstances, the propriety of the expenditure on airtime of Kshs.1,500,000 could not be confirmed.

284. Imprest Management

Review of imprest warrants and analysis of the Integrated Financial Management Information System (IFMIS) payment details revealed that accommodation allowance and daily subsistence allowance are expensed directly at the time of imprest issue. Further, no imprest register was maintained by the County Assembly either manually or through the IFMIS system.

In the circumstances, it was not possible to ascertain whether imprests totalling to Kshs.2,064,852 issued to various officers were properly surrendered or accounted for.

285. Irregular Payments of Subsistence and Travel Allowances

During the year under review, Management requested for an advancement of Kshs.2,435,600 from the Members Car Loan and Mortgage Fund Account on 24 November, 2021 to cater for travel and accommodation expenses for the Assembly staff while attending Senate sitting interrogating financial statements for the financial year 2018/2019 and other prior years.

Review of records revealed that the amount was obtained through cash withdrawals which were not supported by appropriate authority, documentation and pre-numbered payment vouchers. No reason was provided for the cash withdrawals instead of transferring the funds to respective personal accounts of the payees.

Further, twenty-four (24) County Assembly employees were authorized by the Clerk to appear before the Senate Committee for Public Accounts and Investments on 18 November, 2021 but the session was later rescheduled to 29 November, 2021. However, the signed attendance list together with signed payment schedule were not provided for audit review. It was therefore not possible to confirm whether all the authorized staff members attended the Senate Public Accounts and Investments Committee sittings to qualify for payment.

In the circumstances, the accuracy and propriety of the cash withdrawals and expenditure totalling to Kshs.2,435,600 could not be confirmed.

286. Unsupported Expenditure on Car Grant Tax Management

During the year under review, the County Assembly paid an amount of Kshs.2,459,800 to thirty-three (33) Members of the County Assembly and other staff as facilitation during follow-up on implementation of grant tax repayment as a result of the Salaries and Remuneration Commission review of the car loan benefits to members. However, there was no evidence of invitation by the Salaries Remuneration Commission or Kenya Revenue Authority to the Assembly for participation of the 33 participants in the meeting.

In the circumstances, the propriety and accuracy of the payment totalling Kshs.2,459,800 could not be ascertained.

287. Wasteful Expenditure on Assembly Chamber Seats

As previously reported, a payment of subsistence allowance (per diem) of Ksh.966,000 was made to the Speaker of the County Assembly, two (2) Members of the County Assembly, two (2) County Assembly Services Board (CASB) members and five (5) members of staff for five (5) days to visit Kamiti Maximum Prison in Nairobi to assess the progress of the work of making seats by Kamiti Prison Industry.

Further, during the year under review, amount of Kshs.383,600 was paid to 8 officers of the County Assembly as facilitation expenses during the pre-delivery inspection and acceptance exercise of chamber seats at Kamiti Maximum Prison in Nairobi. There

was no justification for the payments since the contractor had been given samples of the County Assembly seats to make and the timelines upon which to deliver.

In the circumstances, the propriety of the payments amounting to Kshs.1,349,600 could not be confirmed.

288. Unsupported Fund Balance

The statement of financial assets and liabilities reflects a nil fund balance brought forward as indicated in Note 16 to the financial statements, while the audited financial year ended 30 June, 2021 had reported a prior year balance of Kshs.603,041. No explanation was provided on how the fund balance being an accumulation of deficits and/or surpluses over the years was cleared to result to a nil balance.

In the circumstances, the accuracy of the fund balance could not be confirmed.

Other Matter

289. Pending Bills

Note 1 on other disclosures and as disclosed in Annex 1 to the financial statements reflects pending bills balance of Kshs.93,522,215. However, the details of the pending bills indicating when they were incurred and the movement to the current balance were not provided for audit review.

Further, no explanation was provided for continued non-payment of pending bills which should have been paid as a first charge in the subsequent financial years contrary to Regulation 41(2) of the Public Finance Management (County Governments) Regulations, 2015 which states that debt service payments shall be a first charge on the County Revenue Fund.

Failure to settle bills during the year to which they relate distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

290. Unresolved Prior Year Audit Matters

In the audit report of the previous year, several issues were raised and remained unresolved as at 30 June, 2022. Management has not provided reasons for the delay in resolving the prior year audit issues.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

291. Non-Compliance with Public Finance Management Act, 2015 Fiscal Responsibility

The approved expenditure of the County Assembly for the year ending 30 June, 2022 was Kshs.689,653,368 for both recurrent and development, which was nine percent

(9%) of the total County Revenue of Kshs.7,671,679,349 which is contrary to Regulation 25(1)(f) of The Public Finance Management (County Governments) Regulations, 2015, which states that the approved expenditure of a County Assembly shall not exceed 7% of the total revenue or twice the personnel emoluments of that County Assembly, whichever is lower. The allocation of excess funds denies other needy sectors of the county government resources for service delivery to the public.

In the circumstances, Management was in breach of the law.

292. Non-Compliance with Fiscal Responsibility Principle on Compensation of Employees

The County Assembly received exchequer releases totalling to Kshs.670,548,179 as disclosed in Note 1 to the financial statements, out of which the Assembly was expected to spend not more than Kshs.234,691,863 or 35% on compensation of employees. However, the total expenditure on compensation of employees during the year under review totalling to Kshs.346,626,218 or 52 % of total revenue received, exceeded limit by Kshs.111,934,355 or 17%. This is contrary to Regulation 25(1)(a)(b) of Public Finance Management (County Governments) Regulations, 2015, which provides that compensation of employees (including benefits and allowances) shall not exceed 35% of the equitable share of revenue raised plus other revenues generated by the County Government.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

293. Lack of Internal Audit Function and Audit Committee

During the year under review, the County Assembly did not have an Internal Audit function to review and evaluate budgetary performance and financial management as well as to give reasonable assurance on the state of risk management, control and governance. Further, the review the effectiveness of the financial and non-financial performance management systems and processes in the County Assembly among other functions were not performed as the County Assembly did not have a functional Board Committee.

In the circumstances, there was no assurance that the existing internal control systems, risk management and governance processes of the County Assembly were effective.

COUNTY ASSEMBLY OF SAMBURU – NO.25

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

294. Unsupported Expenditure – Use of Goods and Services

The statement of receipts and payments reflects an amount of Kshs.204,290,012 in respect of use of goods and services which, as disclosed in Note 5 to the financial statements includes hospitality, supplies and services expenditure of Kshs.22,267,778 out of which expenditure amounting to Kshs.2,418,610 was not supported.

Further, the balance includes foreign travel and subsistence of Kshs.26,658,614. During the year under review, ten (10) members of the Assembly spent Kshs.6,419,840 while attending a training on leadership and management in public service in Addis Ababa from 23 January, to 2 February, 2022. However, no supporting documents including clearance certificates from the relevant ministry, travelling documents including passports, signed attendance registers and back to office reports were provided for audit review.

In addition, the foreign travel and subsistence amount of Kshs.26,658,614 includes an amount of Kshs.2,837,823 in respect to facilitation of thirteen (13) Members of the County Assembly (MCAs) and Secretariat to attend the 2nd East Africa Community Regional Science, Technology and Innovation Conference in Arusha, Tanzania for four (4) days starting from 27 to 29 October, 2021. However, review of the relevant documents revealed that back to office report, to confirm the benefits of the conference to the Assembly, signed attendance registers and certificates of participation and international Travel Clearance for the thirteen (13) members from the speaker of the Assembly were not provided for audit review.

In the circumstances, the accuracy and propriety of the expenditure amounting to Kshs.11,676,273 included under the use of goods and services could not be confirmed.

295. Inaccuracies in Non-Current Assets

Annex 4 to the financial statements in respect to summary of non-current asset register reflects a balance of Kshs.597,145,184. The County Assembly owns several parcels of land on which has put up offices in five (5) Wards and two (2) parcels where the main office and the Speaker's residence have been put up. However, these parcels of land have not been included in the summary of non-current asset register in Annex 4.

In the circumstances, the accuracy at completeness of the non-current asset registers balance of Kshs.597,145,184 could not be confirmed.

296. Variances Between IFMIS and the Financial Statements

Review of the IFMIS ledger and the statement of assets and liabilities reflects the following variances in various financial components:

Component	Financial Statements Balances (Kshs)	Balances in IFMIS Records (Kshs.)	Variances (Kshs)
Bank Balances	1,846,530	(2,339,256,213)	2,341,102,743
Cash Balances	0	1,752,619,499	(1,752,619,499)
Total Cash and Cash Equivalents	1,846,530	(586,636,713)	588,483,243
Retention in Mortgage Account	4,232,540	0	4,232,540
Retention in County Executive Retention Account	32,740,710	0	32,740,710
Accounts Receivable	36,973,250	0	36,973,250
Third Party Deposits and Retentions	36,973,250	(117,381,626)	154,354,876
Fund Balance Brought Forward	0	174,502,560	(174,502,560)

No reconciliation statement has been provided for audit review.

In the circumstances, accuracy of the respective balances in the statement of assets and liabilities could not be confirmed.

297. Unsupported Procurement of Videography and Editing

The statement of receipts and payments statements reflects an amount of Kshs.204,290,012 on use of goods and services and as disclosed in Note 5 to the financial statements. This expenditure includes other operating expenses of Kshs.14,005,038 which further includes Kshs.2,572,800 being payment for the editing of the second documentary of the County Assembly of Samburu. The deliverables that were signed in the contract included a 3-minute Video, 10-minute video and 20-minute videos and Coffee table- Highlighting all pictures and moments of the County Assembly. The contract for the service was signed on 15 April, 2021 for a contractual sum of Kshs.4,000,000. However, no evidence was provided for audit review to confirm that the service procured was delivered.

In the circumstances, completeness and value for money on the expenditure of Kshs.4,000,000 could not be confirmed.

Other matter

298. Unresolved Prior Year Matters

In the audit report of the previous year, several paragraphs were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, Management has not resolved the issues nor disclosed all

the prior year matters as provided by the Public Sector Accounting Standards Board templates.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

Basis for Conclusion

299. Unauthorized Subscription Fees

As disclosed in Note 5 to the financial statements, the statement of receipts and payments reflects an amount of Kshs.204,290,012 on use of goods and services which includes a balance of Kshs.14,005,035 in respect to other operating expenses out of which Kshs.750,000 was paid to Society of Clerks -At-The Table (SOCATT) and Kshs.2,600,000 paid to County Assemblies Forum (CAF) as annual subscription fees. Review of the SOCATT and CAF records revealed that these bodies do not draw their mandate from the Constitution of Kenya or an Act of Parliament.

Further, the final approved budget for the year 2021/2022 did not have a provision for the payment of these subscriptions. The basis for the payments made to these institutions was therefore, not legally supported and is contrary to Public Finance Management (County Governments) Regulations No. 105 (1) which states that an Accounting Officer may authorize payment vouchers provided such expenditure is in respect of and within the provision of the services in a County Treasury warrant and in accordance with the law and regulations. No evidence of an equivalent benefit to the County Assembly was provided for audit review.

In the circumstances, Management was in breach of the law.

300. Non-Compliance with Law on Ethnic Composition

During the year under review, the total number of employees of the County Assembly was seventy-four (74) out of which sixty-three (63) or 85 % were members of the dominant ethnic community in the County. This is contrary to Section 7(1) and (2) of the National Cohesion and Commission of 2008 which states that all public offices shall seek to represent the diversity of the people of Kenya in employment of staff are that no public institute shall have more than one third of its staff establishment from the same ethnic community.

In the circumstances, Management was in breach of the law.

301. Non-Compliance with the One-Third of Basic Salary Rule

During the year under review, twenty-one (21) employees earned a net salary of less than a third (1/3) of the basic salary contrary to Section C.1(3) of the Public Service Commission (PSC) Human Resource Policies, 2016. Management did not provide an explanation for failure to comply with the policy.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

302. There were no material issues raised on internal controls, risk management and governance.

COUNTY ASSEMBLY OF TRANS NZOIA – NO.26

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

303. Variances Between the Financial Statements and IFMIS Balances

The financial statements reflects balances under the use of goods and services items that differed with those of Integrated Financial Management Information System (IFMIS) as detailed below:

Component	Financial Balance (Kshs.)	IFMIS Balance (Kshs.)	Variance (Kshs.)
Domestic Travel and Subsistence	134,341,656	15,727,982	118,613,674
Foreign Travel and Subsistence	9,280,550	7,330,540	1,950,010
Printing, Advertising and Information Supplies and Services	20,538,078	15,935,328	4,602,750
Rentals of Produced Assets	38,400,000	100,000	38,300,000
Training Expenses	7,860,712	4,567,112	3,293,600
Hospitality Supplies and Services	17,450,000	9,430,000	8,020,000
Insurance Costs	23,551,849	22,800,694	751,155
Office and General Supplies and Services	59,302,686	58,112,283	1,190,403
Other Operating Expenses	54,229,737	39,281,735	14,948,002
Routine Maintenance-Other Assets	2,031,761	1,981,761	50,000

No explanation or reconciliation was provided for the variances.

In the circumstances, the accuracy and completeness of the financial statements could not be confirmed.

304. Failure to disclosed Land

The summary of fixed assets register in Annex 3 to the financial statements reflects total fixed assets balance of Kshs.201,039,837. However, the balance excludes the value of land on which the County Assembly is situated and whose acreage and ownership could not be confirmed as no ownership documents were provided for audit. Further, the County Assembly's asset register did not contain information on costs, asset descriptions, serial numbers, model and make for some assets contrary to Regulation 136(1) of the Public Finance Management (County Governments) Regulations, 2015 which provides that the Accounting Officer shall be responsible for maintaining a register of assets under his or her control or possession as prescribed by the relevant laws.

In the circumstances, the completeness and accuracy of the fixed assets balance of Kshs.201,039,837 could not be confirmed.

305. Irregular Sitting Allowances

The statement of receipts and payments reflects an expenditure of Kshs.374,389,472 under use of goods and services which, as disclosed in Note 3 to the financial statements, includes an amount of Kshs.134,341,656 in respect of domestic travel and subsistence allowances. The latter amount includes an amount of Kshs.958,500 incurred on MCAs sitting allowances in respect of multiple committee meetings held concurrently on the same date and time. Further, it was noted that several committee minutes presented for audit review were not signed and confirmed.

In the circumstances, the accuracy and propriety of the MCA's sitting allowance expenditure of Kshs.958,500 could not be confirmed.

306. Unsupported Training Expenses

The statement of receipts and payments reflects an expenditure of Kshs.374,389,472 in respect of use of goods and services which, as disclosed in Note 3 to the financial statements, includes an amount of Kshs.7,860,712 in respect of training expenses. The latter amount includes a total of Kshs.4,271,820 which was not supported by training needs assessment report and attendance registers. This is contrary to Regulation 104(1) of the Public Finance Management (County Governments) Regulations, 2015, which provides that all receipts and payments vouchers of public moneys shall be properly supported by pre-numbered receipt and payment vouchers and shall be supported by the appropriate authority and documentation.

In the circumstances, the propriety and accuracy of the training expenditure of Kshs.4,271,820 could not be confirmed.

307. Overpayment for Hospitality Services

As disclosed in Note 3 to the financial statements, the expenditure of Kshs.374,389,472 under use of goods and services includes an amount of Kshs.17,450,000 in respect of hospitality supplies and services incurred on conference facilities on various dates. However, there were differences in the number of persons provided for and those who actually attended the activities resulting in overpayments amounting to Kshs.478,500. No reason was provided for paying for unrendered services.

In the circumstances, the accuracy and propriety of the hospitality supplies and services expenditure of Kshs.478,500 could not be confirmed.

Other Matter

308. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.1,048,921,665 and Kshs.772,533,455 respectively resulting into an underfunding of Kshs.276,388,210 or 26% of the budget.

Similarly, the County Assembly spent Kshs.777,011,140 against an approved budget of Kshs.1,048,921,665 resulting in an under-expenditure of Kshs.271,910,525 or 26% of the budget.

The underfunding and under-expenditure is an indication of failure to implement the planned programmes for the year, thus negatively impacting on service delivery to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

309. Adherence to Authorized Staff Establishment

Review of the IPPD generated staff establishment revealed instances where the authorized number of positions were exceeded by the actual number in position in six cadres. The basis under which the vacancies were declared and filled beyond the approved staff establishments was not provided contrary to Section B. 5 (2) of the County Public Service Human Resource Manual, 2013 which requires that all vacancies must be declared in a prescribed format which must include the number of vacancies, when the vacancy occurred, whether the vacancy is within the authorized establishment and other relevant details.

In the circumstances, Management was in breach of the law.

310. Non-Compliance with Ethnic and Regional Distribution of Staff

Review of staff bio data revealed that the County Assembly had ninety-seven (97) members of staff out of whom fifty-two (52) or 54% were from the dominant ethnic community in the County. The Management therefore contravened Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 which provides that all public establishments shall seek to represent the diversity of the people of Kenya in the employment of staff and no public establishment shall have more than one third of its staff from the same ethnic community.

In the circumstances, Management was in breach of the law.

311. Irregular Payment of Subscription Fees

Included in the expenditure of Kshs.374,389,472 under use of goods and services is an amount of Kshs.54,229,737 in respect of other operating expenses, out of which Kshs.3,050,000 was paid to the Society of Clerks and County Assemblies Forum. However, the basis of the payments was not stated or supported by the enabling legislation that created the Society of Clerks and County Assemblies Forum for them to receive public funds. This contravenes Section 149(1)(a) of the Public Finance Management Act, 2012 which states that an Accounting Officer is accountable to the County Assembly for ensuring that the resources of the entity for which the officer is designated are used in a way that is lawful and authorised.

In the circumstances, Management was in breach of the law.

312. Failure to Implement e-Procurement

Review of records revealed that the County Assembly incurred an expenditure of Kshs.374,389,472 on use of goods and services out of which an amount of Kshs.216,400,958 was not procured using e-procurement as required by Regulation 49(2) of the Public Procurement and Asset Disposal Regulations, 2020. The legislation requires that the conduct of procurement procedures for the supply of goods, works and services shall be carried out by a procuring entity using an e-procurement system which is integrated to the State Portal.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

313. There were no material issues raised on internal controls, risk management and governance.

COUNTY ASSEMBLY OF UASIN GISHU – NO.27

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

314. Unsupported Cash and Cash Equivalents

The statement of assets and liabilities reflects cash and cash equivalents balance of Kshs.3,245,173 as disclosed in Note 8A to the financial statements. Included in the balance are thirty (30) Ward offices bank accounts whose cash books and monthly bank reconciliation statements were not provided for audit. Further, the County Treasury authority for the opening of the Ward office bank accounts was not provided for audit.

In the circumstances, the regularity of the cash and cash equivalents balance of Kshs.3,245,173 could not be confirmed.

Other Matter

315. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on a comparable basis of Kshs.1,026,425,298 and Kshs.788,910,868, respectively resulting to an under-funding of Kshs.237,514,430 or 23% of the budget. Similarly, the County Assembly spent an amount of Kshs.789,142,098 against an approved budget of Kshs.1,026,425,298 resulting to an under-expenditure of Kshs.237,283,200 or 23% of the budget.

The underfunding and underperformance affected the planned activities and may have impacted negatively on service delivery to the public.

316. Unresolved Prior Year Audit Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, the Management had not resolved the issues or given any explanation for failure to implement the recommendations.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

317. Salaries Paid Outside Integrated Personnel and Payroll Database (IPPD) System

The statement of receipts and payments reflects compensation of employees expenditure totalling to Kshs.350,654,059 as disclosed in Note 2 to the financial statements. Included in the expenditure is an amount of Kshs.1,144,688 in respect of

a Member of the County Assembly (MCA) paid through manual payment vouchers outside the Government recommended Integrated Personnel and Payroll Database (IPPD) Management System under unclear circumstances. This is contrary to The National Treasury Circular No.9/2017 which requires personnel emoluments to be controlled in the public personnel database and supported by IPPD. Further, the MCA was drawing salary which was less than a third of her basic salary contrary to the provision of Section C.1 (3) of the Government of Kenya Human Resource Manual, 2015 which provides that Public Officers shall not over commit their salaries beyond two thirds (2/3) of basic salary. No explanation was provided for failure by the Accounting Officer to adhere to the Government of Kenya Human Resource Manual, 2015.

In the circumstances, Management was in breach of the law.

318. Non-Compliance with Law on Staff Ethnic Composition

Review of personnel records for the year under review indicated that the County Assembly had one hundred and forty-five (145) members of staff as at 30 June, 2022, out whom one hundred and thirty-two (132) or 91% were from the dominant ethnic community in the County. This is contrary to Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 which states that, “all Public Offices shall seek to represent the diversity of the people of Kenya in the employment of staff and that no public institution shall have more than one-third of its staff establishment from the same ethnic community”.

In the circumstances, Management was in breach of the law.

319. Failure to Submit Financial Statements

During the year under review, the County Assembly Service Board did not prepare and submit for audit financial statements for the year ended 30 June, 2022 to the Office of the Auditor-General. This was contrary to Section 32(2) of the County Assembly Services Act, 2017 which requires the Secretary to the Board within three months after the end of each financial year, to submit the accounts of the Board to the Auditor-General for audit purposes.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

320. Internal Control Weaknesses

Review of the Information Communication Technology (ICT) environment revealed that the County Assembly did not have an ICT Policy in place. Further, ICT Security Policy and disaster recovery plans have not been developed or spelt out in an ICT policy. In addition, formally documented and approved processes to manage system changes

and upgrades made to the existing ICT systems have not been established. The County Assembly also lacks an ICT Steering Committee and an ICT Strategic Plan to formulate policies and advice on ICT investment priorities.

