



OFFICE OF THE AUDITOR-GENERAL

*Enhancing Accountability*

# COUNTY EXECUTIVES

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

**VOLUME 1**



## **VISION**

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



## **MISSION**

Audit services that impact on effective and sustainable service delivery



## **OUR CORE VALUES**

Integrity • Credibility • Relevance •  
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**REPORT**

**OF**

**THE AUDITOR-GENERAL**

**ON**

**THE COUNTY GOVERNMENTS**

**FOR**

**THE YEAR 2021/2022**

**VOLUME 1 – COUNTY EXECUTIVES**





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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 Executive'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 1 – COUNTY EXECUTIVES**

### **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 by 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 31 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 Management 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.

## **1.6 Audit Findings**

A list of the County Executive and the type of opinion given on their financial statements are contained in the **Appendix**.

The key audit findings noted during the audit of the County Executives' financial statements for the year ended 30 June, 2022 are presented in the following section.



# COUNTY EXECUTIVE OF MOMBASA - NO.1

## REPORT ON THE FINANCIAL STATEMENTS

### Basis for Qualified Opinion

#### 1. Unsupported Other Receipts

The statement of receipts and payments reflects other receipts amount of Kshs.3,672,719,815 as disclosed in Note 3 to the financial statements. Review of financial revenue records revealed that the County Executive collected revenue through various revenue streams which include E-lands, Tech biz, e-citizen and other revenue collection information systems. However, Tech biz invoices for the period from 1 July, 2021 to 30 June, 2022 for revenue amounting to Kshs.691,314,864 collected from e-parking, e-housing, e-market and e-services and land rates revenue collection report (E-Lands Services) for the months of August, September and November, 2021 were not provided for audit.

Further, Note 3 to the financial statements, includes other property income-rates amount of Kshs.810,191,232. Review of the LAIFOMS annual collections report showed land rates amounts of Kshs.810,191,232 while E-Lands Services Report showed a balance of Kshs.776,901,062, resulting in an unexplained variance of Kshs.33,290,170. Detailed LAIFOMS reports on land rates amounting to Kshs.20,891,888, Kshs.20,739,298 and Kshs.18,164,364 for the months of August, September and November, 2021 respectively, all totalling to Kshs.59,795,550 were not provided for audit.

In addition, the report on land rates defaulters provided for audit indicated that as at 30 June, 2022, defaulted land rates amounted to Kshs.7,796,421,735. However, no evidence of adequate measures taken by the receiver of revenue to collect the revenue as required under Regulation 63(1)(b) of the Public Finance Management (County Governments) Regulations, 2015 was provided for audit.

Moreover, review of the parking fees collection account revealed bankings totalling to Kshs.292,978,400 during the year under review. However, E-Parking Module which integrates with MPESA and Visa Card indicated collections amount of Kshs.219,810,000 resulting to an unexplained variance of Kshs.73,168,400.

Note 3 to the financial statements reflects house rent income amount of Kshs.25,031,115 from Khadija Housing Estate comprising one hundred (100) units with rent chargeable per unit being Kshs.5,895 per month. Further LAIFOMS report provided for audit indicated that some of the tenants paid monthly rent amount of Kshs.3,929 per unit, contrary to the provisions of the Finance Act, 2021, leading to under collection of housing rent by Kshs.1,061,664 during the year under review.

According to Note 3 to the financial statements, an amount of Kshs.1,032,150,140 was in respect of health and sanitation revenue. However, the revenue was not supported by Mpesa pay bill statement and bank collection account statements.

In the circumstances, the accuracy and completeness of other receipts totalling to Kshs.3,672,719,815 could not be confirmed.

## **2. Unexplained Variances in Other Grants and Transfers**

The statement of receipts and payments and reflects other grants and transfers of Kshs.433,265,270 which as disclosed in Note 8 to the financial statements excluded payments totalling to Kshs.225,616,458 shown in payment details and IFMIS cash books for transforming health systems and water and sanitation development project for the year under review.

In the circumstances, the accuracy and completeness of other grants and transfers of Kshs.433,265,270 could not be confirmed.

## **3. Inaccuracies in Compensation of Employees**

The statement of receipts and payments reflects expenditure on compensation of employees totalling Kshs.5,282,042,665 which as disclosed in Note 4 to the financial statements includes personal allowances paid as part of salary and pension and other social security contributions of Kshs.1,867,660,109 and Kshs.165,756,621, respectively. However, Integrated Financial Management Information System (IFMIS) vote book showed payments of Kshs.1,821,888,622 and Kshs.161,320,805 respectively, resulting in unexplained variances of Kshs.45,771,487 and Kshs.4,435,816 between the two records.

In the circumstances, the accuracy and completeness of the expenditure of Kshs.1,867,660,109 and Kshs.165,756,621 on personal allowances paid as part of salaries and pension and other social security contributions, respectively could not be confirmed.

## **4. Unexplained Voided Transactions**

Review of the financial records revealed that three thousand eight hundred and thirty-eight (3,838) transactions in IFMIS amounting to Kshs.10,005,393,347 were voided. However, supporting documents such as voided payment vouchers, requests to void payments, The National Treasury approval and Exchequer requisitions from the Controller of Budget were not provided for audit. Further, the voided payments have not been disclosed as pending accounts payable and the utilization of funds meant for voided transactions was also not confirmed.

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

## **5. Inaccuracies in Pending Bills**

As disclosed under other important disclosures Notes to the financial statements, the County Executive had pending bills totalling to Kshs.5,726,776,669 comprising of pending accounts payable amount of Kshs.3,461,882,267, pending staff payables of Kshs.2,024,985,748 and other pending payables of Kshs.239,908,654. However, review of the supporting documents revealed that pending accounts payables opening balance is indicated as Kshs.4,333,383,224 while the audited financial statements for 2020/2021 reflected a balance of Kshs.3,158,335,663, resulting in an unexplained variance of Kshs.1,175,047,561.

Similarly, pending staff payables opening balance is indicated as Kshs.2,961,481,253, while the audited financial statements for 2020/2021 reflected a balance of Kshs.1,506,972,278, resulting in a variance of Kshs.1,454,508,975. Further, the pending staff payables relate mainly to unremitted payroll deductions and dues to various statutory authorities, which may attract interest and penalties for late remittance.

In the circumstances, the accuracy and completeness of the pending bills balance of Kshs.5,726,776,669 could not be confirmed.

#### **Other Matter**

### **6. 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 Kshs.14,000,000,000 and Kshs.11,263,379,921 respectively, resulting in an under-funding of Kshs.3,384,641,569 or 20% of the budget. Similarly, the County Executive spent an amount of Kshs.11,201,490,773 against an approved budget of Kshs.14,000,000,000, resulting in an under-expenditure of Kshs.2,798,509,227 or 20% of the budget. Management has attributed the low absorption to late disbursement of the exchequer by The National Treasury.

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

### **7. Unresolved Prior Year Matters**

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. Further, the unresolved prior year issues are not disclosed under the progress on follow up of auditor's recommendations section of the financial statements as required by the Public Sector Accounting Standards Board.

## **REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

### **Basis for Conclusion**

### **8. Revenue not Banked into the County Revenue Fund**

Note 3 to the financial statements, reflects an amount of Kshs.538,838,877 in respect of motor vehicle parking fees. Review of the parking fees collection account revealed that parking fees amount of Kshs.520,613,122 was transferred to the County Revenue Fund, leaving un-transferred collections of Kshs.18,225,755. This was contrary to Section 109(2) of the Public Finance Management Act, 2012 which requires the County Treasury for each County Government to ensure that all money raised or received by or on behalf of the County Government is paid into the County Revenue Fund.

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

## **9. Failure to Prepare Financial Statements for Semi-Autonomous Entities**

The financial statements of Mombasa County General Hospital, a level 5 hospital, Receiver of Revenue, and County Revenue Fund were not submitted to the Auditor-General, contrary to the requirement of Section 47(1) and (2) of the Public Audit Act, 2015 which stipulates 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 and, financial statements shall be in the form and content as prescribed by the Public Sector Accounting Standards Board.

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

## **10. Delayed Implementation of Health Care Project**

Review of health records revealed that Transforming Health Systems for Universal Care Project had received grants totalling to Kshs.111,863,884 being grants for financial years 2017/18 to 2021/2022, out of which an amount of Kshs.77,658,132 (or 70%) had been spent in the year under review. Further, grants totalling to Kshs.18,129,227 for 2021/2022 as approved vide the County Governments Grants Act, 2021 were not disbursed to the Project due to low utilization rate of 31% achieved in 2020/2021 compared with the agreed target of 80% grants utilization rate. In addition, for the financial year 2021/2022, grant amounts were not disbursed due to failure to meet performance targets.

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

## **11. Delayed Completion of Mombasa Sports Complex**

The statement of receipts and payments reflects expenditure on acquisition of assets totalling to Kshs.1,244,112,132, which as disclosed in Note 10 to the financial statements Kshs.434,071,882 is in respect of construction and civil works out an amount of Kshs.96,168,172 was paid for construction and development of Mombasa Sports Complex Project.

Project records indicated that the budgeted cost of the project amounted to Kshs.1,768,183,999. The contract was signed on 28 December, 2018 with an expected start date of 18 January, 2019 and a contract duration of three (3) years. The contractor was paid a total amount of Kshs.96,168,172 during the financial year 2021/2022, thereby bringing the total payments to Kshs.619,782,153. However, as at the time of physical inspection of the project in the month of July, 2022, the project's contract period had lapsed by six (6) months with only 35% of the works completed and paid for.

In the circumstances, there is risk of cost escalation and value for money may not be realized on the project.