Review of the ICT data center room revealed lack of an access control system to restrict and monitor access to the server room, lack of air conditioning equipment and lack of an environmental monitoring system to monitor the humidity and temperature in the data center. Further, without a sound and approved framework, users do not have any rules and procedures to follow in order to minimize risk of errors, fraud and the loss of data confidentiality, integrity and availability.

In the circumstances, the adequacy of internal control structures in safeguarding public resources could not be confirmed.

321. Failure to Establish an Audit Committee

The County Assembly did not have in place an Audit Committee to oversight the operations during the year. This may affects the independence of the Internal Audit function which should enjoy operational independence through the reporting structure by reporting administratively to the Accounting Officer and functionally to the Audit Committee.

In the circumstances, existence of good governance in the County Assembly could not be confirmed.

322. Lack of a Risk Management Policy

As reported in the previous year, the Management did not have in place a risk Management policy contrary to Regulation 158(1)(a) and (b) of the Public Finance Management (County Governments) Regulations, 2015 which requires an Accounting Officer to ensure that the County Government entity develops - (a) risk management strategies, which include fraud prevention mechanism; and (b) a system of risk management and internal control that builds robust business operations. It was not possible to confirm whether risks to operations of the County Assembly were identified, their significance estimated and likelihood of occurrence determined and mitigation measures put in place to contain their possible effects.

In the circumstances, effectiveness of risk management at the County Assembly could not be confirmed.

COUNTY ASSEMBLY OF ELGEYO/MARAKWET– NO.28

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

323. Exchequer Releases Received After Year End

The statement of receipts and payments reflects Exchequer releases amount of Kshs.591,875,056 as disclosed in Note 1 to the financial statements. Included in this amount is Kshs.4,867,479 transferred from The National Treasury into the County Assembly fund bank account between 1 July, 2022 and 4 July, 2022, after the end of the financial year. This is contrary to both the International Public Sector Accounting Standards (IPSAS) Cash Basis of accounting and cut-off procedures which requires that funds are disclosed in the year in which they are received.

In the circumstance, the accuracy and completeness of the Exchequer releases balance of Kshs.591,875,056 could not be confirmed.

Other Matter

324. Unresolved Prior Year Issues

In the audit report of the previous year, several issues were raised under the Report on Lawfulness and Effectiveness in Use of Public Resources and the Report on Effectiveness of Internal Controls, Risk Management and Governance. However, the Management has not resolved some of the issues or given any explanation for failure to adhere to the provisions of the Public Sector Accounting Standards Board templates and The National Treasury Circulars.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

325. Non-compliance with Fiscal Responsibility on Wages and Benefits

The statement of receipts and payments reflects compensation of employees amount of Kshs.311,484,825 which is equivalent to 52.6% of its receipts for the year totalling Kshs.591,875,056. The expenditure was in excess of the threshold of 35% prescribed in Regulation 25(1)(a) and (b) of the Public Finance Management (County Governments) Regulations, 2015 and Section 107(2) of the Public Finance Management Act, 2012.

In the circumstances, Management was in breach of the law.

326. Failure to Observe One-Third Rule in Staff Establishment

Review of staff payroll data for June, 2022 indicated that the County Assembly had one hundred and fifteen (115) permanent employees out of whom one hundred and thirteen (113) or ninety eight percent (98%) were from the dominant ethnic community in the County. This is contrary to Section 7(1) of the National Cohesion and Integration Act, 2008 which requires public entities to seek to represent the diversity of the people of Kenya in their staff establishments.

In the circumstances, Management was in breach of the law.

327. Failure to Submit Financial Statements for Audit

As previously reported, the County Assembly Board did not submit its financial statements for the year under review to the Auditor-General for audit. The Board has since its inception never prepared nor submitted its financial statements for audit which is contrary to Section 32(2) of the County Assembly Services Act, 2017 which states that within three months after the end of each financial year, the Secretary submits to the Auditor-General the accounts of the Board for the year with copies to the County Treasury, Controller of Budget and Commission of Revenue Allocation.

In the circumstances, Management was in breach of the law.

328. Irregular Expenditure on Sitting and Domestic Travel and Subsistence Allowances

The statement of receipts and payments reflects use of goods and services amount of Kshs.247,014,130 as disclosed in Note 5 to the financial statements. However, the amount includes Kshs.3,941,100 being payment of sitting allowances and domestic travel and subsistence for County Assembly Service Board withdrawn from the County Assembly main accounts instead of the County Assembly Fund contrary to Section 34(3) of the County Assembly Services Act, 2017 which states that there shall be paid out of the fund such administrative expenses as may be incurred by the Board under this Act or under any other law.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

Basis for Conclusion

329. Lack of Risk Management Policy

Management did not submit for audit records on its risk management policy and hence there was no evidence of any approved processes and guidelines on how to mitigate operational, legal and financial risks.

In the absence of a risk management policy, the County Assembly may not identify and effectively respond to risks in order to minimize or prevent their impact.

330. Lack of a Disaster Recovery Plan

There was no evidence that Management had established disaster recovery or business continually plans to ensure that Assembly is able to respond to disaster or other emergencies affecting information systems and minimize the effect on business operations.

In the absence of the plans, the County Assembly could be disrupted on occurrence of unfavorable events that impact its operations.

COUNTY ASSEMBLY OF NANDI – NO.29

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

331. Inaccuracies in the Presentation and Disclosure of the Financial Statements

The statement of financial assets and liabilities reflects fund balance brought forward of Kshs.73,558,254 which differs with the prior year audited financial statements closing fund balance of Kshs.78,055,658 by an unexplained variance of Kshs.4,497,404 and further differs with Note 16 to the financial statements nil balance.

Further, the statement of financial assets and liabilities as at 30 June, 2022 and the statement of receipts and payments for the year ended 30 June, 2022 are at variance with the IFMIS financial reports for the year ended 30 June, 2022 as indicated below:

Item	Financial Statements (Kshs.)	IFMIS (Kshs.)	Variance (Kshs.)
Exchequer Releases	696,003,318	-	696,003,318
Compensation of Employees	396,770,396	396,821,396	(51,000)
Use of Goods Services	290,183,434	243,992,622	46,190,812
Acquisition of Assets	54,189,330	55,053,722	(864,392)
Bank Balances	45,815,217	(59,499,229)	105,314,446
Cash Balances	-	2,657,214,556	(2,657,214,556)
Accounts Receivables	-	5,400,000	(5,400,000)
Accounts Payables - Deposits	33,995,540	5,415,999,352	(5,382,003,812)
Fund Balance Brought Forward	73,558,254	(2,097,777,851)	2,171,336,105
Surplus/Deficit for the Year	(61,738,576)	-	(61,738,576)

No satisfactory explanation or reconciliation has been provided for the above variances.

In addition, the statement of comparison of budget and actual amounts reflects final receipt budget amount of Kshs.769,452,972 which differ with the approved budget amount of Kshs.734,452,972 by Kshs.35,000,000.

In the circumstances, the accuracy and completeness of the financial statements balances for the year ended 30 June, 2022 could not be confirmed.

332. Unsupported Ward Operations Expenses

The statement of receipts and payments reflects an amount of Kshs.396,770,396 in respect of compensation of employees cost which includes an amount of Kshs.5,190,504 paid as rent. The expenditure ought to have been charged to rental

item under use of goods and services and as such the same was misclassified. Further, the expenditure was not supported by a signed lease agreements and valuation report.

In the circumstances, the classification and accuracy of employees cost amounting to Kshs.5,190,504 could not be confirmed.

Other Matter

333. Unresolved Prior Year Audit Matters

In the audit report of the previous year, several paragraphs were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, the Management had not resolved the issues nor given any explanation for the delay in resolving them.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

334. Non-Compliance with Law on Fiscal Responsibilities – Wage Bill

The statement of receipts and payments reflects compensation of employees' amount of Kshs.396,770,396 or 57% of the total revenue of Kshs.696,003,318. The expenditure exceeded the recommended threshold of 35% contrary to Regulation 25(1) (b) of the Public Finance Management (County Governments) Regulations, 2015.

In the circumstances, Management was in breach of the law.

335. Non-Compliance with National Cohesion and Integration Act, 2008

Review of the payroll data revealed that the County Assembly had a total of eighty-three (83) employees, all from the dominant ethnic community, representing 100% of employees' population. This is contrary to Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 that requires all public establishments to seek to represent the diversity of the people of Kenya in employment of staff and that no public establishment shall have more than one third of its establishment from the same ethnic community.

In the circumstances, Management was in breach of the law.

336. Late Remittance of Statutory Deductions

Review of the employee records, payrolls, statutory deductions, remittance schedules and bank statements, revealed that statutory deductions and remittances for PAYE, NSSF, NHIF, Pensions and Gratuity (LAPTRUST), Withholding Taxes, and Provident Fund amounting to Kshs.115,925,807 were remitted after the due date, in contravention of the Income Tax (PAYE) Rules, NHIF Act, 1998, NSSF Act, 2013,

Income Tax (withholding tax) Rules, 2018 and the Retirement Benefits Act (RBA) Act, 1997.

In the circumstances, Management was in breach of the law.

337. Exclusion of Temporary Employee from Compulsory Social Security Schemes/Funds

Review of the payroll and other human resource records for the year ended 30 June, 2022 revealed that a total of one hundred and forty (140) temporary employees based at the Ward offices were not included in the National Social Security Fund (NSSF) and National Hospital Insurance Fund (NHIF) contrary to the provisions of Section 15 (1) of the National Hospital Insurance Fund (NHIF) Act, 1998 which states that an employer shall pay contributions to the Pension Fund in respect of each employee in his or her employment as prescribed in the Act.

In the circumstances, Management was in breach of the law.

338. Non-Compliance with the One Third Rule on Basic Salary

Audit of the payroll revealed that some employees of the County Assembly received net salaries which were less than a third of their respective basic salaries. This is contrary to Section 19(3) of the Employment Act, 2007 which states that, without prejudice to any right of recovery of any debt due, and notwithstanding the provisions of any other written law, the total amount of all deductions which under the provisions of subsection (1), may be made by an employer from the wages of his employee at any one time shall not exceed two-thirds of such wages or such additional or other amount as may be prescribed by the Minister either generally or in relation to a specified employer or employee or class of employers or employees or any trade or industry.

In the circumstances, Management was in breach of the law.

339. Lack of Employment Contracts

Review of the Human Resource records and employee files revealed that the County Assembly does not issue employment contracts to temporary employees working in Ward offices despite the employees being engaged for a full term of the Members of the County Assembly, which is five (5) years. This is in contravention to Section 9 of the Employment Act, 2007 which states that, (1) A contract of service— (a) for a period or a number of working days which amount in the aggregate to the equivalent, of three months or more; or (b) which provides for the performance of any specified work which could not reasonably be expected to be completed within a period or a number of working days amounting in the aggregate to the equivalent of three months; shall be in writing. (2) An employer who is a party to a written contract of service shall be responsible for causing the contract to be drawn up stating particulars of employment.

In the circumstances, Management was in breach of the law.

340. Irregular Payment of Subscription

Review of expenditure records relating to other operating expenses revealed that, an amount of Kshs.2,750,000 was paid to the Society of Clerks at the table and County Assembly forum of Kshs.750,000 and Kshs.2,000,000, respectively. The legislation, authority or approval supporting the expenditure was however, not provided for audit verification.

In the circumstances, regularity of the expenditure of Kshs.2,750,000 could not be confirmed.

341. Failure to Prepare Budget and Financial Statements

The County Assembly Public Services Board did not prepare and submit for audit the financial statements for the year ended 30 June, 2022 to the Office of the Auditor-General contrary to Section 32 (1) and 32 (2)(a) of the County Assembly Services Act, 2017 which states that the Board shall cause to be kept proper books of accounts of the income, expenditure and assets of the Board. Within three months after the end of each financial year the secretary shall submit to the Auditor General the accounts of the Board for the year.

In the circumstances, Management was in breach of the law.

342. Failure to Renew Performance Bond

The County Assembly entered into contract on 30 December, 2016 for the construction of Assembly Chambers and Office Block. The contractor provided an insurance guarantee of Kshs.36,873,550 which was valid up to and including 1 June, 2022. At the time of audit in August, 2022, the contractor had however, not renewed the insurance guarantee.

In the circumstances, Management was in breach of the law.

343. Delayed Completion of Projects

The County Assembly entered into contract agreement for the construction of modern County Assembly Chambers, Offices and Auxiliary on 30 December, 2016 at a contract sum of Kshs.469,469,934. The contract period was one hundred and six (106) weeks from 19 September, 2016 to 4 October, 2018. The value of work certified as at 30 June, 2022 was Kshs.350,164,330 representing 75% of the contract sum. The completion of the contract has been delayed by one hundred and ninety five (195) weeks, which may lead to increase in project cost as a result of inflation and interest in delayed payments.

In the circumstances, value for money for the expenditure could not be confirmed.

344. Processing of Salaries Outside the Integrated Personnel and Payroll Database (IPPD) System

Review of the expenditure on compensation of employees revealed that a total of Kshs.38,607,461 was paid as wages outside the Integrated Personnel and Payroll

Database (IPPD). This is contrary to The National Treasury guidelines contained in the Financial Accounting, Recording and Reporting manual. No explanation has been provided for the processing of the wages outside the IPPD system.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

345. IT Internal Controls and Data Centre Environment

Although the County Assembly has an ICT Policy, review of the ICT data center room revealed lack of air conditioning equipment and an environmental monitoring system to monitor the humidity and temperature in the data center. The physical inspection of the data center however, revealed that a new air conditioner was lying idle within the data center. Subsequent enquires from the IT officer in charge and the head of procurement section revealed the equipment was purchased by the County Assembly about three years ago but the same has not been installed and was in its original packaging at the time of the audit. No reason was given for the long delays in installation of the air conditioner. Further, data center room lack an access control system to restrict and monitor access to the server room. The existing closed-circuit television (CCTV) system has also not been extended to the data center for proper monitoring of the data center.

Further, formally documented and approved processes to manage system changes and upgrades made to the existing ICT systems are not in place while the County Assembly also lacks an ICT Steering Committee and an ICT Strategic Plan.

In the circumstances, the existence of an effective internal control system to safeguard the County Assembly against risk and ensure business continuity could not be established.

346. Failure to Implement Staff Performance Appraisal System

As reported in the previous years, a review of the County Assembly organizational structure, operations and staff files revealed the following anomalies.

- (i) The Assembly has a staff establishment, but gaps and excesses in various positions. The authorized establishment was one hundred (100) staff against in post of eighty-four (84) resulting to understaffing of sixteen (16) officers.
- (ii) There is no evidence that a County Assembly Service Board Performance Management Steering Committee had been constituted and that the same was in operation during the year under review.
- (iii) There is no evidence that a Performance Management Plan has been designed to evaluate performance and that a staff performance appraisal exercise has been conducted. In addition, annual performance reports were not presented for audit during the year under review.

- (iv) Work plan, development of departmental work plans, which include departmental priority objectives to provide a basis for setting individual performance has not been provided for audit.
- (v) There was no staff training and development plans, trainings conducted during the year were done without the requisite staff training and development plans, where every member of staff was to indicate at least one training goal to be achieved in the reporting period and agree with the supervisor, as required by Section C.6 (1) to (4) of the County Assembly Human Resource Manual, 2016.

In the circumstances, the existence of an effective Human Resource Management System could not be established.

COUNTY ASSEMBLY OF BARINGO – NO.30

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

347. Variance between the Financial Statements and Integrated Financial Management Information System (IFMIS)

An analysis of balances reflected in the statement of receipts and payments and Integrated Financial Management Information System (IFMIS) revealed variances between corresponding items as detailed below: -

Component	Financial Statements (Kshs.)	IFMIS Trial Balance (Kshs.)	Variance (Kshs.)
Compensation of Employee	398,247,825	338,590,041	59,657,784
Use of Goods and Services	303,080,911	286,917,409	16,163,502
Social Security Benefits	17,925,593	40,721,382	(22,795,789)
Acquisition of Assets	47,313,075	43,474,248	3,838,827

No reconciliation statement has been provided for audit review.

Further, the statement of receipts and payments reflects compensation of employees' balance of Kshs.398,247,825. However, the balance differed with the supporting schedule balance of Kshs.400,455,993 resulting to an unexplained variance of Kshs.2,180,194.

In addition, the payroll provided for audit indicates that statutory deductions totalling to Kshs.88,985,936 were recovered from employees which differed with payments recorded in the bank statement amounting to Kshs.105,120,468 resulting to an overpayment of Kshs.16,134,532.

In the circumstances, the accuracy and completeness of the balances reflected in the receipts and payments could not be confirmed.

348. Voided and Unsupported Payments

Review of the County Assembly IFMIS records provided for audit revealed that payments totalling to Kshs.63,321,191 made in the system to support funding from the County Revenue Fund were subsequently voided. However, the reasons for voiding, approvals, list of persons paid and services or goods rendered in support of the payments were not provided for audit.

In the circumstances, the funding may have been utilized to finance transactions that were not approved by the Controller of Budget (COB).

349. Unsupported Expenditure – Use of Goods and Services

The statement of receipts and payments reflects use of goods and services amount of Kshs.303,080,911. Included in this amount is domestic travel and subsistence expenditure of Kshs.139,078,991 out of which an amount of Kshs.11,404,000 was incurred on tax payments in respect to Members of County Assembly (MCAs) car grant which does not qualify as domestic travel and subsistence expense.

Further, the balance includes an amount of Kshs.31,632,976 incurred on foreign travel and subsistence allowance in respect of training Members of the County Assembly and staff without a training needs assessment and justification that the trainings were not locally available or relevant approvals by the Human Resource Advisory Committee. Further, the amount of Kshs.31,632,976 includes claims of Kshs.12,553,718 in respect of foreign travel without an authority from the Accounting Officer. Further, an amount of Kshs.19,943,666 was incurred on local training without a training needs assessments and approvals.

In addition, the balance includes an amount of Kshs.6,146,136 incurred on fuel, oil and lubricants. However, a detailed fuel register and vendor statements were not provided for audit review while an amount of Kshs.20,404,071 incurred on other operating expenses out of which payments of Kshs.2,000,482 were not supported with the supplier names and goods or services rendered.

In the circumstances, the accuracy and completeness of the use of goods and services payments of Kshs.71,127,260 could not be confirmed.

350. Acquisition of Assets

The statement of receipts and payments reflects acquisition of assets amount of Kshs.47,313,075. However, a detailed schedule showing the assets procured, contract number, contract value, payee name, certificates issued to date in respect of each contract and outstanding balance including contract period were not provided for audit review.

In the circumstances, the accuracy and completeness of the acquisition of assets amount of Kshs.47,313,075 could not be confirmed.

351. Unsupported Cash and Cash Equivalents

The statement of financial assets and liabilities reflects a bank balance of Kshs.305,861. However, the balance excludes an amount of Kshs.1,300,995 held in a local account. Further, bank reconciliation statements in support of the balance were not provided for audit.

In the circumstances, the accuracy and completeness of the cash and cash equivalents balance of Kshs.305,861 could not be confirmed.

352. Unsupported Imprests and Advances

The statement of financial assets and liabilities reflects imprests and advances balance of Kshs.107,600. However, the balance differed with IFMIS imprest register balance of Kshs.724,284 resulting to an unexplained variance of Kshs.616,684. Further, a detailed schedule showing the opening balance, issues in the year and surrenders to arrive at the closing balance was not provided for audit verification.

In the circumstances, the accuracy and completeness of imprests and advances balance of Kshs.107,600 could not be confirmed.

353. Omission of Retentions and Deposits

The financial statements under other disclosures does not reflect any balances for retentions and deposits. However, records provided for audit indicate that retention fees totalling to Kshs.3,545,326 was retained during the period under review.

In the circumstances, the accuracy and completeness of the financial statements could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

354. Non-Compliance with Law on Ethnic Composition

Review of the of personnel records indicated that the County Assembly had a staff composition of one fifty-nine (159) employees as at 30 June, 2022 out of whom one hundred and twenty- nine (129) or 81% comprised members of the ethnic community dominant in the County. This was contrary to the requirements of Section 7(2) of the National Cohesion and Integration Act, 2008 which stipulates that no public establishment shall have more than one third of its staff from the same ethnic community.

In the circumstances, Management was in breach of the law.

355. Failure to Implement E-Procurement System

The statement of receipts and payments reflects use of goods and services expenditure amount of Kshs.303,080,911 out of which payments of Kshs.56,544,834 was paid to various suppliers outside the e-Procurement module in IFMIS contrary to Executive Order No.2 of 2018 on Procurement of Public Goods, Works and Services by public entities that requires all procurement to be undertaken through e-Procurement.

In the circumstances, Management was in breach of the law.

356. Delay in Project Completion

The statement of receipts and payments reflects acquisition of assets amount of Kshs.47,313,075. As previously reported, the balance includes the proposed extension of County Assembly of Baringo Offices awarded at a contract price of Kshs.40,000,000 against total payments of Kshs.45,781,997 resulting to an overpayment of Kshs.5,781,997. Further, project verification carried out in the month of July, 2022 revealed that the works had not been completed and the project was behind schedule by six (6) years despite the entire contract sum having been paid.

In the circumstances, the value for money on the expenditure of Kshs.45,781,997 could not be confirmed.

357. Construction of Public Gallery

The statement of receipts and payments reflects acquisition of assets balance of Kshs.47,313,075 which includes construction of buildings payment of Kshs.4,951,924 in respect of construction of a public gallery at a contract price of Kshs.26,811,973 with estimated completion date of 13 March, 2020. However, the contractor had been paid a cumulative total of Kshs.38,466,307 as at 30 June, 2022 resulting to an overpayment of Kshs.11,654,334. It was further noted that the project was still incomplete 24 months after the estimated completion date.

Further, the provisional sum amounting to Kshs.2,000,000 was utilized without approval of the Accounting Officer based on the recommendation of the evaluation committee.

In the circumstances, value for money for the overpayment of Kshs.11,654,334 could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

358. Lack of Risk Management Policy

As previously reported, the County Assembly did not have Fire Policy, Fraud Prevention Policy and Risk Management Policy in place and therefore had no approved processes and guidelines for mitigation of operational, legal and financial risks.

In the absence of risk management policy, the County Assembly lacked a blue print for identifying, preventing and mitigating risks.

COUNTY ASSEMBLY OF LAIKIPIA – NO.31

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

359. Unauthorized Payments on Subscription Fees

The statement of receipts and payments and as disclosed in Note 5 to the financial statements reflects an amount of Kshs.222,157,526 in respect of use of goods and services which includes an amount of Kshs.60,727,633 in respect of other operating expenses. The balance includes an amount of Kshs.750,000 paid to the Society of Clerks at The Table (SOCATT). However, review of the SOCATT revealed that this body does not draw its mandate from the Constitution of Kenya or an Act of Parliament. In addition, the approved budget for the period 2021-2022 did not have a provision for payment of these subscriptions.

In the circumstances, the propriety of the amount of Kshs.750,000 could not be confirmed.

Other Matter

360. Late Exchequer Releases

The statement of receipts and payments and as disclosed in Note 1 to the financial statements reflects transfers from the County Treasury/Exchequer releases amounting to Kshs.537,745,275. Included in this amount is Kshs.203,847,213 relating to Exchequer releases by The National Treasury to the County Assembly of Laikipia for Quarter 4. This amount includes an amount of Kshs.49,493,265 which was released on 5 July, 2022. Late disbursement of Exchequer by the National Treasury may impact negatively on service delivery to the public.

In the circumstances, the completeness and accuracy of the receipts could not be ascertained.

361. Unresolved Prior Year Matters

In the audit report of the previous year, a number of paragraphs were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. Even though the Management has indicated that the issues have been responded to, the matters have remained unresolved as the Senate has not met to deliberate on the same.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

362. Non-Compliance with National Cohesion and Integrated Act, 2008

During the year under review, the total number of employees of the County Assembly was seventy-eight (78) out of which fifty-nine (59) or 76 % of the total number were members from the dominant ethnic community in the County. This is contrary to Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 which provides that, all public establishments shall seek to represent the diversity of the people of Kenya in the employment of staff and no public establishment shall have more than one third of its staff from the same ethnic community.

In the circumstances, Management was in breach of the law.

363. Non-Compliance with the One-Third of Basic Salary Rule

Review of documents revealed that six (6) employees earned a net salary of less than a third (1/3) of their basic salary contrary to Section 19 (3) of the Employment Act, 2007 which states that the total amount of deduction of the wages of an employee shall not exceed 2/3 of such wages.

In the circumstances, Management was in breach of the law.

364. Failure to Implement E-procurement Processes

Review of information provided revealed that during year under review, the County Assembly acquired assets amounting to Kshs.43,265,974. However, the County Assembly did not fully conduct the procurement processes within the Integrated Financial Management Information System (IFMIS). Some processes such as the tender advertisement/requisitions, opening of tenders, evaluation of tenders and award of tenders were conducted outside the IFMIS system contrary to Regulation 49(2) of the Public Procurement and Assets Disposal, Regulations, 2020 which states that the conduct of e-procurement procedures for the supply of goods, works and services shall be carried out by a procuring entity using an e-procurement system which is integrated to the state portal.

Further, Part IV of the Executive Order No 2 of 2018 states that beginning 1 January, 2019 all public procuring entities shall undertake all their procurements through the e-procurement module on IFMIS.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

365. Lack of Approved Information Technology (IT) Security Policy

The County Assembly did not have an approved IT policy for governance and management of its ICT resources. There was no steering committee in place to assist in the development of ICT policy framework to enable the County Assembly realize long-term strategic goals. Lack of an approved IT policy may result in an unclear direction regarding maintenance of information security across the organization and safeguarding the Assembly's ICT assets. Further, without a sound and approved framework, users may not have any rules and procedures to follow in order to minimize risk of errors, fraud and the loss of data, confidentiality and integrity.

In the circumstances, the existence of an effective ICT governance could not be established.

366. Non-Disclosure of Land

The summary of non-current assets register and as disclosed under Annex 4 to the financial statements reflects total assets balance of Kshs.285,228,428 which includes land with Nil balance. However, the County Assembly owns several buildings including the County Assembly building and Member of County Assembly (MCA) Ward offices. Further, ownership documents including title deeds were not provided for audit review and no explanation was given for not disclosing the value of land in the financial statements.

In the circumstances, the valuation and ownership of the parcels of land where the County Assembly buildings and Ward offices stand could not be confirmed.

COUNTY ASSEMBLY OF NAKURU – NO.32

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

367. Variance Between Financial Statements and Integrated Financial Management Information System (IFMIS)

Review of balances disclosed in the financial statements and the Integrated Financial Management Information System (IFMIS) ledger balances revealed several variances on corresponding components as itemized below:

Component	Financial Statements Kshs.	IFMIS Trial Balance Kshs	Variance Kshs
Exchequer Receipts	1,530,183,125	1,517,993,555	12,189,570
Compensation of Employee	418,654,509	387,549,633	31,104,876
Use of Goods and Services	703,490,776	681,878,114	21,612,662
Social Security Benefits	0	35,333,415	(35,333,415)
Acquisition of Assets	286,482,136	292,130,020	5,647,884
Recurrent Bank Account	15,007	0	15,007
Development Bank Account	20,518,749	23,016,381	(2,497,632)

No reconciliation has been provided for audit review.

In the circumstances, the completeness and accuracy of balances reflected in the financial statements for the year ended 30 June, 2022 could not be confirmed.

368. Transactions After Cut-off Date

The statement of receipts and payments reflects transfers from County Treasury/Exchequer releases balance of Kshs.1,530,183,125 which, as disclosed in Note 1 to the financial statements includes an amount of Kshs.186,164,265 that was received after 30 June, 2022. Further, the statement of receipts and payments reflects total payments of Kshs.1,512,210,197 which includes an amount of Kshs.171,530,758 comprising of Kshs.65,373,227 and Kshs.106,157,531 in respect of recurrent and development expenditure respectively, which were made after the financial year cutoff date of 30 June, 2022. This is contrary to Regulation 97(4) of the Public Finance Management (County Governments) Regulations, 2015 which provides that actual cash transactions taking place after 30 June, shall not be treated as pertaining to the previous financial year even though the accounts for that year may be open for end of year procedures and adjustments.

In the circumstances, the accuracy and completeness of statement of receipts and payments for the year ended 30 June, 2022 could not be confirmed.

369. Voided Expenditure

Review of the expenditure reports revealed voided payments totalling to Kshs.45,507,756 which had been approved for payments in the Integrated Financial Management Information System, IFMIS. However, the details of the payees in the approved schedule were changed and voided without satisfactory explanation. Further, supporting documents for the expenditure were not provided for audit review.

In the circumstances, the propriety of the payments amounting to Kshs.45,507,756 financed without approval could not be confirmed.

370. Inaccuracies in the Summary of Fixed Assets

The summary of non-current asset register as disclosed in Annex 4 to the financial statements reflects assets at a historical cost of Kshs.1,148,484,472. However, the balance excludes the value of land on which the County Assembly offices are situated. Further, the balance includes transport equipment valued at Kshs.76,542,873 which differs with the supporting schedule amount of Kshs.79,242,873 resulting to an unexplained variance of Kshs.2,700,000.

In the circumstances, the accuracy and completeness of assets balance of Kshs.1,148,484,472 could not be confirmed.

371. Inaccuracies in the Bank Balances

The statement of financial assets and liabilities reflects a bank balance of Kshs.32,723,327. However, the balance was supported by a certificate of bank balance as at 8 July, 2022 which is after the close of the financial year on 30 June.

In the circumstances, the accuracy and completeness of the bank balance of Kshs.32,723,327 could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

372. Irregular Subscription Fees

The statement of receipts and payments reflects subscriptions to professional and trade bodies totalling to Kshs.7,665,610 which, as disclosed in Note 5 to the financial statements includes annual subscription fees of Kshs.750,000 and Kshs.6,700,000 paid to Society of Clerks-At-The Table in Kenya Legislatures (SOCATT) and County Assemblies Forum (CAF) respectively.

However, the two organizations do not draw their mandate from the Constitution of Kenya or an Act of Parliament and the payments made are not based on any law contrary to Regulations 105 (1) of the Public Finance Management (County Governments) Regulations, 2015 which explains that an Accounting Officer may authorize payment vouchers provided such expenditure is in respect of and within the

provision of the services in a County Treasury Warrant and in accordance with the law and regulations.

In the circumstances, the propriety of the subscriptions fees totalling to Kshs.7,450,000 could not be confirmed.

373. Excess Transfer to the County Assembly

As disclosed in Note 1 to the financial statements, the statement of receipts and payments reflect transfers from the County Treasury/Exchequer releases balance of Kshs.1,530,183,125. Review of records indicates that the disburseable amount should have been Kshs.1,165,846,996 resulting to over disbursements of Kshs.364,336,130. This is contrary to Regulation 25(1)(f) and (h) of the Public Finance Management (County Governments) Regulations, 2015 which sets the threshold to seven percent (7%) of County revenue or twice the personnel emoluments of that County Assembly whichever is lower.

In the circumstances, Management was in breach of the law.

374. Delay in Finalization and Assenting to County Assembly Bills

Records provided for audit revealed that the County Assembly's Bills Tracker showed that sixty-five (65) bills were proposed, out of which only four (4) were assented to by the Governor, seven (7) bills were withdrawn while status of the remaining fifty-four (54) bills were not provided for audit review.

In the circumstances, the effectiveness of the County Assembly in the legislation of laws could not be established.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

375. Lack of a Risk Management Policy and Disaster Recovery Plan

The Management had not developed a Risk Management Policy and Fraud Management Policy to guide on Management of risk and assessment of fraud preventive mechanisms for both its financial, human resource and operations systems.

In the absence of a Risk Management Policy, it was not possible to confirm whether the internal controls built within the financial and operational systems were functioning as intended.

376. Understaffing of the Internal Audit Department

Records provided for audit indicate that the Internal Audit Department had an authorized establishment of five (5) officers but only one (1) officer was deployed resulting to a shortage of four (4) officers. Further, the internal audit personnel did not

have access to the County Assembly's Integrated Financial Management Information System (IFMIS) and the Integrated Personnel and Payroll Database (IPPD) systems.

In the circumstances, the existence of an effective internal audit function could not be confirmed.

COUNTY ASSEMBLY OF NAROK – NO.33

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

377. Inaccuracies in the Financial Statements

Comparison of amounts reflected in the financial statements with the corresponding balances in the IFMIS ledger revealed unreconciled variances for a number of component items as indicated below;

Item	Financial Statements (Kshs.)	IFMIS Balances (Kshs.)	Variance (Kshs.)
Compensation of Employees	495,381,980	512,387,740	(17,005,760)
Use of goods and Services	316,196,638	337,187,423	(20,990,785)
Other Grants and Transfers	-	2,907,000	(2,907,000)
Acquisition of Assets	1,362,000	34,374,950	(33,012,950)
Imprests and Advances	-	3,826,050	(3,826,050)
Pending Accounts Payable	52,337,676	21,323,750	31,013,926

Further, the statement of receipts and payments reflects Exchequer receipts of Kshs.812,941,728 being receipts from the County Executive. However, the financial statements of the County Executive for the year ended 30 June, 2022 reflects an amount of Kshs.849,941,728 as transfers to the County Assembly resulting to an unexplained and unreconciled variance of Kshs.37,000,000.

In the circumstances, the accuracy of the financial statements could not be confirmed.

Emphasis of Matter

378. Pending Accounts Payables

Annex 1 to the financial statements reflects analysis of pending accounts payable of Kshs.52,337,676 which includes a balance of Kshs.45,311,158 relating to 2019/2020 and earlier years. However, Management has not provided any explanation for failure to settle the bills as first charge in compliance with Regulation 41(2) of the Public Finance Management (County Governments) Regulations, 2015 which prioritize debt payments as a first charge. Further, the documentary evidence in support of pending accounts payables were not provided for audit.

Further, contributions to Local Authorities Pensions Trust (LAPTRUST) of Kshs.24,272,287 have not been remitted and hence attracting a monthly interest of 3% amounting to Kshs.70,678,826 as at 30 June, 2022. The amount has not been disclosed as pending staff payables.

In addition, the pending accounts payable to suppliers of services amount of Kshs.27,258,633 includes a balance of Kshs.3,101,724 payable to a law firm for legal services. However, the fee notes for the legal services did not indicate the nature of services offered. Further, procurement records and signed contract for the provision of the legal services were not provided for audit. It was therefore not possible to confirm whether the legal fees commitment was as per the rates prescribed by the Law Society of Kenya.

My opinion is not modified based on the above matter.

Other Matter

379. Unresolved Prior Year Matters

In the previous year audit report, several issues were raised. However, the Management has not resolved the issues or provided satisfactory explanations for failure adhere to provisions of the Public Sector Accounting Standards Board templates and the National Treasury and Planning Circular of 30 June, 2022.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

380. Irregular Renewal of Medical Insurance Cover

The County Assembly has an existing Medical Insurance Contract with an insurance firm. During the year under review, Management renewed the contract for the provision of hospitalization and outpatient medical expenses for staff and County Assembly Members with insurance firm at a contract price of Kshs.22,988,915 an increase of Kshs.6,145,128 or 36% of the expired contract sum of Kshs.16,843,787. This was contrary to Section 139(6) of the Public Procurement and Asset Disposal Act, 2015, which provides that where variations result in an increment of the contract price by more than twenty-five percent, such variations shall be tendered for separately. Further, no e-procurement documentations for the provision of hospitalization and outpatient medical expenses were provided for audit.

In the circumstances, Management was in breach of the law.

381. Failure to Construct or Acquire Residence for County Speaker

During the year under review, the County Assembly paid a total of Kshs.1,100,000 as rent for the Speaker's residence as the Assembly has not constructed or procured a residence for the Speaker. This was contrary to the Salaries and Remuneration Commission Circular referenced SRC/TS/COG/6/61/48VOL.II(64) of 20 May, 2019 which directed that the deadline for County Governments paying rent to County Assembly Speakers be 30 June, 2022. No explanation was provided for the failure to acquire a residence for the Speaker.

In the circumstances, Management was in breach of the law.

382. Non-Compliance with Law on Staff Ethnic Composition

During the year under review, the total number of employees was one hundred twenty-four (124) out of which ninety-six (96) or 77% of the total number were members of the dominant ethnic community in the County. This was contrary to Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 which states that, all public offices shall seek to represent the diversity of the people of Kenya in employment of staff and that no public institution shall have more than one third of its staff establishment from the same ethnic community.

In the circumstances, Management was in breach of the law.

383. Failure to Develop Guidelines for Public Participation

During the year under review, the County Assembly held five (5) public participation meetings in five (5) Wards out of the thirty (30) Wards, which was not a fair representative of the citizens and the criteria of identifying the five (5) Wards was not provided for audit.

Review of the County Executive budget planning process revealed that the County Assembly did not have guidelines for effective public participation contrary to Section 115(2) of the County Government Act, 2012 which requires that the County Assembly develop guidelines for public participation.

In the circumstances, Management was in breach of the law.

384. Non-Compliance with the One Third Rule on Basic Salary

Review of Human Resource records indicates that during the year, thirty-five (35) employees earned a net salary of less than one third (1/3) of the basic salary. This was contrary to Section D22(2) of the County Public Service Human Resource Manual and Section 19(3) of the Employment Act, 2007 which requires that the total amount of deductions which may be made by an employer from the wages of his employee at any one time shall not exceed two-thirds of the basic pay. Management may expose the staff to pecuniary embarrassment.

In the circumstances, Management was in breach of the law.

385. Over-Establishment in County Assembly

Review of the records and payrolls revealed a total of one hundred and twenty-four (124) employees were in service during the year under review. This was contrary to approved staff establishment of one hundred (100) employees as per the Commission of Revenue Allocation Circular Ref No. CRA/FA/01 VOL.11(22) dated 28 June, 2018. No explanation has been provided for the over-employment of 24 employees. However, the County Assembly has not filled all the vacant positions in the approved establishment despite the over establishment. Further, the County Assembly Service

Board has not prepared Human Resource Plans and Annual Recruitment Plans. This was contrary to Policies No.10 and No.11 of the County Assembly Human Resource Policies and Procedures Manual, 2018.

In the circumstances, Management was in breach of the law.

386. Non-Remittance of Statutory Dues

Review of documents revealed that the County Assembly deducted pension totalling to Kshs.11,104,350 for Local Authorities Pensions Trust. However, no documentary evidence was provided to support the remittance of the deductions. Further, previous years' pension deductions amounting to Kshs.24,272,287 had not been remitted and has attracted interest of Kshs.70,678,826.

In addition, Management deducted PAYE totalling to Kshs.89,863,314 from the salary of employees. However, an amount of Kshs.30,153,047 was remitted to the Kenya Revenue Authority resulting to unremitted PAYE of Kshs.59,710,267. This is contrary to Section 130(10) of the Income Tax Act, 2021 which stipulates that, before the tenth day following the end of every month or before any other day which may be notified to him by the Commissioner, an employer shall pay to such person as the Commissioner shall direct, tax deducted during that month. Failure to remit pension deduction and PAYE will attract costly interest and is in breach of the law.

In the circumstances, Management was in breach of the law.

387. Non-Compliance in County Assembly Service Board

The County Assembly Service Board did not establish a County Assembly Fund. This was contrary to Section 34(1) of the County Assembly Service Act, 2017 which provides for the establishment of a County Assembly Fund.

Further, the County Assembly Service Board did not prepare and lay before the County Assembly, annual report of its operations within three months after the end of the year. This was contrary to Section 36(1) of the County Assembly Service Act, 2017 which stipulates that the County Assembly Service Board shall prepare and lay before the County Assembly, annual report of its operations within three months after the end of each calendar year.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

388. Lack of a Risk Management Policy

During the year under review, the County Assembly did not have a Risk Management Policy in place and had no approved processes and guidelines on how to mitigate operational, legal and financial risks.

In the circumstances, effectiveness of mechanisms for risk management could not be confirmed.

389. Summary of Non-Current Asset Register

Annex 4 to the financial statements reflects the summary of non-current asset register amount of Kshs.144,548,068. The amount includes buildings and structures balance of Kshs.96,880,074. However, the value of land on which the buildings and structures stand was not disclosed. This is contrary to Regulation 136(2) of the Public Finance Management (County Governments) Regulations, 2015 which requires Counties to record each parcel of land and each building and the terms on which they are held, with reference to the conveyance, address, area, dates of acquisition, disposal or major change in use, capital expenditure, lease hold terms and maintenance contracts. Further, the title of the land was not provided for audit.

In the circumstances, the existence of an effective mechanism to safeguard the County Assembly's assets could not be confirmed.

COUNTY ASSEMBLY OF KAJIADO – NO.34

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

390. Inaccuracies in the Statement of Receipts and Payments

The statement of receipts and payments and Notes 3 and 5 to the financial statements reflects compensation of employees and social security benefits amounts of Kshs.274,489,297 and Kshs.28,506,612, respectively both totalling to Kshs.302,995,909. Analysis and re-computation of payment vouchers totalled to Kshs.307,262,008 resulting to unexplained variance of Kshs.4,266,099.

Further, compensation of employees' balance of Kshs.274,489,297 is at variance with analysis of payrolls total gross pay of Kshs.244,866,993 resulting to an unreconciled difference of Kshs.29,622,304.

In addition, analysis of the IFMIS records in support of the balances in the statement of receipts and payments revealed variances as detailed below:

Component	Statement of Receipts and Payments (Kshs.)	IFMIS Balances (Kshs.)	Variance (Kshs.)
Domestic Travel and Subsistence Allowance	198,573,616	188,028,016	10,545,600
Refurbishment of Buildings	19,407,279	27,676,081	(8,268,802)
Purchase of Office Furniture and General Equipment	2,158,000	5,590,247	(3,432,247)
Purchase of Specialised Plant, Equipment and Machinery	10,715,226	9,352,972	1,362,254

No reconciliation had been provided for audit review.

In the circumstances, the accuracy of the statement of receipts and payments could not be confirmed.