## **12. Stalled Early Childhood Development (ECD) Schools**

As reported in the previous years, the Department of Education entered into a contract for construction of eight (8) ECD schools in eight locations in the financial year 2014/2015 at a total cost amount of Kshs.214,173,840. The contract duration was thirty-two (32) weeks, which commenced in May, 2014 and expected completion date was December, 2015. However, physical inspection in the month of July, 2022, revealed that only six (6) ECD schools had been completed while the remaining two (2) had stalled at roofing level with doors and windows already fitted and no contractors on site.

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

## **13. Unsatisfactory Implementation of Projects**

Review of the project's implementation status report as at 30 June, 2022 provided for audit indicated no major changes in the projects status from the previous year. A total of one hundred and three (103) projects, with a cumulative contract price amount of Kshs.2,688,500,796 were rolled out across the County Departments and Regions. However, four (4) projects representing (4%) of total projects with a cumulative contract price of Kshs.106,056,715 had stalled.

Further, review of financial records revealed that the grading and gravel spot improvement of Mishomoroni-Mwakirunge Road (L34) dumpsite section was undertaken at a cost of Kshs.11,056,326. However, physical inspection conducted on 1 August, 2022 revealed the following matters:

- i. From the first interim certificate, the contractor was to cut a v-drain at both sides of the road including meter drain for 4,400 LM amounting to Kshs.1,597,200. There was no evidence of v-drain put on the road.
- ii. The bills of quantities indicated under gravel works that the contractor was to grade, shape, bench or otherwise water and compact existing shoulders, accesses and lay bays to instructed depth covering 43,400 square meters, at a cost of Kshs.2,133,000. The works had not been done yet the contractor had been fully paid.
- iii. No signage which was provided for in the bills of quantities was cited as at the time of physical inspection.

In addition, financial records indicated that routine maintenance of Duruma and Shekal Roads in Mvita Sub-county were undertaken at a cost of Kshs.10,232,233. Project physical inspection on 2 August, 2022 revealed that the road had pot holes in several sections. However, the Project Engineer attributed the state of the roads to the rainy season.

In the circumstances, the public may not obtain value for money on the projects.



#### **14. Non-Compliance with the One Third of Basic Salary Rule**

Review of the payroll revealed that eighty-nine (89) employees received net salaries which were less than a third (1/3) of their basic salaries, 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 sub section (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.

#### **15. Staff in Irregular Acting Positions**

Records provided for audit indicated that two (2) employees were appointed in acting positions. However, no appointment letters were provided for audit. Further, one (1) officer was appointed to act as the Director Cabinet Affairs, Research, Policy and Liaison by the County Secretary without the approval of the County Public Service Board. This is contrary to Section 63(1) of the County Government Act, 2012 which stipulates that, 'except as provided for in the Constitution or legislation, the County Public Service Board has the power to make appointments including promotions in respect of offices in the County Public Service'.

Further, seven (7) officers were appointed to act in positions that were more than one (1) job group above their substantive positions, contrary to Paragraph F.6 of the County Public Service Human Resource Manual, 2013 which states that, 'When an officer is called upon to perform duties of a higher post but does not possess the necessary qualifications for appointment to that post, he will be paid special duty allowance at the rate of 10% of the officer's basic salary or 10% of the minimum basic salary of the higher grade, whichever is higher. The payment of special duty allowance will be subject to recommendation by the Human Resource Management Advisory Committee and approval by the Authorized Officer'. However, the officers were paid acting allowances at 20% of the basic pay rather than the special duty allowance which is 10% of the basic pay.

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

#### **16. Non-Compliance with the Fiscal Responsibility Principles on Wage Bill**

The statement of receipts and payments reflects expenditure totalling to Kshs.5,282,042,665 in respect of compensation of employees representing 47% of the total revenue received of Kshs.11,263,379,921 during the year under review. This was contrary to Regulation 25(1)(b) of the Public Finance Management (County Governments) Regulations, 2015 which requires the County Assembly to set a wage limit which should not exceed 35% of the total revenue received.

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



## **17. Unremitted Payroll Deductions and Withheld Taxes**

The financial statements under other pending payables reflects unremitted taxes of Kshs.239,908,654 and as disclosed under other disclosures Note 3. This was contrary to Section 19(4) of the Employment Act, 2007 which provides that, 'an employer who deducts an amount from an employee's remuneration shall pay the amount so deducted in accordance with the time period and other requirements specified in the law, agreement, court order or arbitration as the case may be'. Similarly, the non-remittance of the withheld tax was contrary to Section 42A (4b) of the Tax Procedures Act No. 29 of 2015 which requires tax withheld to be remitted to the Commissioner on or before the twentieth day of the month following the month in which the deduction is made.

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

## **18. Failure to Withhold Income Tax**

During the year under review, the County Executive paid a local company an amount of Kshs.25,651,737 in respect of commissions on revenue collection services. However, withholding income tax (WHIT) was not deducted from the payments, contrary to Section 5 (F) of the Income tax Act Cap 470 which requires withholding income tax of 5% on consultancy services to be withheld and remitted to Kenya Revenue Authority.

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

## **19. Non-Recovery of Un-Surrendered Imprests**

Review of imprests records and previous year's financial statements revealed that as at 30 June, 2021, the outstanding imprests amounted to Kshs.35,731,802. However, out of that amount, only an amount of Kshs.425,799 had been recovered through the Integrated Personnel and Payroll Database (IPPD), leaving a balance of Kshs.35,306,003 as at 30 June, 2022. This was contrary to Regulation 93(6) of the Public Finance Management (County Governments) Regulations, 2015 which states that, 'in the event of the imprest holder failing to account for or surrender the imprest on the due date, the Accounting Officer shall take immediate action to recover the full amount from the salary of the defaulting officer with an interest at the prevailing Central Bank Rate'.

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

## **20. Unapproved Maintenance Allowance**

Included in the personal allowances paid as part of salary amount of Kshs.1,867,660,109 and as disclosed in Note 4 to the financial statements, is car maintenance allowance of Kshs.2,197,031. However, review of the budget estimates for 2021/2022 financial year and the Vote Book revealed that the County Executive did not budget for the allowance.

In addition, the allowance was paid outside IPPD, contrary to Section 149(1)(a) of the Public Finance Management Act, 2012 and Regulation 53(1) of the Public Finance Management (County Governments) Regulations, 2015 which provide 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 authorized'.

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

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

### **Basis for Conclusion**

#### **21. Lack of Internal Audit Committee and Operational Independence of Internal Audit**

Review of the governance structure of County Executive revealed there was no Audit Committee and that the Head of Internal Audit reports directly to the Accounting Officer, contrary to Section 155(5) of the Public Finance Management Act, 2012 which states that, 'a County Government entity shall establish an internal auditing committee whose composition and functions are to be prescribed by the regulations'. In addition, without the Audit Committee, the operational independence of the Internal audit unit could not be guaranteed.

In the circumstances, effective functioning of internal controls could not be confirmed.

#### **22. Lack of Data Protection Safeguards**

Review of the Information and Communication Technology environment revealed that the data was stored in a web-based cloud storage platform. The data are accessible through a personal email Account, giving rise to data protection risk. Further, Management did not explain how the vendor was selected for the cloud storage. In addition, there was no service level agreement or contract between the service provider and County Executive on the storage of the digitized data.

In the circumstances, effective internal controls to guarantee data security could not be confirmed.

## **COUNTY EXECUTIVE OF KWALE - NO.2**

### **REPORT ON THE FINANCIAL STATEMENTS**

#### **Basis for Qualified Opinion**

##### **23. Variance in Amounts Transferred to Municipalities**

The statement of receipts and payments reflects transfers to other Government entities amounting to Kshs.683,560,774 and as disclosed in Note 7 to the financial statements with Nil transfers to Kwale Municipality. However, records maintained by Kwale and Diani Municipalities indicate transfers amounts of Kshs.35,667,055 and Kshs.27,794,004 respectively, resulting to total an unexplained or unreconciled variance amount of Kshs.63,461,059. Further, the amount transferred to Diani Municipality during the year under review could not be confirmed because the Municipality was omitted in Note 7 to the financial statements.

In the circumstances, the accuracy and completeness of transfers to other Government entities amounting to Kshs.683,560,774 could not be confirmed.

#### **Other Matter**

##### **24. Budgetary Control and Performance**

The statement of comparison of budget and actual amounts reflects final receipts budget amount and actual amount on comparable basis of Kshs.11,737,353,560 and Kshs.9,082,745,307 respectively, resulting in under-funding amount of Kshs.2,654,608,253 or 23% of the budget. Similarly, the County Executive spent an amount of Kshs.9,160,348,753 against an approved budget amount of Kshs.11,737,353,560, resulting in under-expenditure amount of Kshs.2,577,004,807 or 22% of the budget.

The under-funding and under-performance 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**

##### **25. Late Release of Exchequer**

Analysis of exchequer releases for the year 2021/2022 revealed that the County Executive received an amount of Kshs.888,555,620 after 30 May, 2022 from the exchequer, contrary to Section 17(6) of the Public Finance Management Act, 2012 which provides among others that, 'The National Treasury shall administer the Consolidated Fund in accordance with Article 206 of the Constitution and facilitate payment into that account all money raised or received by or on behalf of the National Government; and pay from that National Exchequer Account without undue delay all amounts that are payable for public services'.

In the circumstances, as a result of the delay, service delivery to the public was adversely affected.

## **26. Delayed Completion of Governor's Residence**

The statement of receipts and payments reflects expenditure totalling to Kshs.2,289,661,740 and as disclosed in Note 5 to the financial statements in respect of use of goods and services. The expenditure includes an amount of Kshs.47,336,107 in respect of rentals of produced assets, out of which an amount of Kshs.1,706,370 relates to rent for the Governor's house. However, the rent expense was incurred as a result of failure to complete construction of the stalled Governor's official residence on which a total amount of Kshs.118,790,822 had been spent.

In the circumstances, the public have not realized value for money totalling to Kshs.118,790,822 already spent on the project.

## **27. Delayed Construction of Oncology Centre**

As disclosed in Note 10 to the financial statements, the statement of receipts and payments reflects acquisition of assets expenditure amounting to Kshs.2,610,913,099 which includes domestic payables from previous years of Kshs.1,409,223,452, out of which an amount of Kshs.1,165,369, relates to construction of Oncology Centre at Kwale Sub-county Hospital Phase 1. As previously reported, an amount totalling to Kshs.18,190,667 had been utilized in the construction of the Oncology Centre as of 30 June, 2021. However, review of procurement records revealed that the project was incomplete and had stalled, about fifteen (15) months after the end of the contract period.

Further, a variation order to renegotiate the contract sum from Kshs.30,000,000 to Kshs.35,803,984 was not provided for audit. Procurement records also indicate that the contract was terminated and re-tendered on 08 April, 2022. The contract was awarded at a contract price of Kshs.15,801,576 with a commencement date of 12 May, 2022 for a period of one hundred and twenty (120) days. As at 30 June, 2022, no payment had been made. Physical inspection of the project in the month of November, 2022 revealed that the contractor had abandoned the site.

In the circumstances, value for money on the expenditure incurred amounting to Kshs.18,190,667 has not been realized.

## **28. Stalled Construction of Roads Projects**

Review of project files and physical inspection of projects in July, 2022 revealed that four (4) roads with a total contract sum of Kshs.302,876,850 had stalled at various stages as analyzed below:

Cabro paving of Maganyakulo - Mabatani road in Waa Ng'ombeni was awarded at a contract sum of Kshs.6,599,168 with a start date of 09 February, 2022 and expected completion date of 25 May, 2022. The works had cabros installed on either side of the road, murraming and compacting done. However, it had stalled at 30% to completion level and the contractor was not on site.

Cabro paving of Sokoni-Tiwi rural health centre road in Tiwi ward was awarded at a contract sum of Kshs.12,299,999 with a start date of 09 February, 2022 and expected completion date of 25 May, 2022 had cabros installed on either side of the road, murraming and compacting done. However, it had stalled at 30% to completion level and the contractor was not on site.

Opening and gravelling of Checkpoint at Msulwa in Kubo South was awarded at a contract sum of Kshs.5,999,998 with a start date of 07 March, 2022 and expected completion date of 20 June, 2022. However, the contractor was not on site.

County Flagship Project 2 - tarmacking of Kona Ya Musa - Mabokoni - Kona Ya Masai Road in Ukunda, Gombato/Bongwe wards (Tarmack 6.336 Km long by 7m wide) was awarded at a contract sum of Kshs.277,977,684.60 with a start date of 15 April, 2020 and expected completion date of 15 April, 2021. However, the works were at 45% to completion level with 2.52 km tarmacked out of 6.336km total length. The contract was terminated awaiting re-tendering. The expected dates of completion of the projects had long lapsed hence the contractors were in breach of contract.

In the circumstances, the County Executive did not obtain value for money on amount spent on the projects.

## **29. Irregularities in Procurement of Projects**

Review of project files for three (3) projects costing Kshs.29,557,325 revealed the following procurement anomalies:

Proposed Construction of Tourism Information Sheds at County entry points was awarded at a contract amount of Kshs.4,188,129 and the full amount had been paid as at 30 June, 2022. The contractor delayed in completing the works and no penalties were charged as per the agreement provision on the outstanding works at the rate of 4% compounded monthly.

Construction of Mwashanga Dispensary was awarded at a contract sum of Kshs.5,675,314 and the full amount had been paid. The Management used restricted tender method of procurement yet the procurement did not satisfy any of the conditions set under Section 102(1) of the Public Procurement and Asset Disposal Act, 2015. The Section provides that an Accounting Officer of a procuring entity may use restricted tendering if: (a) competition for contract, because of the complex or specialized nature of the goods, works or services is restricted to prequalified tenderers, (b) the time and cost required to examine and evaluate a large number of tenders would be disproportionate to the value of the goods, works or services to be procured, (c) if there are only a few known suppliers of the whole market of the goods, works or services.

Proposed Construction of Msambweni Sub-County was awarded at a contract sum of Kshs.19,693,882 and the full amount had been paid. The tender was advertised on 10 December, 2021 and closed on 17 December, 2021. The bidders were therefore given only seven (7) days instead of fourteen (14) days to submit tenders, contrary to Section 70(4) of the Public Procurement and Asset Disposal Regulations, 2020 which states that

'the procuring entity shall allow the candidates at least fourteen days to prepare and submit their applications to be registered'

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

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

### **Basis for Conclusion**

#### **30. Lack of Risk Management Policy**

As previously reported, the County Executive Management had not put in place a Risk Management Policy, strategies and risk register to mitigate against risk. This is in contravention of Regulation 158(1)(a) and (b) of the Public Finance Management (County Governments) Regulations, 2015 which requires the Accounting Officer to ensure that the county government entity develops 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, the County Executive is exposed to losses and interruption of operations.

## **COUNTY EXECUTIVE OF KILIFI - NO.3**

### **REPORT ON THE FINANCIAL STATEMENTS**

#### **Basis for Qualified Opinion**

#### **31. Inaccuracies in the Financial Statements**

Review of the financial statements revealed the following unsatisfactory matters:

##### **31.1 Variances in the Statement of Receipts and Payments**

The statement of receipts and payments reflects exchequer releases (transfers from County Revenue Fund) of Kshs.11,381,962,488 and as disclosed in Note 1 to the financial statements while the amount reported in the County Revenue Fund as transfer to the County Executive reflects an amount of Kshs.10,710,265,505, resulting in an unreconciled variance of Kshs.671,696,983.

Further, the statement of receipts and payments reflects under related party disclosures transfers to County Assembly amount of Kshs.1,043,413,898 while the County Assembly reflected an amount of Kshs.997,886,898 as received from the County Executive, resulting in an unreconciled variance of Kshs.45,527,000.

In the circumstances, the accuracy of the statement of receipts and payments could not be confirmed.

##### **31.2 Variance Between the Statement of Comparison of Budget and Actual Amounts and Integrated Financial Management Information System (IFMIS)**

The statement of comparison of budget and actual amount reflects approved budget of Kshs.14,987,827,550, while IFMIS Vote Book reflects a budget amount of Kshs.15,297,995,968, resulting in an unexplained and unreconciled variance of Kshs.310,168,418.

In the circumstances, the accuracy of the statement of comparison of budget and actual amounts could not be confirmed.

#### **32. Cash and Cash Equivalents Balance**

##### **32.1 Unsupported Bank Balances**

The statement of assets and liabilities reflects bank balances of Kshs.332,534,947 which as disclosed in Note 9A to the financial statements includes an amount of Kshs.223,179,029 for Kilifi County Deposit Account balance. However, Management used the wrong bank balance of Kshs.206,329,685 instead of Kshs.205,612,431, resulting in an unreconciled variance of Kshs.717,254.



Further, the bank reconciliation statement and cash book Standing Imprest Account which reflected Nil balance as at 30 June, 2022 was not provided for audit. In addition, the bank balances of Kshs.332,534,947 was adjusted by Kshs.19,637,443 from the original balance of Kshs.352,172,390. However, supporting adjusting entries were not provided for audit.

In the circumstances, the accuracy and completeness of bank balances of Kshs.332,534,947 could not be confirmed.

### **32.1 Unsupported Prior Year Adjustment**

The statement of assets and liabilities reflects bank balances of Kshs.332,534,947 as at 30 June, 2022 and comparative bank balance of Kshs.400,974,434 after a prior year adjustment amount of Kshs.2,093,276. However, as disclosed in Note 13 to the financial statements, the adjusted bank balance as at 30 June, 2021 was Kshs.403,067,709. Management explained that the adjustment was in respect to expenditure under Kenya Devolution Support Program (KDSP) for payment made in 2020/2021 to a wrong supplier, which was returned in 2021/2022 financial year and paid again in 2021/2022. However, the disclosure was neither made in the financial statements nor supported by journal entries.

In the circumstances, the accuracy and regularity of the prior year adjustment amount of Kshs.2,093,276 and bank balance of Kshs.332,534,947 could not be confirmed.

### **32.2 Variance in Opening Bank Balances**

The statements of assets and liabilities and cash flows reflect a comparative bank balance of Kshs.400,974,434. However, the audited financial statements for the year ended 30 June, 2021 reflect balances of Kshs.1,974,935,346, resulting in an un-explained and unreconciled variance of Kshs.1,573,960,912.

In the circumstances, the accuracy of bank balance brought forward totalling to Kshs.400,974,434 could not be confirmed.

## **33. Unsupported Deposits and Retentions**

The statement of assets and liabilities reflects deposits and retentions balance of Kshs.287,515,457 and as disclosed in Note 11 to the financial statements, being contractors' retention funds held in the Central Bank of Kenya and a commercial bank. However, Management did not provide records to support the outstanding deposits and retentions payable as at 30 June, 2022. Further, the County Executive maintained and operated the retention account in a commercial bank contrary to the provisions of Regulation 82(1)(b) of the Public Finance Management (County Governments) Regulations, 2015, which requires all county government bank accounts to be opened at the Central Bank of Kenya except for imprest bank accounts for petty cash.

In the circumstances, the accuracy and completeness and regularity of the deposit and retentions balance of Kshs.287,515,457 could not be confirmed.