391. Inaccuracies in the Fixed Assets Balances

Annex 4, on summary of non-current assets register reflects total fixed assets balance of Kshs.403,848,495. However, assets bought during the year which includes furniture and ICT equipment costing Kshs.1,161,121 and Kshs.9,580,045 respectively and motor vehicle procured during the previous year at a cost of Kshs.8,489,000 were not recorded in the register. Further, the asset register was not updated to indicate the class of assets, cost and dates of acquisition and tag numbers.

In the circumstances, the accuracy and completeness of the non-current assets balance of Kshs.403,848,495 could not be confirmed.

392. Inaccuracies in the Pending Accounts Payables

Note 16 on Other Disclosure to the financial statements reflects pending accounts payables balance of Kshs.33,694,914 while annex 1 reflects pending accounts payable of Kshs.33,868,943 resulting to a variance of Kshs.174,029 which is not supported or explained.

In the circumstances, the accuracy and completeness of the pending accounts payables could not be confirmed.

Other Matter

393. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on a comparable basis of Kshs.1,060,704,523 and Kshs.786,752,322 respectively resulting to an under-funding of Kshs.273,952,201 or 26% of the budget. Similarly, the County Assembly spent an amount of Kshs.777,984,466 against an approved budget of Kshs.1,060,704,523 resulting to an under-expenditure of Kshs.282,720,057 or 27% of the budget.

Further, the statement reflects final expenditure budget and actual on a comparable basis under the development vote of Kshs.185,300,000 and Kshs.19,407,279 respectively resulting to an under-expenditure of Kshs.165,892,721 or 90% of the budget.

The under-funding and under-expenditure affected the planned programs and activities and impacted negatively on service delivery to the public.

394. Pending Accounts Payables

Notes 16 - Other Disclosure (1) and (3) and Annex 1 and 3 to the financial statements reflects pending accounts payables and other pending payables of Kshs.33,868,943 and Kshs.24,404,697 respectively as at 30 June, 2022 in respect of bills on construction of civil works, supply of goods, supply of services, amounts due to National Government, County Government entities and third parties.

Failure to settle bills in the year to which they relate adversely affects the implementation of the subsequent years budgeted programs as the pending bills form a first charge to that year's budget provision.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

395. Non-Compliance with Presidential Directive on Award of Procurement Opportunities

Review of the procurement plan and purchase order register for the year under review revealed that, Management planned to carry out two hundred and one (201) procurements valued at Kshs.381,873,310. Commitments made as at 30 June, 2022 and recorded in the purchase order register were one hundred and fifty (150) amounting to Kshs.181,430,614 out of which twenty (20) orders valued at Kshs.31,073,137 were awarded to youth, women and people living with disabilities groups. The award to the special group was equivalent to 17% against the Presidential Directive that at least 30% of the procurements should be reserved for youth, women and people living with disabilities under the Access to Government Procurement Opportunities, AGPO program.

In the circumstances, Management was in breach of the law.

396. Irregular Payments Payment of Subscriptions

The statement of receipts and payments reflects use of goods and services balance of Kshs.442,704,461 and as disclosed in Note 4 to the financial statements. The balance includes an expenditure of Kshs.71,395,477 incurred on other operating expenses out of which an amount of Kshs.750,000 was paid to the Society of Clerks-At-The-Table. However, the subscription was not based on any law.

In the circumstances, the regularity of the expenditure of Kshs.750,000 could not be confirmed.

397. Non-Compliance with Law on Staff Ethnic Composition

During the year under review, the County Assembly had one hundred and twenty-eight (128) employees out of whom one hundred and five (105) or 82% were members of the dominant ethnic community in the County. This is contrary to Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 which states that, "all public offices shall seek to represent the diversity of the people of Kenya in employment of staff and that no public institution shall have more than one third of its staff establishment from the same ethnic community".

In the circumstances, Management was in breach of the law.

398. Failure to Adhere to Budget Threshold

Review of the County Government approved budget for the financial year 2021/2022 revealed that the final revenue budget was Kshs.11,022,090,435. The County Assembly final expenditure budget was Kshs.1,060,704,523 including personnel

emoluments of Kshs.274,581,177. The County Assembly Revenue Allocation has capped the County Assembly's expenditure budget at seven percent (7%) of the county revenue budget or twice the personal emoluments of the County Assembly. The 7% of the county revenue budget of Kshs.11,022,090,435 threshold is Kshs.771,546,330 and the amount for twice the personal emoluments of Kshs.274,581,177 for the County Assembly is Kshs.549,162,354. Consequently, County Assembly approved expenditure budget of Kshs.1,060,704,523 exceeded the set limit of Kshs.549,162,354 by Kshs.511,542,169. This was contrary to Regulation 25(1)(f) and (h) of the Public Finance Management (County Governments) Regulations, 2015.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

399. Weak Internal Controls on Payments

The statement of receipts and payments and Note 4 to the financial statements reflects use of goods and services amount of Kshs.442,704,461. The expenditure includes insurance costs and fuel, oil and lubricants totalling to Kshs.31,134,111. However, review of records revealed that the Budget allocation, account charged, commitments made and balance for the item charged were not recorded in the payment voucher. Further, the invoiced payments did not have IFMIS number for ease of identification of the transaction in the ledger and cashbook

In addition, validation and verification of payment was not confirmed through stamping of the payment voucher and capturing of the internet banking (IB) number.

In the circumstances, the weaknesses in the payment process exposes the County Assembly to various operational risks.

COUNTY ASSEMBLY OF KERICHO – NO.35

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

400. Inaccuracies in the Financial Statements

Review of the financial statements revealed several variances between financial statements amounts and the ledger balances as detailed below:

No.	Particulars	Amount as Per the Financial Statements (Kshs.)	Amount as Per the Ledger (Kshs.)	Variance (Kshs.)
1.	Foreign Travel and Subsistence Allowance	52,365,763	45,436,088	6,929,675
2.	Printing Advertising and Information Supplies Services	4,274,175	2,169,941	2,104,234
3.	Rentals of Produced Assets	8,549,863	7,754,368	795,495
4.	Training Expenses	14,166,770	12,071,840	2,094,930
5.	Hospitality Supplies and Services	35,747,980	28,431,773	7,316,207
6.	Insurance Costs - Medical	27,262,086	22,476,511	4,785,575
7.	Specialized Materials and Services	3,395,376	2,722,576	672,800
8.	Office and General Supplies and Services	7,543,688	5,984,754	1,558,934
9.	Fuel, Oil and Lubricants	11,200,000	9,491,709	1,708,291
10.	Other Operating Expenses	21,868,863	20,398,888	1,469,975
11.	Routine Maintenance - Vehicles and Other Transport Equipment	7,300,000	6,052,562	1,247,438
12.	Routine Maintenance - Other Assets	4,616,805	2,595,311	1,021,494
13.	Insurance Costs - Building and Motor Vehicles	1,225,403	2,025,403	(800,000)
14.	Refurbishment of Buildings	2,499,551	2,643,114	(143,563)
15.	Purchase of Office Furniture and General Equipment	7,206,298	5,109,460	2,096,838
16.	Utilities, Supplies and Services	1,600,000	283,454	1,316,546

Management has not provided a reconciliation or explanation for the variances.

In the circumstances, the accuracy and completeness of the financial statements could not be confirmed.

401. Unsupported Expenditure on Hospitality

The statement of receipts and payments and as disclosed in Note 5 to the financial statements reflects an amount of Kshs.338,772,090 in respect of use of goods and services. The expenditure includes an amount of Kshs.35,747,980 incurred on hospitality supplies and service, out of which an expenditure totalling to Kshs.651,000 was paid to two hotels. Review of the expenditure records revealed that the County Assembly issued a local service order of Kshs.366,000 for a two-day conference for sixty-one (61) members of the County Assembly. Further, the hotel invoiced and Management paid an amount of Kshs.276,000 being charges for sixty-one (61) members for the first day of the conference on 23 April, 2022 and thirty-one (31) members for the second day on 24 April, 2022 at the rate of Kshs.3000 per member per day. However, the attendance register of the members present revealed that only thirty-eight (38) and seventeen (17) members were in attendance on the first day and second day respectively, resulting to an unsupported expenditure of Kshs.111,000.

In addition, Management issued a local service order and paid Kshs.375,000 for a three-day conference for fifty (50) Members of the County Assembly. However, review of the attendance register revealed that forty-six (46), forty (40) and thirty-eight (38) members were in attendance on day one, two and three of the conference respectively. No explanation was provided for the variances.

In the circumstances, the accuracy and completeness of the expenditure amounting to Kshs.651,000 could not be confirmed.

402. Outstanding Imprests and Advances

The statement of financial assets reflects nil outstanding imprests and advances balance and as disclosed in Note 13 to the financial statements. However, review of the salary advances register revealed that an amount of Kshs.5,252,040 was issued to the staff as salary advance during the year and had not been fully recovered as at 30 June, 2022 and the balance was not disclosed in the financial statements.

In the circumstances, the accuracy of the nil outstanding imprest and advance as at 30 June, 2022 could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

403. Delay in Completion of Construction of Speakers Residence

The statement of receipts and payments reflects acquisition of assets expenditure of Kshs.11,314,612 and as disclosed in Note 10 to the financial statements. Included in the expenditure is an amount of Ksh.1,130,631 paid in respect of the construction of the speaker's residence. Review of records revealed that Management entered into a contract for the construction of speakers' residence at a contract sum to Kshs.34,595,580 where the contract commencement date was 2 August, 2019 and expected completion date was 28 January, 2020. However, it was noted that the

contract completion date was first extended to 11 March, 2021 and further revised to 22 December, 2022 without an application for extension by the contractor and approval by the tender committee. In addition, the initial performance bond from a local bank provided by the contractor expired on 8 September, 2021 and had not been renewed. At 30 June, 2022, Management had paid an amount of Kshs.17,116,291, which is equivalent to 49% of the contract sum. However, no progress reports were provided for audit review.

In the circumstances, value for money obtained for the expenditure amounting to Kshs.17,116,291 incurred on the Speaker's residence could not be confirmed.

404. Failure to Remit Fringe Benefit Tax

Review of records revealed that Management issued car and mortgage loans to the staff and Members of County Assembly in the year under review. The loans were provided at a lower interest rate than the prevailing market rates, hence attracting fringe benefit tax as outlined under Section 12B of Income Tax Act. Further review of Tax Returns filed by the Assembly to Kenya Revenue Authority revealed that Management only remitted fringe benefit tax for two months of April, 2022 and October, 2021 amounting to Kshs.1,535,934 and Kshs.1,774,577.00 respectively.

In the circumstance, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

405. There were no material issues raised on internal controls, risk management and governance.

COUNTY ASSEMBLY OF BOMET– NO.36

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

406. Misclassified Expenditure

The statement of receipts and payments reflects use of goods and services amount of Kshs.322,579,589 as disclosed in Note 5 to the financial statements. Included in the amount is a balance of Kshs.38,096,241 relating to hospitality supplies and services out of which an amount of Kshs.8,239,110 was incurred on foreign travel and subsistence. However, the expenditure was erroneously classified as hospitality supplies.

In the circumstances, the accuracy and completeness of use of goods and services amount of Kshs.8,239,110 could not be confirmed.

407. Unsupported Other Operating Expenses

The statement of receipts and payments reflects use of goods and services amount of Kshs.322,579,589 as disclosed in Note 5 to the financial statements. Included in the amount is an amount of Kshs.79,660,450 relating to other operating expenses out of which an amount of Kshs.5,040,000 was incurred on rent for Ward Offices. However, the lease agreements, rent invoices and receipts were not provided for audit review.

In the circumstances, the accuracy and completeness of other operating expenses amount of Kshs.79,660,450 could not be confirmed.

408. Unsupported Acquisition of Assets

The statement of receipts and payments reflects acquisition of assets amount of Kshs.73,803,147 as disclosed in Note 10 to the financial statements. However, the detailed schedule showing the assets description were not provided for audit.

In the circumstances, the accuracy, completeness and validity of acquisition of assets amount of Kshs.73,803,147 could not be confirmed.

409. Inaccuracies in Pending Accounts Payable Balance

Note 1 to the financial statements under other important disclosures reflects pending accounts payables balance of Kshs.5,852,827. However, the disclosed balance excludes a balance of Kshs.120,568,388 and Kshs.411,546,463 reflected in the County Assembly and Kenya Revenue Authority I-Tax ledgers respectively. Although Management provided correspondences with the Kenya Revenue Authority (KRA) indicating that the County Assembly had been remitting taxes, no explanation was provided on why the County Assembly tax account and the KRA ledger reflected

outstanding balances. In addition, the County Assembly is at risk of incurring interest and penalties due to the failure to remit the outstanding taxes.

In the circumstances, the accuracy of the pending accounts payables balance of Kshs.5,852,827 could not be confirmed.

410. Unsupported Accounts Payables – Retentions and Deposits

The statement of assets and liabilities reflects accounts payables-deposits and retentions balance of Kshs.5,852,827. However, a detailed schedule showing opening balances, additions and payments during the year to arrive at the closing balance was not provided for audit review.

In the circumstances, the accuracy and completeness of the accounts payables – retentions and deposits balance of Kshs.5,852,827 could not be confirmed.

411. Irregular Voided Payments

Review of the County Assembly IFMIS records provided for audit revealed that payments amounting to Kshs.131,293,869 were made in the system to support funding from the County Revenue Fund but were subsequently voided. However, a list of persons paid, services or goods rendered, approvals and the reasons for voiding in supports of the payments was not provided for audit.

In the circumstances, the propriety of the expenditure could not be confirmed.

412. Expenditure After the Cut-Off Date

The statement of receipts and payments reflects total payments amount of Kshs.730,885,226. However, included in the balance is Kshs.72,813,638 comprising of recurrent expenditure of Kshs.44,086,362 and development expenditure of Kshs.28,727,276 made after the financial year cut-off date of 30 June, 2022 in breach of Regulation 97(4) of the Public Finance Management (County Governments) Regulations, 2015 which states that an actual cash taking place after 30 June shall not, however, be treated as pertaining to the previous year.

In the circumstances, the accuracy and completeness of the total expenditure for the year ended 30 June, 2022 could not be confirmed.

413. Lack of Needs Assessment

The statements of receipt and payments reflects use of goods and services amount of Kshs.322,579,589 as disclosed in Note 5 to the financial statements. Included in the amount is training expenses totalling Kshs.35,828,549 incurred without a training needs assessment or identification of skill gaps in breach of the County Assembly's Human Resource Manual requirements.

In the circumstances, the propriety of the expenditure could not be confirmed.

Other Matter

414. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects a final receipts budget of Kshs.935,721,526 against actual receipts of Kshs.731,128,005 resulting to budget under-funding of Kshs.204,593,521 or 22% of the budget. Similarly, the statement reflects a final expenditure budget of Kshs.935,721,526 against the actual expenditure of Kshs.730,885,226 resulting to under absorption of Kshs.204,836,300 or 22% of the budget.

The under-funding and under-expenditure affected the planned activities and may have impacted negatively on service delivery to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

415. Over-Commitment of Salary Beyond the Statutory Limit

Review of the payroll for the County Assembly revealed that twenty-one (21) employees received net pay below a third (1/3) of their basic salary contrary to the provisions of Section 19(3) of the Employment Act, 2007 which stipulates that, the deductions made by an employer from the wages of his employee at any one time shall not exceed two thirds of such wages.

In the circumstances, Management was in breach of the law.

416. Non-Compliance with the Law on Staff Ethnic Composition

Review of personnel records revealed that during the year under review, the County Assembly had a staff composition of fifty-seven (57) employees out of which fifty-six (56) or 99% were members of the dominant ethnic community in the County. This is contrary to Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 which states that all public officers shall seek to represent the diversity of the people of Kenya in the employment of staff and thus no public institution shall have more than one third of its staff establishment from the same ethnic community.

In the circumstances, Management was in breach of the law.

417. Acting Appointments Beyond Six Months

Review of personnel records indicated that three (3) officers appointed on acting capacity on diverse dates exceeded the six (6) months mandatory period of appointment without renewal. This is contrary to Section C. 14(1) of the Human Resource Policies and Procedures Manual, 2016 which state that an officer shall hold an acting position for a period not exceeding six (6) months.

In the circumstances, Management was in breach of the law.

418. Over- Employment of Ward Offices' Staff

Review of employee records revealed that the County Assembly had in place one hundred and thirty-six (136) Ward Office employees in contravention of circular Ref. No. CRA/COS/CMG/9/Vol.V (43) of 3 August, 2020 which provides that each of the thirty-six (36) Members of the County Assembly are allowed to employ a maximum number of three employees each giving a total expected Ward employees of one hundred and eight (108). This resulted to over employment of twenty-eight (28) ward employees.

In the circumstances, Management was in breach of the Commission on Revenue Allocation guidelines.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

419. Lack of Handover on Retirement of an Employee

Review of employee records indicated that one officer requested for early retirement on 3 February, 2022. Though her request was approved on 24 February, 2022 the officer failed to attend the exit interview. In addition, at the time of audit, the officer had not submitted the handing over report or filled the clearing form. Further, the officer did not hand over any assets she possessed belonging to the County Assembly.

In the circumstances, the County Assembly's assets may not be adequately safeguarded.

COUNTY ASSEMBLY OF KAKAMEGA – NO.37

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

420. Inaccuracies in the Cash and Cash Equivalents

The statement of financial assets and liabilities reflects cash and bank balance of Kshs.4,641,273 as disclosed in Note 6 to the financial statements while adjusted cash book balance of Co-operative Bank reflects an amount of Kshs.925,421 as at 30 June, 2022. However, excluded in the balance are amounts of Kshs.8,181,048 and Kshs.4,169,723 being payments in bank statements not recorded in the cash book and receipts in cash book not reflected in the bank statements, respectively.

In the circumstances, the accuracy and completeness of the cash and cash equivalent balance of Kshs.4,641,273 could not be confirmed.

421. Inaccuracies in Compensation of Employees

The statement of receipts and payments reflects an amount of Kshs.658,038,380 in respect of compensation of employees as disclosed in Note 2 to the financial statements. However, payment schedules, the IPPD, manual payroll and journal vouchers provided for audit review reflects a balance of Kshs.564,270,005, resulting in an unexplained and unreconciled variance of Kshs.93,768,375.

In the circumstances, the accuracy and completeness of the compensation of employees amount of Kshs.658,038,380 could not be confirmed.

422. Un-supported Pending Bills

Note 1 under Other Disclosures to the financial statements reflects a balance of Kshs.53,028,597 in respect of pending accounts payable, as disclosed in Annex 1 to the financial statements. However, the amount includes a balance of Kshs.14,582,045 relating to air travel, conference facilities, supply of tonners and Hansard equipment which were not supported by boarding passes, stores ledgers, invoices, quotations and inspection and acceptance reports.

In the circumstances, the accuracy and completeness of the pending accounts payables balance of Kshs.14,582,045 could not be confirmed.

423. Unsupported Expenditure – Use of Goods and Services

The statement of receipts and payments reflects an amount of Kshs.592,824,457 in respect of use of goods and services which, as disclosed in Note 3 to the financial statements. Review of supporting records revealed the following unsatisfactory matters:

423.1 Other Operating Expenses

The balance includes an amount of Kshs.22,543,100 relating to other operating expenses. However, the balance includes a balance of Kshs.6,280,000 relating to contracted professional services paid to various service providers which were not supported by invoices and fee notes.

423.2 Foreign Travel Expenses

Further, the approved budget of the County Assembly for the year under review reflects that the County Assembly had an approved expenditure budget of Kshs.5,720,300 in respect of foreign travel for the year. However, the County Assembly incurred actual expenditure of Kshs.8,034,638 on the item resulting in an unexplained over-expenditure of Kshs.2,314,338. Payments totalling to Kshs.5,721,842 was not supported by imprest warrants, training certificates and reports arising from the foreign trips.

423.3 Catering and Conference Facilities

The balance includes an amount of Kshs.25,785,637 in respect of hospitality supplies and services which includes expenditure totalling to Kshs.12,676,340 comprising of Kshs.3,113,290 incurred on hire of catering and conference facilities and Kshs.9,563,050 incurred on purchase of bottled water that were not supported by user requisitions, invitation letters, attendance registers, workshop programmes, notices of meetings, committee minutes, reports from conferences and procurement documents and stores records for the bottled water.

423.4 Domestic Travelling, Accommodation and Subsistence Allowance

The balance also includes an amount of Kshs.278,843,617 relating to domestic travel and subsistence allowances. However, the amount of Kshs.278,843,617 includes expenditure totalling to Kshs.27,636,350 for which imprest warrants, imprest requisitions, accountability receipts, training programmes, and attendance registers were not provided for audit review.

423.5 Office and General Expenses

Similarly, the balance includes an amount of Kshs.149,174,180 relating to office and general supplies and services. However, the amount of Kshs.149,174,180 includes expenditure totalling to Kshs.22,753,408 whose payment vouchers were not supported by local purchase orders, delivery notes and user requisitions.

In the circumstances, the accuracy and completeness of the use of goods and services expenditure amounting to Kshs.75,069,940 could not be confirmed.

424. Inaccuracies in the Statement of Comparison of Budget and Actual Amounts

The statement of receipts and payments reflects an amount of Kshs.19,320,000 in respect of other payments which, as disclosed in Note 8 to the financial statements, in respect of refund to the County Executive. However, the statement of comparison of

budget and actual amounts reflects Nil balance on the item. Further, the statement of comparison of budget and actual amounts reflects total payments of Kshs.1,277,606,766 but recasting of the payments reveals a recomputed amount of Kshs.1,258,286,767 resulting in an unreconciled variance of Kshs.19,319,999.

In the circumstances, the accuracy of the statement of comparison of budget and actual amounts could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

425. Staff Ethnic Diversity

Review of human resource records and the payroll, indicated that the County Assembly had ninety (90) employees whom, eighty-seven (87) employees, or about 96%, were from the dominant ethnic community in the County contrary to Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 which states that all public offices shall seek to represent the diversity of the people of Kenya in employment of staff and that no public institution shall have more than one third of its staff establishment from the same ethnic community.

In the circumstances, Management was in breach of the law.

426. Irregular Procurement of Hospitality Services

The statement of receipts and payments reflects an amount of Kshs.592,824,457 in respect of use of goods and services which, as disclosed under Note 3 to the financial statements includes an amount of Kshs.25,785,637 relating to hospitality supplies and services. The amount includes payments totalling to Kshs.4,145,179 made to eight (8) companies for offering hospitality services. However, the eight (8) companies were not in the list of registered suppliers. This is contrary to Section 57(1) of the Public Procurement and Asset Disposal Act, 2015 which requires heads of procuring entities to maintain and update lists of registered suppliers, contractors and consultants in categories of goods, works or services according to their procurement needs.

In the circumstances, Management was in breach of the law.

427. Failure to Remit National Hospital Insurance Fund (NHIF) Contributions

Review of the payroll revealed that a total amount of Kshs.5,428,850 was deducted from employees in respect of NHIF contributions. However, only Kshs.3,614,887 was remitted to the Fund, leaving an unremitted balance of Kshs.1,813,963. This is contrary to Section 18(2) of the National Hospital Insurance Fund Act, 1988 which requires employers to remit NHIF deductions to the Fund.

In the circumstances, Management was in breach of the law.

428. Failure to Adhere to the One-Third Rule on Basic Salary

Review of the payroll revealed that some employees' salary deductions exceeded two-thirds of their basic salary, contrary to Section C.1(3) of the Public Service Commission Human Resource Policies, 2016, which require that deductions made by an employer from the wages of employees at any one time shall not exceed two thirds of such wages.

In the circumstances, Management was in breach of the law.

429. Irregular Award of Medical Insurance Cover

Review of Human Resource records revealed that the County Assembly advertised a tender for procurement of a medical insurance cover for Members of County Assembly and staff on 11 August, 2021. A total of seven (7) bids were received and, after evaluation, only four (4) bidders who scored over 150 marks proceeded to the next stage of invitation. However, the tender was awarded to the second lowest bidder at Kshs.42,292,196 instead of the lowest bidder who quoted Kshs.41,711,756 resulting in excess payment of Kshs.580,440.

In the circumstances, value for money on the excess payment of Kshs.580,440 could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

430. Lack of Information Technology (IT)

Review of the information system revealed that the County Assembly was not using any accounting system to monitor expenditure and did not link e-procurement system to IFMIS internet banking in order to enhance efficiency and accountability in managing operations. In addition, the County Assembly did not also have in place an IT Steering Committee as well as environmental controls such as a fire suppression system, fire extinguishers and air conditioning systems.

In the circumstances, the efficiency and effectiveness of the information system used in the various departments could not be confirmed.

COUNTY ASSEMBLY OF VIHIGA – NO.38

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

431. Unexplained Variance between in the Financial Statements and IFMIS Records

The statement of receipts and payments for the year ended 30 June, 2022 reflects total payments amounting to Kshs.686,751,940 while the IFMIS payment details reflect an amount of Kshs.715,951,833 resulting to a variance of Kshs.29,199,893 which has not been explained or reconciled.

Further, the statement of receipts and payments for the year ended 30 June, 2022 reflects compensation of employees' payments amounting to Kshs.379,942,079. However, the IFMIS vote book reflects an amount of Kshs.361,052,427 resulting to a variance of Kshs.18,580,652 which has not been explained or reconciled.

In the circumstances, the accuracy and completeness of payments of Kshs.686,751,940 could not be confirmed.

432. Variance Between County Assembly and County Revenue Fund Balances

The statement of receipts and payments and as disclosed in Note 1 to the financial statements reflects an amount of Kshs.682,802,588 in respect of Exchequer releases, while the financial statements of Vihiga County Revenue Fund reflect transfers to the County Assembly of Kshs.670,574,254 resulting to a variance of Kshs.12,228,334 which has not been explained or reconciled.

In the circumstances, the accuracy and completeness of Exchequer releases reflected in the financial statements could not be confirmed.

433. Unsupported Domestic Travel and Subsistence payments

The statement of receipts and payments reflects expenditure amounting to Kshs.252,015,284 on use of goods and services which, as disclosed in Note 4 to the financial statements includes domestic travel and subsistence allowances amounting to Kshs.85,380,864. However, payment vouchers and other supporting documents to four companies were not provided for audit review.

Further, a payment made of Kshs.500,000 to a travel company, was not supported with details of the persons who travelled, travelling dates and where they travelled while in addition, a payment of Kshs.352,500 made to a catering services company did not indicate where, how and when the services were delivered.

In the circumstances, the accuracy and propriety of the expenditure totalling to Kshs.2,377,281 could not be confirmed.

434. Irregular Payment of Daily Subsistence Allowances

The statement of receipts and payments reflects expenditure amounting to Kshs.252,015,284 on use of goods and services which, as disclosed in Note 4 to the financial statements includes domestic travel and subsistence allowances amounting to Kshs.85,380,864. The amount includes an amount of Kshs.20,421,500 paid to twelve (12) members of staff as daily subsistence allowances for days ranging between 73 days to 259 days which is excessive.

Further, the balance includes domestic travel and subsistence amounting to Kshs.85,380,864. The amount includes a payment of Kshs.2,982,000 to a member of staff as imprest taken on behalf of thirty-eight (38) Members of County Assembly, and staff to facilitate the preparation of calendar of events and programme for the financial year 2021/2022 from 23 to 28 June, 2021. However, the imprest warrant was not provided for audit review and it was not explained why imprest was issued to one officer instead of issuing individual imprests to participating officers.

In the circumstances, the regularity of domestic travel and subsistence allowance could not be confirmed.

435. Undisclosed Bank Balances

The statement of financial assets and liabilities and as disclosed in Note 9A to the financial statements reflects bank balances amounting to Kshs.328,837 from five (5) bank accounts held by the County Assembly. However, it was noted that the County Assembly had thirty-eight (38) ward bank accounts that were operational holding funds that had not been disclosed in the financial statements. Further, the cash books, bank statements, certificate of balances, and bank reconciliation statements for the thirty-eight (38) ward operation accounts were not provided for audit review.

In the circumstances, the accuracy and completeness of the bank balances could not be confirmed.

436. Unexplained Contingent Liabilities

As disclosed in Note 6 on other disclosures to the financial statements the County Assembly, had an outstanding contingent liability balance of Kshs.11,653,819 (2021:- Kshs.31,653,819) in respect of an arbitration award by the High Court of Kenya to Kenchuan Architects. However, the reduction by Kshs.20,000,000 from the initial balance of Kshs.31,653,819 reported in the previous year to Kshs.11,653,819 reported in the year under review was not explained.

In the circumstances, the accuracy and completeness of the disclosed contingent liabilities of Kshs.11,653,818 could not be confirmed.

In the circumstances, the regularity of the expenditure could not be confirmed.

437. Irregular Payments of PAYE

As disclosed in Note 3 on other disclosures to the financial statements, the County Assembly had other pending payables amounting to Kshs.76,080,065. Included in this amount are payables to KRA amounting to Kshs.36,187,952 comprising of PAYE in respect of Members of County Assembly (MCAs) and staff.

However, the payables were irregularly charged to the County Assembly funds instead of to the individual beneficiaries. Further, the transport facilitation benefit to which the PAYE relate to had been paid to beneficiaries from the Vihiga County Assembly Staff Members Mortgage and Car Loans Scheme Fund and was therefore was not a function of Vihiga County Assembly.

In the circumstances, the accuracy of the account payable balance of Kshs.76,080,065 could not be confirmed.

Other Matter

438. Unresolved Prior Year Matters

In the audit report of the previous year, several matters were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, the Management has not resolved the issues or given any explanation for failure to adhere to the provisions of the Public Sector Accounting Standards Board templates.

439. Budgetary Control and Performance

The statement of comparison of budget and actual amounts - recurrent and development combined reflects Kshs.362,629,981 as budget for compensation of employees while the recalculated total amount is Kshs.361,566,781 resulting to a variance of Kshs.1,063,200 which has not been explained or reconciled.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

440. Delayed Completion of Speaker's Residence

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflects acquisition of assets expenditure amounting to Kshs.27,042,880 which includes construction of buildings balance of Kshs.23,393,552. The amount in turn includes a payment to a construction company of Kshs.15,866,901 for erection and completion of the Speaker's residence. The seven (7) months contract for a sum of Kshs.34,494,743 started on 08 July, 2020 and was to run up to 01 March, 2021 but was extended by another eight (8) months to 01 November, 2021. Further, the project's interim certificate No.3 indicated total works certified amounting to Kshs.29,890,497 or

87% complete. However, the contractor had been paid a total of Kshs.28,570,069 without the County Assembly making any provisions for retention fees and the performance bond for the contract had expired on 12 July, 2021 leaving the contract unsecured.

Further, technical report on the project dated 03 November, 2022 indicated that the project is 100% complete. However, completion certificate, handover report and the appointment letters of the Project Implementation Committee (PIC) were not provided for audit review.

In the circumstances, the value for money on the expenditure of Kshs.28,570,069 could not be confirmed.

441. Failure to Carry Out Citizen Participation

During the year under review, the County Assembly did not make a budget provision for undertaking public participation in its planning and budgeting. As a result, the public was not involved in the planning and budgeting for the County Assembly as no documents were provided to demonstrate that the process was undertaken as required by law.

In the circumstances, Management was in breach of law.

442. Uneconomical Legal Proceedings

The County Assembly awarded Kenchuan Architects Limited a contract during 2013/2014 for the proposed design and architectural works at Vihiga County Assembly Headquarters and renovation of office block. However, a dispute arose between the contractor and the client which was subjected to an arbitration and ruled by the High Court of Kenya in favour of the contractor. The ruling stated that the County Assembly should pay the contractor a total amount of Kshs.25,665,258 which comprised of final pay of Kshs.19,310,548, arbitration cost incurred by the contractor of Kshs.3,770,346, fees advanced to the arbitrator by the contractor of Kshs.2,584,364 and a 14% simple interest on all the sums from the date of the arbitration award of 08 May, 2019.

Subsequently, the County Assembly in an appeal in the Court of Appeal on 21 December, 2020 which ordered the Assembly to deposit a total of Kshs.31,653,819 to a joint account with the contractor before the start of the appeal proceedings since the arbitration award had accrued an interest of Kshs.5,988,561 at the time of the appeal. During the year under review, the County Assembly made a deposit of Kshs.20,000,000 in a joint account as part of the required Kshs.31,653,819 but the appeal proceedings did not start since the County Assembly had not paid the full amount. Although Management has explained that the County Assembly Service Board has engaged the contractor with a view of resolving the issue out of court, no documents have been provided in support of this explanation.

In the circumstances, value for money deposited in court could not be confirmed.

443. Long Outstanding Imprests

The statement of financial assets and liabilities reflects a balance of Kshs.2,842,100 in respect to imprests and advances which, as disclosed in Note 10 to the financial statements includes an amount of Kshs.2,754,091 issued as imprests to staff. This amount in turn included imprests amounting to Kshs.2,122,241 which was issued in November, 2021 and had not been surrendered as at 30 June, 2022 contrary to Regulation 93(5) of the Public Finance Management (County Governments) Regulations, 2015 which states that a holder of a temporary imprest shall account or surrender the imprest within seven (7) working days after returning to duty station.

In the circumstances, Management was in breach of law.

444. Non-Compliance with Law on Ethnic Composition

During the year under review, the total number of employees of the County Assembly was two hundred and two (202) out of which one hundred and ninety-four (194) or 96 % of the total number were members of the dominant ethnic community in the County. This is contrary to Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 which states that, all public offices shall seek to represent the diversity of the people of Kenya in the employment of staff and that no public institution shall have more than one-third of its staff establishment from the same ethnic community.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

445. Lack of a Functional Internal Audit Department

Examination of the staff establishment in the Internal Audit Department revealed that the office had only two auditors and that one had left the Country in January, 2022 on a three-years study leave leaving the County Assembly with only one internal auditor. The auditor was not able to undertake comprehensive internal audits during the year under review. The annual workplan and the internal audit charter detailing scope, responsibilities and purpose of internal audit were not prepared, and no internal audit activities were undertaken during the year under review and therefore the entity did not benefit from the assurance and advisory services from the internal audit function.

In the circumstances, the effectiveness of internal controls could not be confirmed.

446. Non-Implementation of the Recommendations of Oversight Bodies

During the year under review, Vihiga County Assembly Public Accounts and Investment Committee (CPAIC) issued a report in November, 2021 on the Auditor-General's report on the financial statements for Vihiga County Assembly for the year ended 30 June, 2019. Further, the Senate deliberated on the Auditor-General's report

on the financial statements for Vihiga County Assembly for the year ended 30 June, 2020 in August, 2021. However, the recommendations of the two (2) committees have not been implemented by the County Assembly.

In the circumstances, Management's determination in improving the governance and management of the County Assembly was doubtful.

447. Outstanding Debts

Note 3 in respect to other disclosures to the financial statements reflects other pending payables balance of Kshs.76,080,065 which includes a balance of Kshs.72,918,081 in respect to a debt owed to Vihiga County Assembly Members and Staff Mortgage and Car Loans Scheme Fund as at 30 June, 2022. The debt has been outstanding for a long period and during the year under review, only a minimal repayment of Kshs.3,000,000 was made.

In the circumstances, the Management commitment in repaying the debt in full was doubtful.

COUNTY ASSEMBLY OF BUNGOMA – NO.39

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

448. Variance Between Amounts in the Financial Statements and IFMIS Report

The statement of receipts and payments reflects payments for the year amounting to Kshs.959,626,230. However, the Integrated Financial Management Information Systems (IFMIS) report reflects total payments amounting to Kshs.1,050,146,858, resulting to an unexplained and unreconciled variance of Kshs.90,520,628.

In the circumstances, the accuracy and completeness of the statement of receipts and payments could not be confirmed.

449. Unsupported Prior Year Adjustment

The statement of financial assets and liabilities reflects a balance of Kshs.12,316,674 in respect of prior year adjustment as disclosed in Note 13 to the financial statements. However, no documentary evidence was provided to support the balance.

In the circumstances, the accuracy and completeness of the prior year adjustment balance of Kshs.12,316,674 could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

450. Non-Compliance with Law on Ethnic Composition

Review of Human Resource records and the payroll maintained by the County Assembly revealed that during the year under review, the County Assembly had a total of 130 employees out of which 111 employees, or about 85%, were from the dominant ethnic community in the county. This is contrary to Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 which provides that all public offices shall seek to represent diversity of people of Kenya in employment of staff and that no public institution shall have more than one third of its establishment from the same ethnic community.

In the circumstances, the County Assembly was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

- 451.** There were no material issues raised on internal controls, risk management and governance.

COUNTY ASSEMBLY OF BUSIA – NO.40

REPORT ON THE FINANCIAL STATEMENTS

Basis for Adverse Opinion

452. Inaccuracies in the Financial Statements

Review of the financial statements indicates that balances reflected in four (4) components were at variance with the corresponding amounts shown in supporting schedules as shown below:

Component	Financial Statements Amount (Kshs)	Supporting Note Amount (Kshs)	Variances (Kshs)
Accounts Payable	4,939,433	4,950,000	(10,567)
Fund Balance Brought Forward	10,001,628	0	10,001,628
Prior Year Adjustment	10,001,628	0	10,001,628
Pending Accounts Payable	113,471,941	55,687,703	57,784,238
Compensation of Employees	479,324,358	485,207,255	(5,882,897)

Further, the statement of comparison of budget and actual amounts reflects amounts under final budget which are at variance with the amounts in the approved budget as shown below:

Components/Item	Statement of Comparison of Budget and Actual Amounts (Kshs)	Approved Budget Amount (Kshs)	Variance (Kshs)
Exchequer Releases	901,409,679	906,409,679	(5,000,000)
Compensation of Employees	479,324,358	522,684,651	(43,360,293)
Use of Goods and Services	287,090,012	278,725,028	8,364,984
Social Security Benefits	25,375,297	0	25,375,297
Acquisition of Assets	99,963,145	105,000,000	(5,036,855)

In addition, the statement does not reflect any amounts under actual on a comparable basis.

In the circumstances, the accuracy, completeness, presentation and disclosure of the financial statements could not be confirmed.

453. Unsupported Use of Goods and Services

The statement of receipts and payments reflects use of goods and services amount of Kshs.287,090,012 as disclosed in Note 5 to the financial statements. However, expenditure amounting to Kshs.37,989,686 was not supported.

In the circumstances, the accuracy and regularity of the expenditure amounting to Kshs.37,989,686 in respect of use of goods and services could not be confirmed.

454. Irregular Payments to County Assemblies Forum

Review of the cash book and bank statements for the year under review indicated that the Management made two payments amounting to Kshs.10,000,000 to the County Assemblies Forum. However, review of the County Assembly's budget indicated that the payments were not budgeted for during the year under review. Management has not indicated how the payments have been accounted for in the financial statements.

In the circumstances, the regularity and disclosure of the payments amounting to Kshs.10,000,000 could not be confirmed.

455. Unsupported Cash and Cash Equivalents

The statement of financial assets and liabilities reflects a cash and cash equivalents balance of Kshs.5,083,324 which, as disclosed in Note 13A to the financial statements comprises of four (4) bank account balances held in two (2) local banks. However, the cash books for the four (4) bank accounts reflect balances totalling to Kshs.5,099,820 resulting in an unreconciled variance of Kshs.16,496.

Further, bank reconciliation statements and certificates of bank balance for the four (4) bank accounts maintained by the County Assembly were not provided for audit review.

In the circumstances, the accuracy, existence and completeness of the cash and cash equivalents balance of Kshs.5,083,324 could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

456. Non-compliance with Public Finance Management (County Governments) Regulations, 2015

The statement of financial assets and liabilities reflects a balance of Kshs.9,512,976 in respect of accounts receivable which, as disclosed in Note 14 to the financial statements comprises of Kshs.7,481,716 and Kshs.2,031,260 relating to Government imprests and salary advances, respectively. However, the balance of Kshs.7,481,716 relating to Government imprests includes imprests totalling to Kshs.865,100 that had remained outstanding for over six (6) months as at 30 June, 2022. This is contrary to Regulation 93(5) of the Public Finance Management (County Governments) Regulations, 2015 which states that a holder of a temporary imprest shall account for or surrender the imprest within seven (7) working days after returning to duty station.

In the circumstances, Management was in breach of the law.

457. Failure to Remit Statutory Deductions

As disclosed in Annex 2 to the financial statements is an amount of Kshs.64,228,941 in respect of overdue statutory and other deductions due to statutory bodies, being amounts deducted from employees' salaries for onward transmission to those organizations. Out of this amount, Kshs.40,322,401 relates to overdue deductions to LAPFUND which had attracted penalties totalling to Kshs.5,000,000 as at 30 June, 2022. This is contrary to Section 8(3) of LAPFUND Act, 2012. No explanation was provided for the failure to remit the statutory dues.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

458. There were no material issues raised on internal controls, risk management and governance.

COUNTY ASSEMBLY OF SIAYA – NO.41

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

459. Misclassification of Expenditure

The statement of receipts and payments reflects an expenditure of Kshs.323,683,351 under the compensation of employees which, as disclosed in Note 4 to the financial statements includes basic wages of temporary employees totalling to Kshs.37,628,430. However, examination of payments revealed that expenditure amounting to Kshs.6,468,550 for Ward Office general office operations was charged to compensation of employees distorting the budget execution.

In the circumstances, the accuracy and completeness of basic wages of temporary employees of Kshs.37,628,430 could not be confirmed.

460. Excessive Expenditure on Domestic Travel and Subsistence

The statement of receipts and payments reflects use of goods and services expenditure of Kshs.315,327,295 as disclosed in Note 5 to the financial statements. The balance includes domestic travel and subsistence amount of Kshs.131,615,243 out of which an amount of Kshs.84,659,740 was paid to officers of the County Assembly while on duty outside the workstation. Review of records and analysis of the payments revealed that the officers were paid travel and subsistence allowances for cumulative one hundred (100) to over two hundred (200) days in a year without justification.

In the circumstances, the propriety and completeness of expenditure totalling to Kshs.84,659,740 in respect of domestic travel and subsistence could not be confirmed.

Other Matter

461. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget of Kshs.1,167,787,262 and actual amounts on comparable basis of Kshs.889,110,943 resulting in under funding of Kshs.278,676,319 or 24% of the budget. Similarly, the County Assembly spent Kshs.888,350,485 against an approved budget of Kshs.1,167,787,262 resulting in an under-expenditure of Kshs.279,436,777 or 24% of the budget.