## **34. Unsupported Expenditure on Use of Goods and Services**

### **34.1 Hospitality Supplies and Services**

The statement of receipts and payments reflects expenditure on use of goods and services totalling to Kshs.2,767,678,349 and as disclosed in Note 3 to the financial statements. Included in the amount is an expenditure of Kshs.227,559,516 on hospitality supplies and services, out of which payment vouchers and supporting documents to account for expenditure amount of Kshs.5,682,139 on boards, committees, conferences and seminars/catering services (receptions), accommodation, gifts, food and drinks, were not provided for audit.

In the circumstances, the regularity of the expenditure of Kshs.5,682,139 incurred on hospitality supplies and services could not be confirmed.

### **34.2 Legal Services Expenses**

The expenditure on use of goods and services totalling to Kshs.2,767,678,349 as disclosed in Note 3 to the financial statements includes other operating expenses amounting to Kshs.295,754,378. Included in other operating expenses are legal services expenses amount of Kshs.47,173,909 incurred on hire of a private legal consultant for which the approval of the County Executive Committee written request to engage the services of legal consultants and details of the legal matters handled were not provided for audit. In addition, procurement documents relating to the provision of the services were not provided for audit.

In addition, the engagement of legal consultant was contrary to Section 16 of the Office of the County Attorney Act, 2020, which provides that a department or public entity established within a County Executive shall not engage the services of a consultant to render any legal services relating to the functions of the County Attorney without written approval of the County Executive Committee and a request to engage those services shall be in writing.

In the circumstances, the regularity of legal services expenses amount of Kshs.47,173,909 could not be confirmed.

### **34.3 Routine Maintenance of Other Assets**

The expenditure on use of goods and services totalling to Kshs.2,767,678,349 as disclosed in Note 3 to the financial statements includes an expenditure of Kshs.260,093,824 on routine maintenance of other assets under the Department of Roads, Transport and Public Works. However, development expenditure amounting to Kshs.79,831,594 relating to grading and gravelling of four (4) access roads was wrongly charged to the recurrent budget. In addition, the amounts were indicated as settlement of pending bills for the year 2020/2021 and earlier years. However, they were not disclosed as pending bills in the prior year financial statements. Further, their requisition was not supported with survey reports indicating the status of the road, distance and the planned remedial works and there was no evidence that certificates of measured works, site visit minutes and certificates of practical completion were raised by the Project Managers.

In the circumstances, the propriety and regularity of the expenditure on routine maintenance of other assets amount of Kshs.79,831,594 could not be confirmed.

### **35. Pending Bills**

The financial statements under other important disclosures reflects pending bills totaling to Kshs.3,312,633,790 as at 30 June, 2022, comprising of pending accounts payable of Kshs.3,217,023,349, pending staff payables of Kshs.93,553,208 and other pending payables Kshs.2,057,233. However, the pending accounts payable balance brought forward of Kshs.2,412,822,433 varies with the audited and certified financial statements balance of Kshs.1,253,307,074 resulting in an unexplained and unreconciled variance of Kshs.1,159,515,359.

An analysis of a sample of the accounts payable revealed that pending bills amounting to Kshs.127,830,871 paid during the year under review were not disclosed in the financial statements for the year ended 30 June, 2021. In addition, a part payment of Kshs.6,212,211 was made in 2020/2021 for a contract costing of Kshs.7,367,168 leaving a balance of Kshs.1,154,957 as 30 June, 2021. However, the total amount of Kshs.7,367,168 was still reflected as a pending bill in the financial statements for the year ended 30 June, 2022.

Further, the financial statements for the year ended 30 June, 2021 reflected pending bills amounting to Kshs.20,019,807 in respect of six (6) contractors. However, the pending bills were not included in the 2021/2022 financial statements yet Management did not provide evidence that the bills were settled.

In the circumstances, the propriety, accuracy and completeness of the total pending bills of Kshs.3,312,633,790 as at 30 June, 2022 could not be confirmed.

### **Other Matter**

### **36. Budgetary Control and Performance**

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.14,987,827,550 and Kshs.11,575,933,036 respectively, resulting to an under-funding of Kshs.3,411,894,514 or 23% of the budget. Similarly, the County Executive spent Kshs.11,504,204,273 against an approved budget of Kshs.14,987,343,104, resulting in an under-expenditure of Kshs.3,483,138,831 or 23% of the budget.

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

### **37. Unexplained Budgetary Variances and Re-allocations**

The Department of Roads had a final approved budget amount of Kshs.1,739,845,843 and an approved procurement plan of Kshs.1,489,100,000 for the year ended 30 June, 2022, resulting in an unexplained and unsupported variance of Kshs.250,745,843. Further, the Department's final budget had sixteen (16) planned projects, initially allocated a total amount of Kshs.90,500,000, but later cancelled and

reallocated to other programs. In addition, the Department introduced twenty-six (26) new projects, with total allocation amount of Kshs.98,840,000 through the supplementary budget. However, no explanation or documentary evidence was provided for the discontinuation of the original sixteen (16) projects which were included in the Annual Development Plan.

### **38. Unresolved Prior Year Matters**

Various prior year audit issues remained unresolved as at 30 June, 2022. Although Management indicated the reason for the delay in resolving the prior year audit issues as the delay in issuance of the Auditor-General's Report, the report was transmitted to the County Executive on 7 June, 2022.

## **REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

### **Basis for Conclusion**

### **39. Irregular Allowances to Police Officers**

The statement of receipts and payments reflects expenditure on use of goods and services totalling to Kshs.2,767,678,349 as disclosed in Note 3 to the financial statements which includes hospitality supplies and services expenses of Kshs.227,559,516. Included in the hospitality supplies and services expenses is an amount of Kshs.3,914,000 paid directly to police officers engaged in executing a Court order, contrary to Section 104(3) of the National Police Service Act, 2011 which provides that monies paid for the private use of the police as specified in the Act shall be paid to The National Treasury.

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

### **40. Unexplained Expenditure on Emergency Relief**

The Department of Devolution, Public Service, and Disaster Management had an original budget amount of Kshs.80,000,000 for emergency relief for the year under review, which was later revised to Kshs.355,000,000, representing an increase of Kshs.275,000,000 or 255%. However, the budget increase was not supported with a memorandum providing details of the source of extra funding and fiscal impact of the affected program, contrary to Regulation 39(7) of the Public Finance Management (County Governments) Regulations, 2015, that provides that the County Government entity requesting additional funds through a supplementary budget process shall submit a memorandum to the County Treasury.

Further, the Department incurred an expenditure of Kshs.223,929,482 on supply and delivery of emergency relief food, which was not supported, with minutes of the County Disaster Council approving any assessment report of the Disaster Management Unit describing the emergency situation and declaration of the same, contrary to Section 6(1) the Kilifi County Disaster Management Act, 2016, that provides that the County Disaster Council shall have the function to review, approve and endorse where appropriate any recommendation or advice given by the Disaster Management Unit.

In the circumstances, the regularity and value for money on the expenditure of Kshs.223,929,482 on emergency relief could not be confirmed.

#### **41. Doubtful Legal Fees for Drafting of Revenue Collection Agreement**

The County Executive contracted a law firm to draft an agreement for collection of cess and parking fees in Kilifi County by a Company and which was signed on 20 February, 2014 by the County Government of Kilifi but was later amended vide an amended agreement of 04 July, 2014, also drafted by the same law firm. However, the Management did not provide for audit any documentary evidence to support the procurement process for the contract. In addition, Management did not provide documents to confirm that the legal fee of Kshs.1,010,600,700 was based on the Advocates (Remuneration) (Amendment) Order, 2014.

Further, on 24 May, 2022, the law firm raised a fee note of Kshs.1,010,600,700 for the services rendered. However, Management did not provide an explanation for failure by the law firm to raise the fee note in 2014 after rendering of the services to the County Executive. In addition, according to the fee note, the amended agreement was executed on 28 March, 2014. However, this was inconsistent with the date of the amended agreement of 04 July, 2014.

In the circumstances, the regularity of the legal consultancy contract and the claim of Kshs.1,010,600,700 by the law firm could not be confirmed.

#### **42. Anomalies in Outsourced Revenue Collections**

The County Executive entered into an agreement with a service provider on 20 February, 2014 and an amended agreement dated 04 July, 2014 for collection of cess and parking fees revenue in Kilifi County for a period of fifteen (15) years. Review of revenue collections and procurement records maintained by the County Government on the outsourcing of the service revealed various anomalies in the contract Agreement and also in procurement of the service provider. Several irregularities were also noted on the collection and accounting for cess and parking fees revenue. There were also instances of payments to the service provider long after the revenue collection responsibility had reverted to the County Government. Further, cases of unsupported transfer of funds from the County Revenue Fund and unauthorized payments of service fees were also reported. In addition, various anomalies in the operation of the bank accounts were also noted. These issues are detailed in a special audit report that was issued separately to the County Government.

In the circumstances, the legality of the cess and parking fees revenue collection contract and full accountability for revenue collected could not be confirmed.

#### **43. Failure to Provide Documents for Audit**

Review of the Exchequer request documents revealed that the Approved Exchequer requests in Form A and subsequent approval by the Controller of Budget in Form B amounting to Kshs.11,831,612,001 were not supported with the Accounting Officers' quarterly cash plans and subsequent Exchequer notifications to the accounting officers

by the County Treasury informing of the amounts authorized, contrary to Regulation 45(4) of the Public Finance Management (County Governments) Regulations, 2015. In addition, Management did not provide disbursement schedules for transactions accompanied by a record from Central Bank of Kenya of payments awaiting funding, up-to-date schedules of pending bills and payment plans, schedules and analysis of salaries for staff paid outside the Integrated Personnel and Payroll Database and project implementation status reports supporting the cash requests contrary to Section 21(1) of the Public Audit Act, 2015 which states that the Auditor-General shall require a public body or person employed by a public body to produce any official document in his body's or person's custody, care or control and provide the Auditor-General with information or explanation about any information system or asset.