The underfunding and underperformance affected the planned activities may have impacted negatively on service delivery to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

462. Delayed Project Implementation

Review of records revealed that Management engaged a contract for drilling and equipping of boreholes and construction of water kiosks in the twenty-eight (28) ward offices at a contract sum of Kshs.117,133,552 on 15 October, 2020 with a duration of eight months ending 10 July, 2021. However, on 21 January, 2022 the contract was extended to May, 2022. At the time of the audit in July, 2022. The project remains incomplete despite the cumulative payments amounting to Kshs.64,836,353.

In the circumstances, it was not possible to confirm whether the County Assembly received value for money for the expenditure of Kshs.64,836,353 incurred on drilling and equipping of boreholes and construction of water kiosks.

463. Non-Compliance with the Approved Staff Establishment

The County Assembly's approved staff establishment provides for one hundred (100) staff whereas only eighty-eight (88) employees are in service resulting in an understaffing by twelve (12) positions. This was contrary to Paragraphs 10 and 11 of the County Assembly Human Resource Policies and Procedures Manual, which states that every County Assembly Service Board shall prepare Human Resource Plans to support achieving goals and objectives of the strategic plan and develop annual recruitment plans at the beginning of each financial year, to enable it to plan to fill the vacancies.

In the circumstances, Management was in breach of the law.

464. Non-Compliance with Law on Staff Ethnic Composition

Review of staff bio data revealed that the County Assembly had a total of eighty-eight (88) members of staff out of whom seventy-eight (78) or 88% were from the dominant community in the County. This was contrary to Section 7(2) of the National Cohesion and Integration Act, 2008, which provides that; "all public offices shall seek to represent the diversity of the people of Kenya in the employment of staff and that no public institution shall have more than one-third of its staff from the same ethnic community".

In the circumstances, Management was in breach of the law.

465. Failure to Establish a County Assembly Fund

During the year under review, Management had not established a County Assembly Fund. This was contrary to Section 34 of the County Assembly Act, 2017 which states that there is established for each county, a fund to be known as the County Assembly Fund and that there shall be paid into the County Assembly Fund:-(a) any grants, gifts, donations or bequests,(b) monies from investments of the board and such fees

imposed or levies administered by the board and; (c) such monies as may, in the future be appropriated from Revenue Fund established for each county.

In the circumstances, Management was in breach of the law.

466. Delays in Remitting Taxes

During the year under review, the County Assembly's Pay As You Earn (PAYE) deductions for July and August, 2021 and March, 2022 totalling to Kshs.16,135,669 were remitted to Kenya Revenue Authority after the due dates. This contravened Section 37(1) of the Income Tax Act which states that an employer is required to deduct PAYE from employees' salaries and wages at the prevailing rates and remit the same to KRA on or before the 9th of the following month.

In the circumstances, Management was in breach of the law.

467. Non-Compliance with the One-Third Rule on Basic Salary

Analysis of the payroll data for the year ended 30 June, 2022, revealed that eighteen (18) employees earned a net salary of less than a third (1/3) of the basic salary contrary to Section C.1(3) of the Public Service Commission (PSC) Human Resource Policies, 2016. Management has not explained the failure to comply with the policy.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

468. Salaries Paid Outside the Integrated Personnel and Payroll Database (IPPD)

The statement of receipts and payments reflects compensation of employees expenditure of Kshs.323,683,351 as disclosed in Note 4 to the financial statements. The expenditure includes basic wages of temporary employees totalling to Kshs.37,628,430, out of which an amount of Kshs.31,159,880 relates to salaries to Ward Offices staff paid through manual payment vouchers outside the Integrated Personnel and Payroll Database (IPPD) Management System. This contravened The National Treasury Circular No.9/2017, which requires personnel emoluments to be controlled in the public personnel database and supported by IPPD.

In the circumstances, the effectiveness of internal controls on payroll management could not be confirmed.

469. Incomplete Fixed Assets Register

Annex 4 to the financial statements reflects a summary of fixed asset register with a balance of Kshs.686,895,322 as at 30 June, 2022. However, the County assembly's

asset register was incomplete as it did not have information such as asset value, description, serial number, tag number, make/model, suppliers name, original location, current location and the officer responsible for each asset and asset condition.

In the circumstance, the existence of an effective mechanism to safeguard the assets could not be established.

COUNTY ASSEMBLY OF KISUMU – NO.42

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

470. Use of Goods and Services

The statement of receipts and payments reflects use of goods and services amount of Kshs.390,285,538 as disclosed in Note 5 to the financial statements. Review of the expenditure revealed the following unsatisfactory matters:

470.1 Unconfirmed Office and General Supplies and Services Expenses

The amount includes office and general supplies and services amounting to Kshs.17,131,880, which further includes an amount of Kshs.1,455,695 paid to two companies. However, signed contracts between the County Assembly and the two companies were not provided for audit verification.

470.2 Unsupported Communication Supplies and Services

Further, the balance includes communication supplies and services amount of Kshs.2,765,668. Included in the amount is Kshs.885,600 paid for internet connections and Kshs.934,000 paid to a telecom company for telephone, telex, facsimile and mobile phone services. However, no documentary evidence was provided to support the expenditure.

470.3 Irregular Charge of Other Operating Expenses

In addition, the balance includes other operating expenses amount of Kshs.84,488,131. The amount includes legal fees amounting to Kshs.1,109,982 for a legal suit against the former speaker for recovery of outstanding car and mortgage loans amounting to Kshs.8,389,339. However, the legal fees was charged to the County Assembly instead of charging to the car and mortgage Fund.

In the circumstances, the propriety of payments amounting to Kshs.4,385,277 included in the use of goods and services could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

471. Irregular Payment of Subscriptions

The amount also includes other operating expenses amounting to Kshs.84,488,131 as disclosed in Note 5 to the financial statements. The expenses include subscriptions paid to the County Assemblies Forum (CAF) and the Society of Clerks at the Table

(SOCATT) of Kshs.4,000,000 and Kshs.1,000,000 respectively. However, the payments were not authorized by any law.

In the circumstances, Management was in breach of the law.

472. Outstanding Tax Liability

The statement of receipts and payments reflects compensation of employees amounting to Kshs.318,399,031. Review of records revealed that the County Assembly owes Kenya Revenue Authority (KRA) PAYE totalling to Kshs.70,989,650 based on the assessment of tax liability for the period between July, 2015 to June, 2018 dated 2 March, 2021. The tax liability arose from a tax of Kshs.18,142,110, penalties of Kshs.45,148,581 and interest of Kshs.7,698,958. This was contrary to Section 37(1) of the Income Tax Act 2018 which stipulates that an employer paying emoluments to an employee shall deduct therefrom, and account for tax thereon, to such extent and in such manner as may be prescribed.

In the circumstances, Management was in breach of the law.

473. Non-Compliance with the National Cohesion and Integration Act, 2008

Review of the County staff establishment revealed that, out of the eighty-nine (89) employees, eighty (80) or 90% belong to the dominant ethnic community. This was contrary to Section 7(2) of the National Cohesion and Integration Act, 2008 which stipulates that no public establishment shall have more than one third of its staff from the same ethnic community.

In the circumstances, Management was in breach of the law.

474. Non-Compliance with the Public Procurement and Asset Disposal Regulation, 2020

During the year under review, the County Assembly spent an amount of Kshs.2,975,800 on procurement of sports gears, which had been reserved for the AGPO group. However, the AGPO registration certificate of the supplier was not provided for audit verification. This was contrary to Regulation 145 of the Public Procurement and Asset Disposal Regulations, 2020 which requires that all small, micro and medium enterprise groups or disadvantaged groups shall qualify to benefit from a preference and reservation scheme if they are registered by The National Treasury.

In the circumstances, Management was in breach of the law.

475. Non-Compliance with the Third Rule on Salary Deduction

Review of the payroll revealed that seven (7) employees earned net salaries less than a third of their basic pay. This was contrary to Section 19(3) of Employment Act, 2007 which stipulates that the total amount of all deductions which may be made by an employer from the wages of his employee at any one time shall not exceed two thirds of such wages or such additional or other amount as may be prescribed.

In the circumstances, Management was in breach of the law.

476. Irregular Payments Made Outside the Integrated Personnel and Payroll Database (IPPD)

The statement of receipts and payments reflects compensation of employees amounting to Kshs.318,399,031. The amount includes an amount of Kshs.67,140,758 paid to Ward staff, Members of County Assembly and Board Members outside of the IPPD System. This was contrary to The Treasury Circular No.13/2019 dated 28 August, 2019 which states that the allocation of personnel emoluments must be supported by Integrated Personnel Payroll Data (IPPD) and each Ministry, Department and Agency (MDA) will be required to provide this information to support personnel requirements. No explanation was provided for failure to process the salaries in the IPPD data base.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

477. There were no material issues raised on internal controls, risk management and governance.

COUNTY ASSEMBLY OF HOMA BAY– NO.43

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

478. Exchequer Releases Reconciliation

The statement receipts and payments reflects total Exchequer releases of Kshs.1,122,267,322 as disclosed in Note 1.1 to the financial statements which is at variance with the amount reflected under records of the County Executive of Homa Bay of Kshs.1,177,145,243 resulting in an unreconciled and unexplained variance of Kshs.54,877,921.

In the circumstances, the accuracy and completeness of the total receipts amount of Kshs.1,122,267,322 could not be confirmed.

479. Compensation of Employees

The statement of receipts and payments reflects compensation of employees amount of Kshs.470,385,703. The balance includes an amount of Kshs.2,266,840, being salaries of five (5) employees of the Assembly who were seconded to Homa Bay County Executive. This is contrary to the provisions of Paragraph B.33(6) of the Public Service Human Resource Policies of May, 2016, which stipulates that officers on secondment will be paid their salaries and other allowances by the organization to which they are deployed. The County Assembly may have lost an amount of Kshs.2,266,840.

In the circumstances, the accuracy of the compensation of employee balance could not be confirmed and is not fairly stated.

480. Irregular Recruitment of Ward Employees

Review of personnel records revealed that the amount of Kshs.470,385,703 includes Kshs.73,076,803 in respect of one hundred and ninety-five (195) Ward staff, contrary to Commission on Revenue Allocation Circular, Ref CRA/CSO/CMG/9/VOL.V(43) dated 3 August, 2020 to all County Assemblies, according to which, Homa Bay County Assembly was to employ one hundred and eighty (180) Ward employees at a maximum cost of Kshs.65,538,420. As a result, the County Assembly incurred an unauthorized over-expenditure on Ward staff of Kshs.7,538,383.

Further, the 195 employees were directly employed by Members of the County Assembly (MCAs) without involving the County Assembly Service Board, contrary to Section 12(7)(b) of the County Governments Act, 2012, which provides that the County Assembly Service Board is responsible for constituting offices in the County Assembly Service, and appointing and supervising office holders. Therefore, funds allocated for other goods, services or development projects may have been used to pay staff.

In the circumstances, the propriety of expenditure could not be confirmed.

481. Payment outside IPPD Payroll System

The statement of receipts and payments reflects compensation of employees amount of Kshs.470,385,703 as disclosed in Note 2 to the financial statements, However, payments totalling to Kshs.385,991,053 were made through the electronic Integrated Personnel Payments Database (IPPD) while Kshs.84,394,650 were made through a manual system in respect of 258 Wards staff and two (2) MCAs. Further, the payments made through the manual system were not sufficiently analyzed.

In the circumstances, the accuracy and completeness of the compensation of employees could not be confirmed.

482. Unsupported Domestic Travel and Subsistence Allowances

The statement of receipts and payments reflects use of goods and services amount of Kshs.442,747,110 which, as disclosed in Note 3 to the financial statements, includes domestic travel and subsistence amount of Kshs.278,255,565 out of which an amount of Kshs.13,599,600 was incurred in respect of staff and committee members in report writing exercise on the vetting of Chief Officer's nominees for County Executive of Homa Bay held at Mombasa. However, payment vouchers, invoice, local service order, attendance registers and back to office report were not provided for audit. As a result, it was not possible to establish whether the County Assembly's staff actually attended or participated in the report writing exercise.

In the circumstances, the accuracy and completeness of the expenditure of Kshs.13,599,600 could not be confirmed.

483. Inaccuracies in the Cash and Cash Equivalents

The statement of financial assets and liabilities reflects cash and cash equivalents balance of Kshs.41,851,461 as disclosed in Note 8 to the financial statements. The balance includes an amount of Kshs.15,150,216 relating to recurrent bank account held at the Central Bank of Kenya, which differs with the cash book balance of Kshs.2,875,718, resulting in an unreconciled variance of Kshs.26,701,246 while, the cash books were not checked by a senior officer independent of the preparer.

Further, the balance includes an amount of Kshs.18,150,326 relating to a development bank account held at the Central Bank of Kenya, for which, no bank reconciliation statements were provided for audit review.

In addition, the balance includes an amount of Kshs.61,254 relating to a commercial bank account held at the Co-operative Bank of Kenya. However, the balance was drawn directly from the bank certificate instead of the reconciled cash book which reflected an overdraft of Kshs.6,180.

In the circumstances, the accuracy and completeness of the cash and cash equivalents balance of Kshs.41,851,461 could not be confirmed.

484. Inaccuracies of Non-Current Assets

Annex 3 to the financial statements reflects total historical cost of non-current assets of Kshs.96,514,938 which excludes the value of land and transport equipment. However, examination of records revealed that the County Assembly had two (2) parcels of land and five (5) motor vehicles whose details were not recorded in the assets register while the title deeds of the parcels of land were not provided for audit review.

Further, the statement of receipts and payments reflect acquisition of assets balance of Kshs.13,662,599 as disclosed under Note 7 to the financial statements which differs with additions assets balance of Kshs.38,073,328 resulting in unreconciled variance of Kshs.24,410,729.

In the circumstances, the accuracy and completeness of the non-current assets balance of Kshs.96,514,938 and the ownership of the parcels of land could not be confirmed.

485. Unexplained Voided Transactions

Analysis of the Integrated Financial Management Information System (IFMIS) payments indicated that 80 transactions amounting to Kshs.85,221,083 were voided during the year under review despite having been approved by the Controller of Budget. Management has indicated that the voiding of these transactions was as a result of a Central Bank of Kenya directive to void all pending transactions in IFMIS and Internet Banking System due to non-release of Exchequer disbursements. However, no evidence was provided to show that these voided transactions were paid or included as part of pending bills during the year ended 30 June, 2022.

In the circumstances, the accuracy and completeness of IFMIS records could not be confirmed.

486. Charging of Wrong Accounting Period

The statement of receipts and payments reflects acquisition of assets amount of Kshs.13,662,599 which, excluded payments amounting to Kshs.34,408,742 relating to the previous financial year, but paid during the year under review. This was contrary to Regulation 97(4) of the Public Finance Management (County Governments) Regulation, 2015, which stipulates that actual cash transaction taking place after the 30 June, shall not be treated as pertaining to the previous financial year. It was also contrary to the cash basis financial reporting framework.

In the circumstances, the accuracy and completeness of the acquisition of assets balance of Kshs.13,662,599 could not be confirmed.

Other Matter

487. Unresolved Prior Year Matters

The Public Sector Accounting Standard Board (PSASB) financial reporting template issued in June, 2021 stipulates that the management should reflect a progress on

follow up on auditor's recommendations indicating issues raised by the auditor, status and timeframe when the issues are expected to be resolved. However, Annex 4 on other disclosures to the financial statements shows that four (4) issues raised by the Auditor General in the report for 2020/2021 financial year had been resolved. However, Management did not provide supporting documents to prove the status.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

488. Failure to Comply with the One-Third Rule in Employment

Review of staff establishment and employment records for the 2021/2022 financial year revealed that the Assembly had one hundred and fifty (150) employees out of whom, 88% were from the dominant community, while only 12% were from other ethnic communities. This was contrary to the provisions of Section 7(1) and (2) of the National Cohesion Integrated Commission of 2008, which states that all public offices shall seek to represent the diversity of the people of Kenya.

In the circumstances, Management was in breach of the law.

489. Irregular Procurement of Consultancy Services

The statement of receipts and payments reflects use of goods and services amount of Kshs.442,747,110 which, as disclosed in Note 3 to the financial statements, includes other operating expenses amounting to Kshs.22,306,956 out of which an amount of Kshs.14,780,000 was in respect of a contract for training and consultancy services relating to various departments like finance, procurement, ICT and human resources. However, the tender documents, which were to include the price schedule according to the signed agreement, were not provided for audit review. As a result, it was not possible to ascertain the basis of raising the various local purchase orders (LSOs) issued during the year under review.

In the circumstances, the regularity on the expenditure of Kshs.14,780,000 could not be confirmed.

490. Payment of Subscription to County Assembly Forum

The statement of receipts and payments reflects other payment amount of Kshs.81,856,175 which includes Kshs.2,000,000 in respect of subscription fee for County Assembly Forum (CAF). However, acknowledgement from CAF confirming receipt of funds was not provided for audit review. Further, the payment was not backed by any law.

In the circumstances, the propriety and value for money of the expenditure of Kshs.2,000,000 could not be confirmed.

491. Expenditure on Tax Penalties

The statement of receipts and payments reflects other payment amount of Kshs.81,856,175 which includes an amount of Kshs.67,542,107 in respect of KRA Agency Notices. Information provided indicated that the KRA Agency Notices totalling to Kshs.67,542,107 were in respect of penalties paid to Kenya Revenue Authority for non-remittances of Pay-As-You-Earn (PAYE) and other taxes. However, Management did not provide a plausible explanation for the delayed deductions and remittances of statutory obligations resulting into avoidable costs of Kshs.67,542,107.

In the circumstances, the value for money and resources meant for budgeted services may not have been realized.

492. Acquisition of Assets

The statement of receipts and payments reflects acquisition of assets amount of Kshs.13,662,599. The following unsatisfactory matters were noted:

492.1 Delayed Construction of Automated Gate House at Homa Bay County Assembly

On 21 May, 2020, the County Service Board entered into a contract for the construction of automated gate house at Homa Bay County Assembly at a contract sum of Kshs.7,112,260 for a contract period of one (1) month ending on 21 June, 2020. The contractor had been paid Kshs.4,000,000 as at 30 June, 2022. However, review of the project implementation status report dated 1 April, 2021 and physical inspection of the project on 1 September, 2022 revealed that outstanding works included windows and glazing, doors, internal finishes, external finishes, electrical installations and joinery fittings. Further, the contractor was not on site. The delay in completion of the automated gate house may compromise security in the Assembly premises.

In the circumstances, value for money on the expenditure amount of Kshs.4,000,000 could not be confirmed.

492.2 Delayed Construction of Homa Bay County Assembly Office Block

The County Assembly Service Board contracted a company on 10 July, 2019 to construct an office block at a contract sum of Kshs.348,927,840. According to the signed contract, the work was expected to be completed by 8 January, 2021. The Ministry of Transport, Infrastructure, Housing, Urban Development and Public Works later extended the completion date to 8 April, 2022. Review of records revealed that the contractor had been paid a total amount of Kshs.66,714,925.

However, physical inspection of the project conducted on 1 September, 2022 and review of records in respect of the project revealed that: the work on the project had been done up to the substructure; the contractor was not on site and the contract completion date had not been extended after 8 April, 2022. Information provided indicates that the project was stopped because of a dispute with the Homa Bay County Commissioner who accused the County Assembly Management for putting up the building without informing key stakeholders and without public participation. The delay

in completion of the office block may adversely affect the operations of the Service Board.

In the circumstances, value for money on the expenditure of Kshs.66,714,925 could not be confirmed.

493. Finance Cost - Interests on Bank Overdraft

The statement of receipts and payments reflects finance costs recurrent amount of Kshs.4,952,549 which, as disclosed in Note 11 to the financial statements includes Kshs.4,301,770 in respect of interest on bank overdraft. The overdraft was occasioned by delay in repaying a bank overdraft of Kshs.12,652,265 which was obtained on 16 March, 2022 from Cooperative Bank of Kenya to pay salaries. The delay in repayment of the bank overdraft occurred despite the County Assembly having received Exchequer releases amounting to Kshs.223,499,757 from County Revenue Fund.

In the circumstances, the value for money on the expenditure of Kshs.4,301,770 could not be confirmed.

494. Delayed Construction of Speaker's Official Residence

Review of rental records revealed that, the County Assembly had not constructed the speaker's official residence, but instead continued to pay rent, contrary to the advice of the Salaries and Remuneration Commission, through Circular No. SRC/TS/29/(12) that County Assemblies should construct Speakers' official residences and that the option of renting the speakers' residences should cease by 30 June, 2022.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

495. There were no material issues raised on internal controls, risk management and governance.

COUNTY ASSEMBLY OF MIGORI – NO.44

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

496. Unsupported Other Receipts

The statement of receipts and payments and as disclosed in Note 3 to the financial statements reflects an amount of Kshs.8,084,862 in respect of other receipts. The amount relates to other recurrent receipts from Migori County Treasury. However, a schedule supporting the balance reflected receipts amounting to Kshs.6,055,294 resulting in an unexplained and unreconciled variance of Kshs.2,029,568.

In the circumstances, the accuracy and completeness of other receipts of Kshs.8,084,862 could not be confirmed.