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

#### **44. Unsupported Supplementary Budget and Unexplained Variances**

The County Executive supplementary estimates lacked information regarding actual expenditure and commitments against the planned activities as at the date of request for supplementary allocations. Additionally, the estimates lacked footnotes explaining the reasons for the variations and the impact or implications for the affected programmes, contrary to Regulation 39(6) and (7) of the Public Finance Management (County Governments) Regulations, 2015 which provides that the request for supplementary budget shall be presented in a format that facilitates comparison with the original budget and shall contain all the information necessary to enable a decision on the application to be reached.

Further, the supplementary budget was not supported with memorandum from the Accounting Officers to the County Treasury providing explanation for the additional funding requests, contrary to Regulation 39(7) of the Public Finance Management (County Governments) Regulations, 2015, that provides that the County Government entity requesting additional funds through a supplementary budget process shall submit a memorandum to the County Treasury, on a date determined by County Treasury.

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

#### **45. Human Resource Management**

##### **45.1 Irregular Staff Recruitment**

Comparison of the payrolls for the months of July, 2021 and June, 2022 revealed that three hundred and twenty-one (321) new employees were introduced into the payroll during the year under review, while the list of the newly recruited staff provided during the audit indicated that the County had hired an additional two hundred and seventy-one (271) new staff, the variance of fifty (50) staff between the two records was not explained.

Further, analysis of the new staff details revealed that the County hired two (2) staff in positions requiring certificates of secondary education, yet they had none while seventeen (17) staff had only secondary education certificates but were hired for positions in job groups J and above which required higher education levels. Further, one new staff with

an undergraduate degree was placed in a grade lower than degree entry level. The inconsistencies were not explained.

In addition, during the year under review, the eighteen (18) County departments hired nine hundred and twenty-six (926) casual workers against the directive of the County Public Service Board Circular Ref. No. CG/KLF/CPSB/C&CE/24/VOL.3/11 dated 15 October, 2019 to the Chief Officers that directed all County Chief Officers to immediately stop any further hiring of casual workers.

In the circumstances, the regularity of the recruitments could not be confirmed. In addition, Management was in breach of the County Public Service Board Circular.

#### **45.2 Non-Compliance with the Law on Staff Ethnic Composition**

During the year under review, the County Public Service Board filled three hundred and twenty-one (321) positions, out of which two hundred and ninety-one (291) or 93% of the positions were filled by persons from the dominant ethnic community in the County. This was contrary to Section 65(e) of the County Governments Act, 2012 which provides that in selecting candidates for appointment, the County Public Service Board shall consider the need to ensure that at least thirty percent of the vacant posts at entry level are filled by candidates who are not from the dominant ethnic community in the County.

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

#### **46. Failure to Provide Housing Benefit to the Deputy Governor**

Review of the County Executive expenditure and payroll data revealed that the Deputy Governor was not provided with housing benefit as required. This was contrary to the Salaries and Remuneration Commission Circular Ref. SRC/TS/CGOVT/3/61 VOL.IV (45) dated 25 August, 2017, that provides guidelines on provision of housing benefit to County Deputy Governors.

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



## COUNTY EXECUTIVE OF TANA RIVER - NO.4

### REPORT ON THE FINANCIAL STATEMENTS

#### **Basis for Adverse Opinion**

#### **47. Inaccuracies in the Financial Statements**

The financial statements under other important disclosures, Annex 2, Annex 3, Annex 4, Annex 6, Annex 8, Annex 9 and Annex 10 contain blank tables.

Further, the statement of comparison of budget and actual amounts reflects final receipts budget amount of Kshs.7,209,551,770 which differs with the final approved budget amount of Kshs.8,484,714,371, resulting in an unreconciled variance amounting to Kshs.1,275,162,601.

In addition, Section 2 A of the financial statements under financial performance discloses budgeted revenue amount of Kshs.8,117,948,522 which was not based on the final budget amount of Kshs.8,484,714,371 as shown in supplementary (revised) budget document.

In addition, the financial statements do not include budget execution by programs and sub-programs and summary of prior year's audit issues are not included in progress on follow up on prior year auditor's recommendations.

Similarly, Section 2 A of the financial statements under financial performance disclosed 30 June, 2021 as the reporting financial year instead of 30 June, 2022. In addition, under the fiduciary Management, it was noted that some Chief Officers had responsibilities as Accounting Officers for more than two departments.

In the circumstances, the financial statements were not prepared in compliance with the Annual Financial Reporting Template (Revised June, 2022) issued by the Public Sector Accounting Standards Board. Further, the accuracy and completeness of the reported receipts budget amounting to Kshs.7,209,551,770 could not be confirmed.

#### **48. Misclassification of Other Receipts**

The statement of receipts and payments reflects exchequer releases (transfers from the CRF) amount of Kshs.7,007,153,505 which, according the supporting schedules provided for audit, includes receipts which were not from Exchequer issues received into the County Revenue Fund (CRF) amounting to Kshs.938,097,567, comprising special purpose funds and County funds amounts of Kshs.493,493,621 and Kshs.444,603,946 respectively.

Further, the statement of receipts and payments reflects exchequer releases (transfers from the CRF) comparative amount of Kshs.6,666,257,774 which, according to the supporting Note 1 to the financial statements, was released in Quarter 4 of the previous financial year. However, the audited financial statements for the year ended 30 June, 2021, reflected exchequer releases of Kshs.5,861,105,250 which were spread across the four (4) quarters of that year.

In the circumstances, the accuracy of the reported exchequer releases (transfers from the CRF) and other receipts amounts of Kshs.7,007,153,505 and Nil respectively, and comparative amount in Note 1 could not be confirmed.

#### **49. Variances in Personal Allowances Paid as Part of Salary**

The statement of receipts and payments reflects compensation of employees expenditure amount of Kshs.1,683,780,354 which, as disclosed in Note 4 to the financial statements, includes personal allowances paid as part of the salary amount of Kshs.842,945,404. However, the expenditure differs with the Integrated Personnel and Payroll Data (IPPD) system amount of Kshs.782,725,906 resulting in an unreconciled variance of Kshs.60,219,498.

In the circumstances, the accuracy and completeness of personal allowances paid as part of salary amount of Kshs.842,945,404 could not be confirmed.

#### **50. 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.1,710,208,039. However, the following anomalies were noted:-

##### **50.1 Misclassification of Expenditure**

The use of goods and services amount of Kshs.1,710,208,039 includes payments totalling to Kshs.332,019,932 which do not relate to the respective sub-components under which they were classified. This was contrary to Regulation 40(1) of the Public Finance Management (County Governments) Regulations, 2015, which requires budget estimates to be prepared, accounted for and reported in accordance with the Government of Kenya budget classification and standard chart of accounts issued by The National Treasury.

##### **50.2 Unsupported Expenditure on Hire of Helicopters**

The use of goods and services amount of Kshs.1,710,208,039 includes domestic travel and subsistence amount of Kshs.273,787,227 which further includes expenditure of Kshs.34,886,099 incurred on hire of helicopters. However, Management did not provide justification for use of helicopters as a means of travel at the expense of service delivery. Further, details of the assignments carried out and their relevance to the County, and procurement documents were not provided for audit.

##### **50.3 Unsupported Expenditure**

The use of goods and services amount of Kshs.1,710,208,039 includes amounts totalling to Kshs.397,337,481 in respect of twelve (12) subcomponents whose payment records and related supporting documents were not provided for audit.

##### **50.4 Unsupported Legal Fees**

The use of goods and services amount of Kshs.1,710,208,039 includes other operating expenses amount of Kshs.426,374,607 out of which, Kshs.110,782,070 was in respect of legal fees. However, procurement documents confirming that the legal services worth the



latter amount were competitively sourced, fee notes, details of cases handled and the status of those cases, amounts paid to date, outstanding balances (if any per case), evidence of court attendance, rate as per advocate remuneration roll and case files showing the value of each case were all not provided for audit. Further, the expenditure of Kshs.110,782,070 includes an amount of Kshs.35,591,400 paid to two (2) firms that were not prequalified for the services.

#### **50.5 Unsupported Domestic Travel and Subsistence Allowance**

The use of goods and services amount of Kshs.1,710,208,039 includes domestic travel and subsistence amount of Kshs.273,787,227 out of which, an amount of Kshs.13,652,700 and Kshs.63,890,829 was paid to Tana River County Government Salary Account and Tana River County Government standing imprest account respectively. However, details of the officers who travelled, dates and reasons for travel in support of the payments were not provided for audit. In addition, the expenditure of Kshs.273,787,227 includes payments amounting to Kshs.8,130,200 whose supporting documents, including signed schedules, work tickets, bus tickets, attendance registers and invitation letters for the meetings and trainings attended were not provided for audit.

#### **50.6 Unsupported Foreign Travel and Subsistence**

The use of goods and services amount of Kshs.1,710,208,039 includes foreign travel and subsistence amount of Kshs.34,999,174 which further includes payments made to two (2) air ticketing companies amounting to Kshs.16,286,250 whose supporting procurement documents, details of travel, date of travel and reason for travel were not provided for audit. In addition, an amount of Kshs.8,452,735 was transferred to Tana River County Government imprest account and expensed upon transfer with no accountability from the Receiving Officer.

In the circumstances, the accuracy, completeness and regularity of foreign travel and subsistence allowances amounting to Kshs.24,738,985 could not be confirmed.

#### **50.7 Unsupported Office and General Supplies and Services**

The use of goods and services amount of Kshs.1,710,208,039 includes office and general supplies and services amount of Kshs.193,476,932 out of which, Kshs.23,319,156 relates to goods and services that were not taken on charge vide counter receipt voucher (S13) and received and issued out vide counter issue Note (S11). In addition, documents relating to procurement processes such as appointment of inspection and acceptance committee, signing of professional opinion, approved user requisition and evidence of receipt were not provided to support the supply and rendering of services. Further, quotations for goods amounting to Kshs.1,800,000 in respect of supply of stationeries were blank.

#### **50.8 Unsupported Expenditure on Garbage Collection and Fumigation Services**

The use of goods and services amount of Kshs.1,710,208,039 includes other operating expenses amount of Kshs.426,374,607 out of which, Kshs.60,097,396 and Kshs.44,407,952 were spent on garbage collection and fumigation services respectively.

However, documentation in support of the procurement of garbage collection and fumigation services were not provided for audit.

In the circumstances, the accuracy, completeness and regularity of expenditure on use of goods and services totalling to Kshs.1,113,262,809 could not be confirmed.

## **51. Transfer to Other Government Entities**

The statement of receipts and payments, and as disclosed in Note 7 to the financial statements, reflects transfers to other Government entities expenditure of Kshs.796,721,549. However, the following unsatisfactory matters were noted:-

### **51.1 Variances in the Transfers to Other Government Entities**

The transfers to other Government entities expenditure of Kshs.796,721,549 differs with a corresponding expenditure of Kshs.1,817,364,965 reflected in Annex 7 to the financial statements, resulting in an unreconciled variance of Kshs.1,021,643,416.

Further, Note 7 to the financial statements reflects Nil transfers to Tana River County Assembly, while the financial statements of the Tana River County Assembly show that the Assembly received Exchequer releases amount of Kshs.884,949,935 from the County Treasury, resulting in an unexplained variance of Kshs.884,949,935.

### **51.2 Unsupported and Irregular Transfer to Vocational Training Centres**

The transfers to other Government entities expenditure of Kshs.796,721,549 includes an amount of Kshs.51,799,189 transferred to vocational training centres. Out of this amount, Kshs.9,052,295 was paid directly to various suppliers instead of transferring the funds to the training centres, and expenditure records and documents supporting the amount were not provided for audit.

Further, included in the expenditure of Kshs.51,799,189 are unsupported payments totalling to Kshs.42,746,894 to various Institutions. In addition, the amount includes payments amounting to Kshs.13,207,447 which details of beneficiary training centres were not provided for audit.

### **51.3 Unaccounted for Transfers to Health Facilities**

The transfers to other Government entities expenditure of Kshs.796,721,549 includes transfers to health facilities amount of Kshs.94,798,031 out of which, Kshs.58,110,724 was transferred to Transforming Health Systems (THS) project account. However, schedule, payment vouchers, cash book, bank statements and bank reconciliation statements in support of the amount were not provided for audit. Further, the transfers amounting to Kshs.58,110,724 also includes an amount of Kshs.35,875,807 paid directly to suppliers and individuals, instead of being transferred to the project account, hence, the expenditure was not accounted for.

### **51.4 Irregular Transfer of Funds to Tana River County Government Standing Imprest Account**

The transfers to other Government entities expenditure of Kshs.796,721,549 includes an amount of Kshs.62,699,000 transferred from the Central Bank of Kenya recurrent account

to Tana River County Government standing imprest account (KBC Imprest Account) as disclosed in Note 14A to the financial statements, had a Nil balance as at 30 June, 2022. However, the County Executive made payments from the account in respect of normal operations including domestic travel and subsistence allowances, hospitality supplies and services and other expenses, instead of operating the account for petty cash transactions only. This was contrary to Regulation 82(1)(a) of the Public Finance Management (County Governments) Regulations, 2015, which provides that for avoidance of doubt, all County Government bank accounts shall be opened at the Central Bank of Kenya except for imprest bank accounts for petty cash. Further, payments from the account were not processed through IFMIS as required. In addition, the bank statements and the cash book for the standing imprest account were not provided for audit.

In the circumstances, the accuracy, completeness, regularity and existence of the transfers to Other Government entities expenditure of Kshs.796,721,549 could not be confirmed.

## **52. Acquisition of Assets**

The statement of receipts and payments, and as disclosed in Note 10 to the financial statements, reflects acquisition of assets amount of Kshs.1,637,544,388. However, the following unsatisfactory matters were noted:-

### **52.1 Misclassification of Expenditure**

The acquisition of assets amount of Kshs.1,637,544,388 includes amounts totalling to Kshs.404,982,755 which do not relate to the respective sub-components under which they are classified. The misclassification was due to payments charged to incorrect budgetary items. This was contrary to Regulation 40(1) of the Public Finance Management (County Governments) Regulations, 2015, which requires budget estimates to be prepared, accounted for and reported on against budget classifications and the standard chart of accounts.

### **52.2 Unsupported Expenditure**

The acquisition of assets amount of Kshs.1,637,544,388 includes an amount Kshs.225,478,229 whose payment records and supporting documents were not provided for audit.

### **52.3 Unsupported Expenditure on Refurbishment of Buildings**

Included in the acquisition of assets amount of Kshs.1,637,544,388 is refurbishment of buildings expenditure of Kshs.147,742,915 which further includes an amount of Kshs.16,032,628 whose supporting documents, including invoices, Local Service Orders, acceptance letters from the winning bidders, departmental purchase requisition order, duly signed contract agreements, certificate of incorporation, business permits and professional opinion were not provided for audit. In some instances, tender opening minutes and quotations were signed by only two members, contrary to the required minimum of three members.

#### **52.4 Unconfirmed Purchase of Ambulances**

The acquisition of assets amount of Kshs.1,637,544,388 includes purchase of vehicles and other transport equipment amount of Kshs.53,976,028 out of which an amount of Kshs.52,450,000 was utilized to acquired five (5) Toyota 4x4 land cruiser ambulances. However, it was established that one (1) ambulance had not been delivered as at the time of the audit while another ambulance was not branded. In addition, the vehicles were not inspected upon delivery. Further, value added tax amounting to Kshs.2,712,931 was not deducted and remitted to Kenya Revenue Authority.

In the circumstances, the accuracy, completeness, existence, regularity and value for money for the expenditure of Kshs.698,943,612 could not be confirmed.

#### **53. Unsupported Cash and Cash Equivalents**

The statement of assets and liabilities reflects cash and cash equivalents balance of Kshs.26,237,720 which comprises of bank and cash balances of Kshs.25,073,410 and Kshs.1,164,310, respectively. However, supporting cash books, certificates of bank balances, bank reconciliation statements and board of survey certificates were not provided for audit.

Further, bank balances for the following bank accounts operated by the County Executive in various commercial banks were not disclosed in the financial statements:-

- (i) Tana River Health Conditional Grant account
- (ii) Tana River County ASDSPII account
- (iii) Hola Municipality account
- (iv) EU IDEAS LED milk and fish projects accounts
- (v) Tana River Health Care Support
- (vi) Tana River Livestock Support
- (vii) Tana River Deposit Account
- (viii) Tana River County Salary Account.

In the circumstances, the accuracy, completeness and presentation and disclosure of the cash and cash equivalents balance of Kshs.26,237,720 could not be confirmed.

#### **54. Unexplained Prior Year Adjustment**

The statement of cash flows reflects prior year adjustments amount of Kshs.1,751,240,617. However, no explanation or explanatory note was given to explain these prior adjustments. In addition, Note 18 indicated in the financial statement as relating to prior year adjustments was not included in the notes to the financial statements section.

In the circumstances, the accuracy, completeness and nature of the prior year adjustments amount of Kshs.1,751,240,617 could not be confirmed.

## **55. Unsupported Outstanding Imprests**

The statement of assets and liabilities reflects outstanding imprest balance of Kshs.36,785,842 whose supporting imprest warrants and imprest registers were not provided for audit.

Further, some officers were issued with multiple imprests before accounting for or surrendering the previous imprests contrary to Regulation 93(8) of the Public Finance Management (County Governments) Regulations, 2015. Further, the imprests had been outstanding for more than a year as per Annex 5 to the financial statement contrary to Regulation 93(5) of the Public Finance Management (County Governments) Regulation, 2015 which requires a holder of a temporary imprest to account or surrender the imprest within seven (7) working days after returning to duty station.

In the circumstances, the regularity, accuracy and completeness of the outstanding imprests balance of Kshs.36,785,842 could not be confirmed.

## **56. Unsupported Deposits and Retention Balance**

The statement of assets and liabilities reflects deposits and retentions balance of Kshs.9,167,568. However, Management did not disclose in Note 16 to the financial statements the amount of retention money paid to contractors during the year and net changes in accounts payables. Further, records provided for audit indicated that during the year under review, a total of Kshs.67,721,320 was paid to various contractors as retentions for contracts completed in previous financial years. However, this amount exceeds the opening balance of Kshs.13,655,628 disclosed in the statement of assets and liabilities. In addition, Management did not provide creditors' ledgers and bank statements for the retention account.

In the circumstances, the accuracy and completeness and existence of the retention balance of Kshs.9,167,568 could not be confirmed.

## **57. Doubtful Non-disclosure of Pending Bills**

As disclosed in Notes 1 and 3 to the financial statements, under other important disclosures, on pending accounts payable and other pending payables, together with the supporting Annexes 2 and 4 respectively, reflect Nil balances. Similarly, Part 2 iv of the financial statements reflects a Nil balance of pending bills for the financial year ended 30 June, 2022. According to the previous year's audited financial statements, the County Executive had pending accounts payable and other pending payables balance of Kshs.1,021,035,901 and Kshs.316,947,057, respectively. However, evidence of settlement of these prior year's pending bills was not provided for audit.