497. Variances between Financial Statements and the Payroll

The statement of receipts and payments reflects an amount of Kshs.404,243,633 in respect of compensation of employees which, as disclosed in Note 4 to the financial statements includes several allowances. However, review of the allowances against amounts reflected in the Integrated Personnel and Payroll Database (IPPD) payroll revealed unreconciled variances as tabulated below:

Item	Financial Statement (Kshs.)	IPPD Amount (Kshs.)	Variance (Kshs.)
Sitting Allowances	41,424,138	38,780,600	2,643,538
Special Duty Allowances	11,107,100	13,731,000	(2,623,900)
Responsibility Allowances	18,965,000	27,141,619	(8,176,619)
Transport Allowances Civil Service and MCAs	29,553,547	-	29,553,547
Extraneous Allowances	15,937,580	-	15,937,580

No reconciliation has been provided for audit review.

In the circumstances, the accuracy and completeness of an expenditure of Kshs.116,987,365 in respect to compensation of employees could not be confirmed.

498. Unsupported Expenditure - Use of Goods and Services

The statement of receipts and payments and as disclosed in Note 5 to the financial statements, reflects an expenditure of Kshs.465,072,483 in respect of use of goods and services. The following was observed:

498.1 Domestic Travel and Subsistence

The expenditure includes an amount of Kshs.273,186,048 incurred on domestic travel and subsistence. However, the general ledger reflected an amount of Kshs.285,037,826 resulting in an unreconciled variance of Kshs.11,851,778.

498.2 Non-Residential Office – General Office Supplies

Further, the expenditure includes an amount of Kshs.7,132,447 for non-residential buildings - general office supplies. However, the expenditure was not supported by payment vouchers, local purchase order, local service order, invoices, and other relevant documents to support the amount.

498.3 Non-Residential Office – Catering Services

In addition, the expenditure includes an amount of Kshs.12,022,300 incurred on non-residential buildings - catering services. However, the expenditure was not supported by payment vouchers, local purchase order, local service order, invoices, and other relevant documentary evidence.

498.4 General Operation Expenses

Similarly, the expenditure includes an amount of Kshs.9,580,000 incurred on general operation expenses. The amount includes an amount of Kshs.4,663,757 which was not supported by payment vouchers, local purchase order, local service order, invoices, and other relevant expenditure documents. Further, the Note 5 reflected expenditure of Kshs.9,580,000 while the ledger reflected Nil balance resulting in an unreconciled and unexplained variance of Kshs.9,580,000.

498.5 Contracted Guard Allowances

Similarly, the expenditure includes an amount of Kshs.12,610,742 incurred on general operation expenses out of which, an amount of Kshs.7,610,131 was not supported by relevant expenditure documents. Further, the financial statement reflects expenditure of Kshs.12,610,000 while the ledger reflects an amount of Kshs.8,370,501 resulting in an unreconciled variance of Kshs.4,240,242.

In the circumstances, the accuracy and completeness of use of goods and services totalling to Kshs.314,531,539 could not be confirmed.

499. Unsupported Cash and Cash Equivalents

The statement of financial position reflects cash and bank balance of Kshs.4,395. However, bank reconciliation statements for bank statements and cashbook balances and certificate of bank balances were not provided for audit.

In the circumstances, the accuracy and completeness of the bank balance of Kshs.4,395 as at 30 June, 2022 could not be confirmed.

500. Inaccuracies in Prior Year Adjustments

The statement of assets and liabilities reflects prior year adjustments of Kshs.1,664,842. However, the adjustment was affected in the current financial year instead of prior year.

In the circumstances, the accuracy, regularity and completeness of the prior year adjustment of Kshs.(1,664,842) could not be confirmed.

501. Voided Payments

Review of the Integrated Financial Management Information System (IFMIS) system payments data revealed that 12 transactions amounting to Kshs.6,743,280 were voided during the year 2021/2022 despite having been approved by the Controller of Budget. Management indicated that the action was as a result of a Central Bank of Kenya directive to void all pending transactions in IFMIS and Internet Banking System due to non-release of Exchequer disbursements. However, the communication from Central Bank was not provided for audit review.

In the circumstances, the accuracy and regularity of payments on approved transactions could not be confirmed.

502. Unsupported Pending Bills

Note 7.10 the financial statements on other important disclosures reflects balances of Kshs.131,285,037 and Kshs.5,023,427 in respect of pending accounts payable and pending staff payable respectively, totalling to Kshs.136,308,464. As further disclosed in Annexure 1 and 2 to financial statements, the bills were not settled during the year under review and were carried forward to 2022/2023 financial year. However, the pending bills were not supported by source documents such as local purchase and service orders, contract documents, interim certificates, invoices, delivery notes and unpaid vouchers.

In the circumstances, the accuracy of pending bills could not be confirmed.

Other Matter

503. Unresolved Prior Year Matters

In the audit report of the previous year, several matters were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, the Management has not resolved the issues or given any explanation for failure to adhere to the provisions of the Public Sector Accounting Standards Board templates.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

504. Non-Compliance with the One-Third Rule on Basic Salary

Review of the Assembly payroll for the month of June, 2022 revealed that at least eleven (11) employees were paid a net salary that was less than a third (1/3) of their basic pay contrary to Section 19(3) of the Employment Act, 2007 which provides that total amount of all deductions which may be made by an employer from the wages of his employee at any one time shall not exceed two-thirds of such wages.

In the circumstances, Management was in breach of the law.

505. Delay in Supply and Installation of Enterprise Resource Planning

The analysis of pending accounts payables balance of Kshs.131,285,037 disclosed in Annexure 1 to the financial statements includes an amount of Kshs.36,894,960 owed to a contractor in respect of installation of an Enterprise Resource Planning (ERP) system. Management had contracted a local contractor to supply and install the ERP system at a contract sum of Kshs.36,894,960 on 27 April, 2022. The scope of works involved supply, installation, configuration, customization, testing commissioning and support of an administrative ERP information system.

Review of an interim certificate raised on 20 June, 2022 in respect of the consultancy revealed that the project was at 85% completion. However, physical verification revealed that major components of the ERP such as modules, installations, customization, and configurations were ongoing. In addition, five (5) year training, maintenance and support programme had not started.

In the circumstances, the value for money of invoiced amount of Kshs.36,894,960 in respect of the project could not be confirmed.

506. Irregular Cash and Bank Operations Account

As previously reported, review of the IFMIS payment details for the year under review revealed that funds totalling Kshs.526,156,210 were transferred to the operations account held at Kenya Commercial Bank for payment of salaries and allowances, and goods and services to employees and suppliers. However, most of the payments were made through cash withdrawals contrary to Regulation 82(1) of the Public Finance Management (County Governments) Regulations, 2015 which requires all County Government bank accounts to be opened and operated at the Central Bank of Kenya except for imprest bank accounts for petty cash.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

507. Functioning of the County Assembly Service Board

During the year under review, the County had in place a County Assembly Service Board charged with human resource management. However, Management did not provide the documents supporting expenditure relating to the operations of the Board including its approved budget and the sittings held during the year. In addition, review of the functioning of Migori County Assembly Service Board revealed the following:

- i. The Board did not prepare and submit annual operations report as required by section 36(1) of the County Assembly Service Act, 2017 which provides that within three (3) months after the end of each calendar year, the Board shall prepare and lay before the County Assembly, a report of its operations during that year.
- ii. Management did not establish a County Assembly Fund as required by section 36(1) of the County Assembly Service Act, 2017 which provides that there is established for each county, a fund to be known as the County Assembly Fund.
- iii. There was no established Staff Advisory Committee in line with section 29 of the County Assembly Service Act, 2017 which requires the Board to establish a committee to be known as the Staff Advisory Committee which shall be responsible for advising the Board, through the Committee, on matters relating to staff.
- iv. There was no established Management Committee in line with Section 28 of the County Assembly Service Act, 2017 which requires the Board to establish a committee to be known as the Management Committee which shall be responsible for advising the Board on matters relating to the functions and powers of the Board under sections 11 and 12 of the Act.

In view of the circumstances, the Board may not be able to provide services to ensure the efficient and effective functioning of the County Assembly.

508. Internal Audit Function

As previously reported, the internal audit plan and internal audit charter provided for audit were not approved by the Audit Committee in line with Regulation 163 (2) (a) and (b) of the Public Finance Management (County Governments) Regulations 2015 which provides that, "The annual work plan developed in paragraph (1) shall be (a) submitted to the audit committee by 15th February each financial year; and (b) approved by the audit committee and shared with the Accounting Officer of that entity, in sufficient time for inclusion in the budget of that entity.

In addition, review of minutes and meeting records revealed that the Audit Committee met only thrice during the year under review contrary to Regulation 172.(1) Of the Public Finance Management (County Governments) Regulations 2015 which requires the

Audit Committee to meet at least once in every three months. Further, the committee did not deliberate upon and adopt any reports finalized by the internal Audit Unit.

In addition, the internal audit unit was only staffed with one officer against the required three as prescribed in the departmental chart. The internal audit prepared only two reports on ICT and inventory management policy, and leaving out reviews on key departments of human resource, procurement and finance during the year under review.

In the circumstances, existence of effective internal control could not be confirmed.

509. Risk Management Policy and Management Framework

As previously reported, review of the risk management process revealed that the County Assembly did not have an approved Risk Management Policy Framework to provide a framework for the management of risk and increase overall awareness of risk throughout the institution. There was no documentary evidence to confirm that Management had conducted a risk assessment to identify the potential risk exposure, possibility of their occurrence and their mitigating strategies. The Management therefore had not developed risk management strategies, which include fraud prevention mechanism; and a system of risk management and internal control that builds robust business operations.

In the circumstances, existence of effective policy to mitigate risk that may occur could not be confirmed.

510. Lack of Approved ICT Policies

During the year under review, the County Assembly did not have an approved ICT policy detailing standard procedures and practices that would help in protecting ICT resources and network environment. In the absence of an approved ICT policy, it was impossible to assure confidentiality and integrity of the ICT information and information systems.

In the circumstances, existence of the effective system of ICT controls could not be confirmed.

511. Failure to Maintain an Asset Register

Annexure 4 to the financial statements reflected non-current assets with historical cost balance of Kshs.419,057,256. However, Management did not maintain a fixed asset register in the prescribed format contrary to Regulation 136(1) of the Public Finance Management (County Governments) Regulations, 2015. The register in place lacked identification or serial numbers, acquisition date, description of asset, location, class and cost of acquisition. The register of land and buildings did not have a record of each parcel of land and the terms on which it is held, with reference to the conveyance, address, area, dates of acquisition, disposal or major change in use, capital expenditure, leasehold terms, maintenance contracts and other pertinent management

details as required by Regulation 136(2) of the Public Finance Management (County Governments) Regulations, 2015.

Further, Management had not yet established policies and procedures on assets management as required by Part XII of Public Finance Management (County Governments) Regulations, 2015. In addition, the assets were not coded or tagged for ease of identification and tracking.

In addition, Management has not taken over and or reported assets and liabilities inherited from all the defunct Local Authorities.

In the circumstances, it has not been possible to determine whether the Management has instituted proper mechanisms to safeguard the assets.

512. Payment of Salaries Outside the Integrated Personnel and Payroll Database (IPPD)

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects an amount of Kshs.404,243,633 in respect of compensation of employees. The expenditure includes an amount of Kshs.26,169,121 paid as basic salaries of temporary staff outside the Integrated Personnel and Payroll Database (IPPD) system. The salaries were paid through a manual system which requires manual computation of deductions by the human resource officers to arrive at a net pay and constant monthly and/or annual updates which is prone to human error. It was not clear why Management did not pay all its employees through the IPPD.

In the circumstances, existence of effective internal control on payroll could not be confirmed.

513. Lack of Approved Staff Establishment

As previously reported, the County Assembly did not have an approved staff establishment to indicate the authorized staffing levels in position for each category of employee and or any variance thereof. Further, no evidence was provided to indicate that the Assembly had carried out job evaluation to determine the staff requirements for each category. This was contrary to Paragraph B.5 (2) of the County Public Service Human Resource Manual which states that all vacancies shall be declared in a prescribed format which shall include: the number of vacancies; when the vacancy occurred; whether the vacancy is within the authorized establishment and other relevant details.

It was, therefore, not possible to ascertain whether the Assembly had engaged the optimal number of employees for all categories.

COUNTY ASSEMBLY OF KISII – NO.45

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

514. Voided Transactions

Review of the Integrated Financial Management Information System (IFMIS) payments indicated that nine hundred and ninety-nine (999) transactions amounting to Kshs.179,292,886 which had been approved by the Controller of Budget, were voided during the year under review. Management has attributed this to lack of funds to pay and an error in one of the payments request batches. However, no evidence was provided to show that the voided transactions were subsequently paid.

In the circumstances, the accuracy and completeness of the financial statements could not be confirmed.

Other Matter

515. Budgetary Control and Performance

The summary statement of appropriation: recurrent and development reflects budgeted receipts of Kshs.1,101,585,582 and actual receipts of Kshs.960,962,827, resulting to a budget shortfall of Kshs.140,622,755 (or 13%) of the budget. Similarly, the County Assembly spent an amount of Kshs.960,968,829 against an approved budget of Kshs.1,101,585,582, resulting to an under-expenditure of Kshs.140,616,753 or 13% of the budget.

In circumstances, the underfunding and under-expenditure could have adversely affected provision of services to the residents of the County.

516. Unresolved Prior Year Matters

In the audit report of the previous year, several matters were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, the Management has not resolved the issues or given any explanation for failure to adhere to the provisions of the Public Sector Accounting Standards Board templates.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

517. Irregular Recruitment of Ward Employees

Review of the County Assembly's personnel records revealed that during the year under review, Members of the County Assembly (MCAs) had directly employed sixteen

(16) Ward staff without involving the Management, contrary to Section 25(1)(a) of the County Assembly Service Act, 2017 which confers the responsibility for the appointment and confirmation in appointment of officers and other staff to Management.

In the circumstances, Members of the County Assembly were in breach of the law.

518. Irregular Payments to Interdicted Employees

Review of personnel and payment records revealed that the County Assembly had six (6) employees who were interdicted between 4 August, 2021 and 25 April, 2022, pending investigations but continued to draw full basic salaries contrary to the Paragraph D33 of the Terms and Conditions of Service of the County Assembly of Kisii Human Resource Manual, 2021, which requires an interdicted officer to receive half basic salary, full house allowance and medical benefits, while other benefits be withheld.

In the circumstances, Management was in breach of the law.

519. Non-Compliance with One-Third Rule in Employment

Review of the County Assembly's staff establishment and employment records for the year under review revealed that the County Assembly had four hundred and twenty-seven (427) employees. However, out of this number, four hundred and nineteen (419) employees or 98% were from the dominant ethnic community in the County contrary to the provisions of Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 which provides that all public offices shall seek to represent diversity of people of Kenya in employment of staff and that no public institution shall have more than one third of its establishment from the same ethnic community.

In the circumstances, Management was in breach of the law.

520. Non-Compliance with One Third Basic Salary Rule

Review of the payroll for the month June, 2022 revealed that the County Assembly made deductions on the basic salaries of fifteen (15) employees in excess of two-thirds of their basic salaries, contrary to Section 19(3) of the Employment Act, 2007, which requires that the total amount of all deductions which may be made by an employer from the wages of his employee at any one time shall not exceed two-thirds of such wages or such additional or other amount as may be prescribed.

In the circumstances, Management was in breach of the law.

521. Irregular Payment of Subscription Fees

The statement of receipts and payments reflects expenditure on use of goods and services totalling to Kshs.285,763,173 which includes an amount of Kshs.27,331,024 in respect of other operating expenses. Included in this balance is an amount of Kshs1,500,000 paid as subscription fees to the Society of Clerks-At-The-Table in

Kenyan Legislatures (SOCATT). However, acknowledgement receipt of the subscription fees was not provided for audit. Further, the subscription was not based on any law.

In the circumstances, Management was in breach of the law.

522. Delay Completion of Projects

The statement of receipts and payments as disclosed in Note 10 to the financial statements reflects acquisition of assets balance of Kshs.67,267,587. Included in the balance is an amount of Kshs.63,640,018 incurred on extension of the library, ICT centre, procurement offices and Members of the County Assembly offices. According to the tender documents, the contract was awarded to a construction company at a contract sum of Kshs.195,000,000 for a contract period of thirty (30) days commencing on 08 January, 2019 to 30 June, 2021.

Further, review of records revealed that the contract for proposed renovation, furnishing and alteration to County Assembly of Kisii Chambers including installation of video and audio equipment was awarded to a company at a contract sum of Kshs.39,997,968. The contract was to be completed by 30 June, 2022 and the contractor had been cumulatively paid an amount of Kshs.34,613,217. Although, physical verification of the two projects in the month of October, 2022 revealed that the works had been completed, final certificates of completion and hand over minutes were not provided for audit.

In the circumstances, value for money on the expenditure of Kshs.98,253,235 on the two (2) projects could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

523. Non-Functional Audit Committee

Review of information provided indicated that the term of the County Assembly's Internal Audit Committee expired in December, 2021 and had not been renewed at the time of audit in June, 2022. Further, before the expiry of its term, the Audit Committee had been non-functional and failed to approve Internal Audit Charter, audit plans and programs and to discuss the audit reports of both internal and external auditors .

In the circumstances, the County Assembly had weak internal controls with respect to oversight of its activities.

COUNTY ASSEMBLY OF NYAMIRA – NO.46

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

524. Failure to Reconcile Exchequer Releases

The statement of receipts and payments and Note 1 to the financial statements reflects total Exchequer releases amount of Kshs.784,723,483. However, the County Executive of Nyamira's statement of receipts and payments and Note 5 to the financial statements reflects transfers to the County Assembly amount of Kshs.701,140,292 resulting to an unreconciled variance of Kshs.83,583,191.

In the circumstances, the accuracy and completeness of total receipts amounting to Kshs.784,723,483 could not be confirmed.

Other Matter

525. Pending Bills

As disclosed in other important disclosures and Annexure 1 are pending accounts payable balance of Kshs.22,523,319 which were not settled during the year under review but were carried forward to 2022/2023 financial year. Had these bills been paid and charged to the accounts for 2021/2022 financial year, the statement of receipts and payments for the year under review would have reflected a deficit amount of Kshs.22,653,044 instead of the year's deficit amount of Kshs.129,725 and will affect the next year's budget to which they will have to be charged.

526. Prior Year Matters

In the audit report of the previous year, several matters were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, the Management has not resolved the issues or given any explanation for failure to adhere to the provisions of the Public Sector Accounting Standards Board templates.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

527. Delayed Construction of County Assembly Offices

The pending accounts payable balance of Kshs.22,523,319, and as disclosed in Annexure 1 to the financial statements, reflects a balance of Kshs.12,194,111 in respect of construction of buildings owed to a local contractor amounting to

Kshs.367,000,000 for the construction of offices for staff and Members of County Assembly (MCAs). Review of project documents revealed that the contract was to be carried out in one hundred and fifty-six (156) weeks with expected initial completion date of May, 2018 but has been severally revised with the latest completion date set on 17 July, 2023. However, physical verification of the project at the time of audit revealed that the reinforced superstructure was at third floor but the contractor was not on site. In addition, Management did not provide for audit the revised work schedule as well as the extended performance bond.

As a result, value for money may not be realized from the delayed works.

528. Non-Compliance with One Third Rule on Basic Salary

The statement of receipts and payments and as disclosed in Note 2 to the financial statements reflects an amount of Kshs.335,098,676 in respect of compensation of employees. Review of staff establishment and employment records revealed that during the month of June, 2022 eleven (11) officers were earning a net salary less than a third of their basic salary contrary to provisions of Section 19(3) of the Employment Act, 2007 and Section C.1 (3) Human Resource Policies and Procedures Manual for the Public Service, 2016 which requires that deductions made by an employer from the wages of his employee at any one time shall not exceed two thirds of such wages.

In the circumstances, Management was in breach of the law.

529. Non-Compliance with Law on Ethnic Composition

The County Assembly had two hundred and sixty (260) employees during the year under review. Two hundred and fifty-nine (259) of all the employees or 99.6% were from one ethnic community contrary to Section 7(2) of the National Cohesion and Integration Act, 2008 which requires that no Public Institution shall have more than one third of its staff from the same ethnic Community.

In the circumstances, Management was in breach of the law.

530. Irregular Employment of Ward Staff

As previously reported, review of personal records revealed that Members of the County Assembly directly employed eighty (80) ward members of staff without involving the County Assembly Service Board (CASB) in contravention of Section 12(7)(b) of the County Governments Act, 2012 which provides that the County Assembly Service Board is responsible for constituting offices in the County Assembly service, and appointing and supervising office holders. Further, review of records revealed that the Assembly engaged four (4) employees for each ward in all the twenty (20) wards resulting to overemployment of one (1) staff in each ward contrary to the directive from the Commission on Revenue Allocation through circular Ref CRA/CSO/CGM/18/Vol.8/(1) dated 11 May, 2015 on the County Governments' budget ceilings on recurrent expenditure, limiting the number of employees for each ward to three (3).

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

531. Ineffective Internal Audit and Audit Committee

Although the Internal Audit Department and the Internal Audit Committee were in existence, Management did not provide for audit any quarterly or annual internal audit reports and no follow-up on the implementation of the recommendations of internal and external auditors.