In the circumstances, the accuracy and completeness and existence of the pending bills could not be confirmed.

## **Other Matter**

### **58. Budgetary Control and Performance**

#### **58.1 Under-Absorption of the Budget**

The County Executive had actual expenditure of Kshs.6,295,874,045 against approved expenditure budget of Kshs.7,209,551,770, resulting to under expenditure of Kshs.1,280,309,574 (or 17 % of the budget).

The under-expenditure adversely affected implementation of planned programmes and delivery of services to the public.

#### **58.2 Unauthorized Over Expenditure**

The statement of comparison of budget and actual amounts shows that the Management overspent in five (5) components with a final budget and actual expenditure of Kshs.3,001,616,784 and Kshs.3,815,372,140 respectively resulting in an unexplained over expenditure amounting to Kshs.813,755,356. Further, approval of the over expenditures amounting to Kshs.813,755,356 was not provided for audit.

In the circumstances, the regularity of the expenditure of Kshs.813,755,356 could not be confirmed.

#### **58.3 Late Exchequer Releases**

The statement of receipts and payments reflects exchequer releases totalling to Kshs.7,007,153,505 which includes an amount of Kshs.315,403,013 received by the County Government from The National Treasury towards the end of the month of June, 2022. In addition, other Exchequer releases amounting to Kshs.886,870,925 were disbursed by The National Treasury after the closure of the year under review from the budgeted funds for 2021/2022 financial year.

In the circumstances, the late exchequer releases could have had adverse effect on the implementation of the planned activities and projects by the Management for the year ended 30 June, 2022.

## **REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

### **Basis for Conclusion**

#### **59. Non-Compliance with Budget Procedures**

Review of the budget process revealed that the Management did not prepare County Budget Review and Outlook Paper for the 2021/2022 financial year within the statutory timeline of 30 September, 2021 as required by Section 118 of Public Finance Management Act, 2012. Instead, it was finalized and submitted to the County Assembly on 10 November, 2021. In addition, there was no evidence that the document was deliberated on and approved by County Assembly. Further, it was observed that the County Executive did not publish the County Fiscal Strategy Paper, the County Budget



Review and Outlook Paper and the County Annual Development Plan as outlined in the Public Finance Management Act, 2012. Management did not provide satisfactory explanation for failure to comply with the provisions of the law on budget process.

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

#### **60. Non-Submission of Financial Statements**

The Management did not prepare and submit for audit the revenue statements for the County Government Receiver of Revenue and Financial Statements for Level 2 to 4 Hospitals and Hola Municipality. This was in contravention of Sections 165(1) and 164(4)(a) of the Public Finance Management Act, 2012. Sections 165(1) of the Act requires that at the end of each financial year, a Receiver of Revenue for a County Government to prepare an account in respect of the revenue collected, received and recovered by the receiver during the financial year. Section 164(4)(a) provides that within three (3) months after the end of each financial year, the Accounting Officer for an entity to submit the entity's financial statements to the Auditor-General.

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

#### **61. Non-Remittance of NSSF Statutory Deductions**

Review of the payroll data, revealed that the County Executive had a total of two thousand and forty-one (2,041) employees. However, summaries of the Integrated Payroll and Personnel Database (IPPD) for the year under review reflected that the County Executive did not deduct compulsory National Social Security Fund (NSSF) statutory dues from only eighty-two (82) employees. No satisfactory explanation was provided for the failure to deduct and remit the statutory dues from all the staff as required by Section 21 (1)(3) of the National Social Security Fund Act, 2013.

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

#### **62. Use of Goods and Services**

The statement of receipts and payments, reflects use of goods and services amount of Kshs.1,710,208,039 and as disclosed in Note 5 to the financial statements. However, the following anomalies were noted:-

##### **62.1 Irregular Procurement of Hospitality Supplies and Services**

The use of goods and services amount of Kshs.1,710,208,039 includes hospitality supplies and services amount of Kshs.203,248,705. However, it was noted that quotation opening minutes and quotation evaluation reports were not signed by the Evaluation and Opening Committees members respectively. In addition, request for quotations were used for catering services with amounts exceeding the threshold for request for quotations.

##### **62.2 Irregular Expenditure on Fuel, Oil and Lubricants**

The use of goods and services amount of Kshs.1,710,208,039 includes fuel, oil and lubricants amount of Kshs.54,926,472 which further includes payments totalling to Kshs.5,299,045 made to a construction company for supply of fuel through framework

agreement. The company was however not in the list of pre-qualified suppliers of fuel. In addition, valid license for retail of petroleum products from Energy and Petroleum Regulatory Authority confirming whether the company had the necessary approval to store and retail fuel products was not provided for audit. Further, environmental impact assessment license from National Environment Management Authority (NEMA) for the business was also not provided for audit. Further, the same company was awarded other contracts for construction and civil works during the year under review. It was therefore not clear how the company was dealing with both construction business and supply of fuel products under the same name.

### **62.3 Irregular Contract for Repair and Maintenance of Vehicles**

The use of goods and services amount of Kshs.1,710,208,039 includes routine maintenance - vehicles and other transport equipment amount of Kshs.65,107,652 out of which, Kshs.55,883,241 was paid to a local garage for repair and maintenance of the County Executive's vehicles. However, review of the expenditure records revealed that the contract for routine maintenance of the vehicles was previously awarded to the garage through framework contracting. The contract was renewed in August, 2021 for a period of three (3) years without subjecting the extension to the procurement process in line with Section 139(2) a of Public Procurement and Asset Disposal Act, 2015, which requires the Accounting Officer to approve changes to contract upon recommendation by the Evaluation Committee. Further, the letter of extension and minutes of Evaluation Committee were not provided for audit. The contract extension was also contrary to Regulation 91(5) of the Public Procurement and Asset Disposal Regulations, 2020, which requires entities to ensure a fair and equal rotation amongst the persons on the prequalified list.

### **62.4 Irregular Procurements - Routine Maintenance of Other Assets**

The use of goods and services amount of Kshs.1,710,208,039 includes routine maintenance - other assets amount of Kshs.89,211,165. However, procurement files for bids totalling to Kshs.19,312,500 lacked procurement records including user requisitions, letters of notification and acceptance of tender awards, invoices, and inspection and acceptance reports, signed professional opinion from the head of procurement function. In addition, quotations were not signed by the Opening Committee while evaluation minutes were not signed by the Committee Members.

Similarly, a contract worth Kshs.1,945,555 was awarded to a firm that was not pre-qualified in the respective category of maintenance. In addition, amounts in the quotations submitted by the three (3) bidders were altered and not counter signed. The bidder who was awarded the contract had quoted Kshs.2,234,590 but the quotation was altered to Kshs.1,945,555 hence the contract was irregularly awarded.

Further, contract files worth Kshs.5,102,573 lacked key mandatory requirements such as valid tax compliance certificate and properly filled and signed business questionnaire as set out in the evaluation criteria.

### **63. Irregular Payments to the Council of Governors**

The use of goods and services amount of Kshs.1,710,208,039 includes an amount of Kshs.4,000,000 paid to the Council of Governors as membership fees. The amount comprises of an amount of Kshs.2,000,000 subscription and Kshs.2,000,000 devolution conference contribution. However, Management did not provide justification for the payments since the Council has its own budget as provided by Section 37 of the Inter-Governmental Relations Act, 2012.

In the circumstances, the regularity and value for money on the expenditure of Kshs.1,710,208,039 could not be confirmed. Further, Management was in breach of the law.

### **64. Failure to Deduct Value Added Tax**

Review of payment vouchers revealed that the Management did not deduct and remit value added taxes amounting to Kshs.11,123,383 in respect of works undertaken and goods supplied by various contractors. This was contrary to Section 5(1)(a) and (4) of the Value Added Tax Act, 2013, which requires that value added tax shall be charged on taxable supply made by a registered person in Kenya and that the amount of tax payable on a taxable supply, if any, shall be recoverable by the registered person from the receiver of the supply in addition to the consideration.

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

### **65. Transfers to Other Government Entities**

The statement of receipts and payments, reflects transfers to other Government entities amount of Kshs.796,721,549 and as disclosed in Note 7 to the financial statements. However, the following unsatisfactory matters were noted:-

#### **65.1 Non-Preparation of Financial Statements**

The transfers to other Government entities amount of Kshs.796,721,549 includes an amount of Kshs.356,512,088 transferred to entities that did not prepare and submit financial statements for audit, despite them maintaining or keeping separate books of accounts. This is contrary to Section 165(1) of the Public Finance Management Act, 2012.

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

#### **65.2 Agricultural Sector Development Support Programme (ASDSP)**

The transfers to other Government entities amount of Kshs.796,721,549 includes Kshs.35,705,294 transferred to the Agricultural Sector Development Support Programme II (ASDSP II). The Programme account had unutilized funds amounting to Kshs.39,027,711 as at the beginning of the financial year, hence total funds available for use during the year under review amounted to Kshs.74,733,005. At the close of the financial year, the Programme account had unutilized funds totalling to Kshs.65,946,266. Management did not provide explanation for failure to utilize the funds budgeted. Further, Management of the project spent an amount of Kshs.7,425,795 on domestic travel and subsistence through imprests. However, imprests amounting to Kshs.2,060,000 was not

surrendered or accounted for and therefore remained outstanding as at the time of the audit.

In the circumstances, it was not possible to confirm whether the Programme was achieving its objective of supporting agricultural development. In addition, the recoverability of the outstanding imprests amounting to Kshs.2,060,000 could not be confirmed.