In the circumstances, the internal audit and audit committee function on issues of risk, control and governance and associated assurance was not effectively discharged.

COUNTY ASSEMBLY OF NAIROBI CITY – NO.47

REPORT ON THE FINANCIAL STATEMENTS

Basis for Adverse Opinion

532. Inaccuracies in the Financial Statements

532.1 Inconsistencies in Statement of Comparison of Budget and Actual Amounts

Review of the statement of comparison of budget and actual amounts - recurrent and development revealed the following inconsistencies:

- i) The statement reflects final expenditure budget of Kshs.1,461,050,991 which is at variance with the recalculated cumulative amount of Kshs.1,533,005,144 made up of Kshs.1,476,975,144 and Kshs.56,030,000 for recurrent and development respectively.
- ii) The statement reflects final receipts and payments budget amounts of Kshs.1,598,872,087 and Kshs.1,461,050,991 respectively, resulting in a surplus of Kshs.137,821,096. However, the statement reflects final receipts and recalculated expenditure budget of Kshs.1,545,872,087 and Kshs.1,461,887,934 respectively, resulting in accumulative surplus of Kshs.83,984,153.
- iii) The statement reflects final budget for acquisition of assets amount of Kshs.56,030,000 whereas recasting across reflects a credit amount of Kshs.1,452,460,000.
- iv) The statement also reflects under actual receipts adjustments during the year and other receipts amount of Kshs.100,460 and Kshs.66,418,507, respectively which were not in the budget. Management did not provide any evidence on what the adjustment related to and approval for utilization of the unbudgeted receipts. Further, the other receipts amount of Kshs.66,418,507 is at variance with the amount of Kshs.110,283,000 reflected in Note 19 to the Nairobi County Assembly Car and Mortgage financial statements resulting in an unreconciled and unexplained variance of Kshs.43,864,493. Although Management has indicated through an adjustments of the car and mortgage financial statements that the borrowings were paid, no evidence of the same was provided for audit.
- v) The statement reflects final receipts and payments budget amounts of Kshs.53,000,000 and Kshs.56,030,000, resulting in a deficit of Kshs.3,030,000.
- vi) The statement reflects final expenditure budget and actual amounts of Kshs.1,476,975,144 and Kshs.1,369,586,076, respectively while the Integrated Financial Management System (IFMIS) records reflected sums of approved budget and cumulative expenditure amounts of Kshs.1,545,872,087 and Kshs.1,139,739,249, resulting to an unreconciled variances amounting to Kshs.68,896,943 and Kshs.229,846,827, respectively.

Further, the recurrent and development budget and actual amounts reflects final budget and actual expenditure amounts of Kshs.1,461,050,991 and Kshs.1,369,586,076 respectively. However, the budget execution by programmes and sub programmes statement reflects final budget and actual expenditure amounts of Kshs.1,598,872,114 and Kshs.1,156,746,988 resulting to unreconciled variances of Kshs.137,821,123 and Kshs.215,839,088 respectively.

In the circumstances, the accuracy of the statement of comparison of budget and actual amounts could not be confirmed.

532.2 Unsupported Prior Year Adjustments

The statement of financial assets and liabilities reflects prior year adjustment amounting to Kshs.260,938,014 and a brought forward balance of Kshs.34,381,518. However, no explanation was provided by Management in support of the prior year adjustments.

In the circumstances, the accuracy of the statement of financial assets and liabilities could not be confirmed.

533. Variances Between the Financial Statements and Supporting Records

533.1 Variance Between the Financial Statements and the Trial Balance

Comparison of the financial statements with the trial balance revealed unexplained and unreconciled amounts on several corresponding items as detailed below;

Description	Financial Statements (Kshs.)	Trial Balance (Kshs.)	Variance (Kshs.)
Exchequer Releases	1,303,094,100	1,302,938,136	155,964
Domestic Travel	232,676,772	220,634,208	12,042,563
Other Operating Expenses	23,450,139	35,492,701	(12,042,562)
Government Imprests	260,561,487	261,083,487	(522,000)
Purchase of Transport Equipment	0	27,797,400	(27,797,400)
Purchase of Specialized Plant, Software and Other ICT Assets	0	15,500,772	(15,500,772)
Purchase of Office Furniture and General Equipment	0	107,787	(107,787)

533.2 Variances Between the Financial Statements and Ledgers

Further, review of the financial statements and the ledger revealed the following unreconciled amounts against corresponding items as shown below:

Description	Financial Statements (Kshs.)	Ledger (Kshs.)	Variance (Kshs.)
Exchequer Receipts	1,303,094,100	155,964	1,302,938,136
Domestic Travel	232,676,772	12,042,564	220,634,208
Printing	7,702,407	4,554,957	3,147,450
Office and General Supplies	30,295,058	20,121,210	10,173,848
Other Operating Expenses	23,450,139	532,879	22,917,260

In the absence of reconciliation between the two sets of records, the accuracy of the financial statements could not be confirmed.

534. Unsupported Expenditure

Review of records for payments amounting to Kshs.1,597,218,476 in the financial statements while payment voucher provided in support of the expenditure amounted to Kshs.1,576,488,788 resulting in an unsupported balance of Kshs.20,729,688 as shown below:

Description	Financial Statements (Kshs.)	Payment Vouchers (Kshs.)	Variance (Kshs.)
Exchequer Receipts	1,303,094,100	1,302,938,136	155,964
Domestic Travel	232,676,772	220,634,208	12,042,564
Printing	7,702,407	3,147,450	4,554,957
Office and General Supplies	30,295,058	10,173,847	20,121,211
Other Operating Expenses	23,450,139	22,917,260	532,879
Hospitality, Supplies and Services	0	6,530,437	(6,530,437)
Total	1,597,218,476	1,576,488,788	

In the circumstances, the accuracy and completeness of the expenditure could not be confirmed.

535. Unsupported and Unauthorized Compensation of Employees Expenditure

The statement of receipts and payments reflects compensation of employee expenditure amounting to Kshs.797,363,561. However, the following anomalies were noted;

- i) Note 4 to the financial statements reflects a total of Kshs.853,749,425 resulting in an unexplained variance of Kshs.56,385,864.
- ii) The amount of Kshs.797,363,561 differs with the amount of Kshs.771,525,782 reflected in the payroll, resulting in an unexplained variance of Kshs.25,837,779. Further, the payroll amount of Kshs. 771,525,782, differed with total amount of Kshs.774,076,621 reflected in the payment vouchers, resulting in an unexplained and unreconciled variance of Kshs.2,550,839.

- iii) Comparison of the financial statements and the payroll analysis revealed unreconciled variances as detailed below;

Description	Financial Statement (Kshs.)	Payroll (Kshs.)	Variance (Kshs.)
Basic Salaries MCAs and Contractual Employees	476,940,444	477,107,666	167,221
Personal Allowances Paid as part of Salary	266,656,545	227,036,781	39,619,764

- iv) The payment vouchers on compensation of employees totalled Kshs.774,076,621, resulting to an unreconciled variance of Kshs.23,286,940.
- v) Note 4 to the financial statements reflects basic salaries of permanent employees totalling to Kshs.392,216,113 which is at variance with the salary bank account amount of Kshs.394,473,648, resulting in an unreconciled variance of Kshs.2,275,535. Further, the amount also varies with the IFMIS cumulative basic amount of Kshs.369,341,845 resulting to in unreconciled amount of Kshs.22,874,268.
- vi) Management overpaid staff members and Members of the County Assembly by Kshs.4,554,747. No explanation was provided for payment of salaries over and above the required net salary.
- Further, comparison of the number of staff members in the payroll and the monthly staff list revealed inconsistencies
- vii) Management paid allowances to staff and Members of the County Assembly at a higher grade of job group P instead of job group N resulting in over payment of an amount totalling to Kshs.7,455,800.

In the circumstances, the regularity and accuracy of the compensation of employee's expenditure amounting to Kshs.797,363,561 could not be confirmed.

536. Unsupported Use of Goods and Services

The statement of receipts and payments and as disclosed in Note 5 to the financial statements reflects use of goods and services amount of Kshs.515,807,938. The following observations were made:

536.1 Irregular Procurement of Conference Facilities and Air Tickets

The Management procured various conference facilities and air tickets through requests for quotations totalling to Kshs.5,345,750 and Kshs.914,880, respectively. However, only one bidder in each award responded instead of at least three as required by the law.

536.2 Domestic and Foreign Travel and Subsistence

The statement of receipts and payments reflects domestic and foreign travel and subsistence expenditure of Kshs.232,676,772 and Kshs.94,389,615 respectively. However, expenditure totalling to Kshs.55,561,463 comprising of Kshs.31,024,950 and Kshs.24,536,513 in respect of foreign and domestic travel respectively, was not supported with payment vouchers, approvals and travel passes. Similarly, the foreign travel and subsistence expenditure of Kshs.94,389,615 but travel clearance approval was not provided for audit.

Further, domestic travel and subsistence includes expenditure totalling to Kshs.10,830,848, for which no evidence was provided to confirm that the officers travelled to various destinations, request and surrender of imprest done.

In addition, Management paid accommodation and domestic travelling allowances totalling to Kshs.22,484,183 to Nairobi City County Assembly whose recipients were not disclosed.

536.3 Routine Maintenance of Other Assets

The balance includes routine maintenance of other assets which included an amount of Kshs.696,039 which was not supported with payment documents, requisition, inspection certificates.

536.4 Inaccuracies in Payments of Legal Expenses

The balance excludes legal, arbitration and compensation fees amount of Kshs.68,960,112 paid during the year, as reflected in expenditure records. However, payment vouchers amounting to Kshs.28,138,268 in support of the expenditure were not provided for audit. Similarly, the payments totalling to Kshs.40,821,844 in respect of interim and final fee notes for various advocates were not supported.

Further, review of the final approved budget revealed that an amount of Kshs.61,222,778 was allocated for legal fees, arbitration and compensation. However, Management spent an amount of Kshs.68,960,112, resulting in unauthorized over expenditure of Kshs.7,737, 334.

536.5 Rental of Produced Assets

The balance includes other rentals of produced assets of Kshs.10,263,800 in respect of offices to the eighty-five (85) County Assembly ward offices. However, review of the IFMIS payment details revealed an amount of Kshs.14,378,422 defined as constituency expenses, resulting in unreconciled amount of Kshs.4,114,622.

In the circumstances, the regularity, accuracy and completeness of use of goods and services expenditure totalling to Kshs.515,807,938 could not be confirmed.

537. Irregular Payment to Society of Clerks at the Table

The balance includes an amount of Kshs.1,500,000 paid to Society of Clerks at the Table. However, there was no evidence that the expenditure item was included in

approved budget as required for by Regulations 26(4), 31(e)(ii) and 36(4) of the Public Finance Management (County Governments) Regulations, 2015.

In the circumstances, the propriety of expenditure could not be confirmed.

538. Unauthorized Borrowings

The financial statements reflect transfers from Nairobi City County Assembly Car and Mortgage Account amounting to Kshs.66,416,507, as disclosed in Note 6 on other disclosures. However, the amount differs with transfers of Kshs.32,888,660 and Kshs.24,514,966 both totalling to Kshs.57,403,626, which were reflected in the bank statements, resulting to an unexplained and unreconciled variance of Kshs.9,012,881. Further, the transfer of Kshs.24,514,966 indicated to fund salaries could not be traced in the corresponding salaries account.

In addition, Management did not explain the circumstances under which the transfers from the Fund totalling to Kshs.66,416,507, which were primarily borrowings, were accounted for as receipts.

In the circumstances, the regularity of the transferred amount of Kshs.66,416,507 could not be confirmed.

539. Unsupported Cash and Cash Equivalents

The statement of financial assets and liabilities and as disclosed in Note 13A and Note 13B to the financial statements reflects bank balances totalling to Kshs.26,991. The balance includes recurrent, development and deposit cash book balances of Kshs.288, Kshs. Nil and Kshs.17,954 respectively, which were not supported with cash books, bank reconciliations, bank confirmation certificates and bank statements. Further, the board of survey report in support of the cash and cash equivalents balance was not provided for audit.

In addition, although an amount of Kshs.1,986,892 was paid to County Assembly deposit account to cover retention, the third-party, the deposit account reflected a constant balance of Kshs.17,954 over the last two years.

In the circumstances, the accuracy and completeness of the cash and cash equivalents of Kshs.26,991 could not be confirmed.

540. Voided Transactions

Review of expenditure analysis obtained from Integrated Financial Management Information Systems (IFMIS) revealed that some five hundred and sixty (560) payment transactions with a total expenditure of Kshs.120,880,494 had been invalidated during the year under review. However, no documentary evidence was provided to support authorization and reasons for invalidation of the transactions, which had been presented to the Controller of Budget (CoB) for approval.

In the circumstances, the regularity of the invalidated transactions could not be confirmed.

541. Unauthorized Expenditure

Analysis of payment records revealed that 12 transactions totalling to Kshs.38,033,984 were paid but the specific line items had not been budgeted for in the respective appropriation account as required by Regulations 26 (4), 31(e)(ii) and 36 (4) of the Public Finance Management (County Governments) Regulations, 2015.

Further, included in IFMIS payment details was an expenditure of Kshs.11,231,950 made but supporting documents were not provided for audit.

In the circumstances, the accuracy and regularity of the expenditure amounting to Kshs.49,265,934 could not be confirmed.

Other Matter

542. Budgetary Control and Performance

The statement of comparison of budget and actual amounts - recurrent and development reflects final receipts budget and actual on comparable basis totalling to Kshs.1,598,872,087 and Kshs.1,369,613,067 respectively, resulting to an under-funding of Kshs.229,259,020 or 14% of the budget. Similarly, the Assembly spent an amount of Kshs.1,369,586,076 against an approved budget of Kshs.1,461,050,991 resulting to an under-expenditure of Kshs.91,464,925 or 6% of the budget.

The under-funding and under-performance may have affected the planned activities and impacted negatively on service delivery to the public.

543. Unsupported Pending Accounts Payable

Note 1 and Note 2 of other disclosures to the financial statements reflects pending accounts payable amount of Kshs.207,300,805 and Kshs.52,274,662 in respect of supply of goods and services and staff payables, respectively, both totalling to Kshs.259,575,467. However, review of Integrated Financial Management Information Systems (IFMIS) reports indicated that Nairobi City County Assembly had pending accounts payables amount of Kshs.38,363,416, resulting to an unexplained variance of Kshs.221,212,051. Further, the supporting analysis of the payables was not provided for audit.

In the circumstances, the accuracy and completeness of the pending accounts payable could not be confirmed.

544. Prior Year Audit Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, the Assembly financial statements do not contain a section where it indicates the status of the resolution of prior year audit issues, hence failure to adhere to the provisions of the Public Sector Accounting Standards Board prescribed reporting format and The National Treasury's Circular Ref: No. AG.4/16/3 Vol.1(11) dated 1 July, 2022.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

545. Non-Compliance with the Fiscal Responsibilities Provisions - Wage Bill

The County Assembly had total receipts budget of Kshs.1,303,094,100 for the year under review. The payroll statement reflects expenditure on compensation of employees of Kshs.853,749,424, which is 66% of the total revenue received by the County which was above the 35% ceiling. This was contrary to Regulation 25(1)(b) of the Public Financial Management (County Governments) Regulations, 2015, which sets the allowable ratio to 35%.

In the circumstances, Management was in breach of the law.

546. Non-Remittance of Statutory Deductions

During the year under review, Management deducted Pay as You Earn (PAYE) amounting to Kshs.240,622,750, National Hospital Insurance Fund (NHIF) of Kshs.8,319,700 and National Social Security Fund (NSSF) of Kshs.100,200. However, there was no evidence that the amounts were remitted to the respective institutions. This was contrary to Section 37(1) of the Income Tax Act which states that; an employer paying emoluments to an employee shall deduct therefrom, and account for tax thereon, to such extent and in such manner as may be prescribed.

Further, pension contributed by the employer totalling to Kshs.29,668,934 was not remitted to the Pension Fund as required by law, while Kshs.1,541,733 in respect of various private contributions made by the staff members were deferred, contrary to Section 53A (1) of the Retirement Benefits Act, 2012. The Act states that where an employer, having, with the agreement of an employee who is a member of a scheme, made a deduction from the employee's emoluments for remittance to the scheme, fails to remit the deduction within fifteen (15) days of the deduction, the scheme may, after giving such employer not less than seven days' notice, institute proceedings for the recovery of the deduction.

In the circumstances, Management was in breach of law.

547. Outstanding and Irregular Imprests

The statement of assets and liabilities reflects outstanding imprests and advances balance of Kshs.261,083,486, as disclosed in Note 14 to the financial statements. The balance comprises of outstanding imprest of Kshs.260,561,487 and advances balance of Kshs.522,000. However, Management did not explain why the imprests were not surrendered contrary to Regulation 93(5) of the Public Finance Management (County Governments) Regulations, 2015, which requires a holder of temporary imprest to account or surrender the imprest within seven (7) working days after returning to duty station.

Further, imprest register provided for audit revealed that twelve (12) staff members were issued with multiple imprests totalling to Kshs.11,049,821 before they had surrendered prior imprest. The Nairobi City County Assembly and the Nairobi City

County Assembly Car Loan and Mortgage Fund maintained one combined imprest register yet they prepared separate financial statements.

In the circumstances, Management was in breach of the law.

548. Payment of Salary Outside Payroll

Payment totalling to Kshs.2,027,418 relating to basic salaries were made outside the salary processing account whose recipients could not be confirmed. No explanation was provided for this anomalies. This contravened to Regulation 104 (1) of the Public Finance Management (County Governments) Regulations, 2015 which provides that all receipts and payment vouchers of public moneys shall be supported by pre-numbered receipt and payment vouchers and shall be supported by the appropriate authority and documentation.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

549. Lack of Approved Information Technology Security Policy and Disaster Recovery Plan

Review of the Information and Communication Technology (ICT) system revealed that there was no ICT Policy, Data Recovery Plan (DRP) and Information Technology (ICT) Security Policy to ensure integrity and availability of data stored in its systems. Management had not installed antivirus programs in its systems and had not put up mechanisms to ensure that there was up-to-date security on all systems software.

Further, the County Assembly did not have an ICT Steering Committee to provide oversight, formulate policies and to ensure that IT department functions are in place to assist in the achievement of organizational objectives in an efficient, economic and effective manner.

Similarly, the County Assembly did not have a Disaster Recovery Plan (DRP) and had not implemented a Backup and Retention Strategy. Further, formal documented and tested emergency procedures were not provided for audit. The Management had no back up and retention strategy to ensure continuity of operations in case of system failure and did not conduct regular reviews on risk assessment of operational areas. In addition, review of the Risk Management Policy provided for audit revealed that the policy was not approved.

In the circumstances, existence of an effective system of Internal Control on ICT, risk management and disaster recovery could not be confirmed.

550. Lack of an Updated Fixed Assets Register

Annex 4 to the financial statements reflects property, plant and equipment (PPE) with Nil net book value as at 30 June, 2022. Review of the PPE records and physical

verification revealed that the County Assembly has various assets in its custody, whose details were not included in an updated fixed asset register, in support the balances reflected in the financial statements.

In the circumstances, existence of effective internal control measures on assets could not be confirmed.

A: List of County Assemblies and Audit Opinions given on their Financial Statements

1. Certificates with Unqualified Opinion

County Code	County Assembly	Opinion
1.	Mombasa	Unqualified

2. Certificates with Qualified Opinion

County Code	County Assembly	Opinion
2.	Kwale	Qualified
3.	Kilifi	Qualified
4.	Tana River	Qualified
5.	Lamu	Qualified
6.	Taita/Taveta	Qualified
7.	Garissa	Qualified
8.	Wajir	Qualified
9.	Mandera	Qualified
10.	Marsabit	Qualified
11.	Isiolo	Qualified
12.	Meru	Qualified
13.	Tharaka-Nithi	Qualified
14.	Embu	Qualified
15.	Kitui	Qualified
16.	Machakos	Qualified
17.	Makueni	Qualified
18.	Nyandarua	Qualified
19.	Nyeri	Qualified

County Code	County Assembly	Opinion
20.	Kirinyaga	Qualified
21.	Murang'a	Qualified
22.	Kiambu	Qualified
23.	Turkana	Qualified
25.	Samburu	Qualified
26.	Trans Nzoia	Qualified
27.	Uasin Gishu	Qualified
28.	Elgeyo/Marakwet	Qualified
29.	Nandi	Qualified
30.	Baringo	Qualified
31.	Laikipia	Qualified
32.	Nakuru	Qualified
33.	Narok	Qualified
34.	Kajiado	Qualified
35.	Kericho	Qualified
36.	Bomet	Qualified
37.	Kakamega	Qualified
38.	Vihiga	Qualified
39.	Bungoma	Qualified
41.	Siaya	Qualified
42.	Kisumu	Qualified
43.	Homa Bay	Qualified
44.	Migori	Qualified
45.	Kisii	Qualified

County Code	County Assembly	Opinion
46.	Nyamira	Qualified

3. Certificates with Adverse Opinion

County Code	County Assembly	Opinion
24.	West Pokot	Adverse
40.	Busia	Adverse
47.	Nairobi City	Adverse

4. Certificates with a Disclaimer of Opinion

None

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