## **66. Acquisition of Assets**

The statement of receipts and payments, and as disclosed in Note 10 to the financial statements, reflects acquisition of assets balance of Kshs.1,637,544,388. However, the following unsatisfactory matters were noted:-

### **66.1 Construction and Civil Works**

#### **66.1.1 Irregular Procurement of Construction and Civil Works**

The acquisition of assets amount of Kshs.1,637,544,388 includes construction and civil work amount of Kshs.388,465,295. However, review of the project files and other accompanying tender documents revealed that project files for contracts with an amount of Kshs.56,355,330 did not contain procurement documents such as tender advertisements, tender opening minutes, letter of appointment of the tender opening committee, appointment letter for tender evaluation committee, minutes of the evaluation committee, notification letter of tender award to the successful bidder and unsuccessful bidders, professional opinion, contract agreement, inspection and acceptance committee report/minute, Bills of Quantities and Company profiles of the winning and losing bidders.

Similarly, contracts with an amount of Kshs.43,282,297 were irregularly awarded to suppliers who did not satisfy the mandatory requirements as indicated in the evaluation reports. The winning bidders did not provide valid business licenses, tax compliance certificates, certificates of incorporation, National Construction Authority (NCA) and bid bond as required by the evaluation criteria.

#### **66.1.2 Irregular Payment for Drilling and Equipping of Bore Holes**

The construction and civil works amount of Kshs.388,465,295 includes an amount of Kshs.31,044,893 in respect of drilling and equipping of two (2) boreholes at a contract sum of Kshs.31,044,893. However, physical inspection of the project carried out in the month of July, 2022 revealed that works amounting to Kshs.22,720,515 included in the Bills of Quantities were not executed. These included equipping of two (2) boreholes worth Kshs.6,113,415, construction of control room/attendant house worth Kshs.4,729,000 and installation of galvanized tank worth Kshs.11,878,100. This was in contravention of Section 146 of the Public Procurement and Asset Disposal Act, 2015, which provides that no works, goods or services contract shall be paid for before they are executed or delivered and accepted by the Accounting Officer of a procuring entity or an officer authorized by him or her in writing except where so specified in the tender documents and contract agreement.

Further, the total contract sum of Kshs.31,044,893 was paid without deducting 10% retention, 3% withholding tax and 6% value added tax amount of Kshs.3,104,489,

Kshs.1,443,331 and Kshs.721,665 respectively, totalling to Kshs.5,269,485. In addition, Kenya Revenue Authority (KRA) may have lost revenue amounting to Kshs.2,164,996.

### **66.1.3 Irregular Payment for Construction of Perimeter Wall**

The construction and civil works amount of Kshs.388,465,295 includes an amount of Kshs.23,500,000 (85% of the contract sum) paid in respect of construction of masonry perimeter wall at Hola Stadium at a contract sum of Kshs.27,505,282. However, audit revealed that a basketball court worth Kshs.1,250,000 that was included in the bill of quantities had not been done, yet the engineer's certificate indicated that the project was 100% complete. Further, the County Executive did not deduct 10% retention, 6% Value Added Tax (VAT) and 3% withholding tax of Kshs.1,070,000 amounting to Kshs.2,300,000 and Kshs.507,654, respectively totalling to Kshs.3,877,654. In addition, according to the requisition, the estimated cost of the project amounted to Kshs.23,500,000. However, Bills of Quantities and companies' profiles of the losing bidders were not provided for audit. In addition, Kenya Revenue Authority may have lost revenue amounting to Kshs.1,577,654.

### **66.1.4 Irregular Construction of Water Tank**

The construction and civil works amount of Kshs.388,465,295 includes expenditure of Kshs.10,084,572 incurred in respect of a contract for construction of 250cm galvanized elevated pressed steel panel tank in Hola-Chewani Ward at a contract sum of Kshs.12,877,500. Further, the contractor was paid an amount of Kshs.5,325,750 during the previous financial years totalling to Kshs.15,410,322. Therefore, the contractor was paid an amount of Kshs.2,532,822 in excess of the contact sum. The Management did not provide an explanation for the excess payment and how it was funded. Further, physical inspection carried out in the month of July, 2022 revealed that the project was not in use since inception as piping system for water was not done. It was not clear why the tank was constructed without a provision to cater for piping of water.

### **66.1.5 Irregular Procurement of Mortuary Equipment**

The construction and civil works expenditure of Kshs.388,465,295 includes an amount of Kshs.19,478,800 for purchase and installation of mortuary refrigeration equipment at Hola Sub-County hospital. However, review of the project files and other accompanying tender documents revealed that the tender was not advertised as required by Section 96(2) of the Public Procurement and Asset Disposal Act, 2015. Further, the equipment was instead procured using request for quotations contrary to the first Schedule of Threshold Matrix of the Public Procurement and Asset Disposal Regulations, 2020, which caps the use of quotations at Kshs.3,000,000 for goods. The equipment was also not included in the annual procurement plan and was not taken on charge after delivery.

In addition, the winning bidder which, was incorporated on 27 August, 2021, was in existence for only three (3) months when it was awarded the tender on 09 December, 2021. Therefore, it was not clear how the supplier was deemed to have the necessary qualification and experience to supply and install mortuary items by the evaluation committees. Further, full payment of Kshs.19,478,800 was made to the contractor inclusive of the value added tax at the rate of 6%, resulting to loss of revenue



by KRA amounting to Kshs.1,007,524. Further, value for money of the expenditure of Kshs.19,478,800 could not be confirmed.

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

#### **66.1.6 Irregular Construction Works for Storm Water Drainage**

The construction and civil works expenditure of Kshs.388,465,295 includes an amount of Kshs.40,351,872 relating to construction of storm water drainage phase III at a contract sum of Kshs.48,268,760. However, according to preliminary evaluation, all the bidders passed the preliminary evaluation stage and were subjected to technical evaluation. However, the IFMIS generated technical evaluation score sheet was blank and at the financial evaluation level, all bidders were given zero scores. However, the evaluation committee recommended the third highest bidder who quoted Kshs.48,268,760 against lowest bidder who quoted Kshs.44,127,560.

In addition, appointment letters of the evaluation committee, Bills of Quantities and company profile of the losing bidders were not provided for audit. Similarly, contract agreement was signed without professional opinion issued by the head of procurement function, contrary to the requirement of Section 84 of the Public Procurement and Asset Disposal Act, 2015, which provides that the head of procurement function of a procuring entity shall, alongside the report to the evaluation committee as secretariat comments, review the tender evaluation report and provide a signed professional opinion to the Accounting Officer on the procurement or asset disposal proceedings.

Further, practical completion certificate and Inspection and Acceptance Committee report supporting the payment of Kshs.40,351,872 were not provided for audit. Also, physical inspection of the project carried out in the month of July, 2022 revealed that though the contractor was paid Kshs.40,351,872 which was equivalent to 83% of the contract sum, the work done on the ground was not commensurate to the amount paid. In addition, major items in the bills of quantities including culvert and drainage work worth Kshs.32,081,000 or 80% were not done.

#### **66.1.7 Irregular Procurement of Solar Irrigation Project**

The construction and civil works expenditure of Kshs.388,465,295 includes an expenditure of Kshs.21,624,000 which comprises of Kshs.10,885,000 relating to construction of solar irrigation project at Shirikisho at a contract sum of Kshs.19,667,010 and Kshs.10,739,000 in respect of a similar project at Golbanti at a contract sum of Kshs.19,717,010 totalling to Kshs.39,384,020.

The project was advertised on 12 January, 2022 and had the closing date indicated as 18 January, 2022. However, review of project files and other documents revealed that the tender opening committee members were not appointed in writing by the Accounting Officer as required by Section 46(3) of the Public Procurement and Asset Disposal Act, 2015.

Further, the winning bidder did not attach valid power of attorney on its company profile though it was mandatory requirement but instead attached power of attorney addressed to Kenya Port Authority. In addition, the business permit attached had expired on



31 December, 2021 before the project was advertised. Copies of the statutory documents such as tax compliance and certificate of incorporation of the winning bidder were not certified as required by the evaluation criteria. Despite the anomalies, the tenderer was found responsive by the evaluation committee, contrary to Section 79(1) of the Public Procurement and Asset Disposal Act, 2015.

In addition, duly filled form of tender, 2% bid security, litigation history and national construction authority (NCA) certificate of the winning bidder were not provided for audit, though they were part of the mandatory documents required for evaluation of tender. Further, the original Bills of Quantities for both the winning and losing bidders were not provided for audit. The letter of notification was issued on 03 February, 2022 while contract agreement was signed between the Accounting Officer and the contractor on 11 February, 2022, before lapse of the mandatory fourteen (14) days after the notification of award as required by Section 135(3) of the Public Procurement and Asset Disposal Act, 2015. The contract document did not have a performance security clause contrary to Section 142(1) of the Public Procurement and Asset Disposal Act, 2015 and best practice which require inclusion of performance security in the contract document to mitigate against the risk of failure of executing obligations of the contract by either party. There was no Ad Hoc Inspection Committee appointed by the Accounting Officer to inspect the projects before payments were made.

## **66.2 Construction of Buildings**

### **66.2.1 Irregular Procurements of Construction of Buildings Projects**

The acquisition of assets amount of Kshs.1,637,544,388 includes expenditure of Kshs.199,833,901 in respect of construction of building. However, review of the project files and other tender documents revealed that project files for contracts worth Kshs.102,854,931 did not contain procurement documents such as tender advertisements, tender opening minutes, letters of appointment of the tender opening committee, appointment letters for tender evaluation committee, minutes of the evaluation committee, notification letter of tender award to the successful bidder and regrets to unsuccessful bidders, professional opinion recommending the approval, contract agreement, Inspection and Acceptance Committee report/minute, Bills of Quantities and company profiles of the winning and losing bidders.

Similarly, contracts worth Kshs.81,442,605 were irregularly awarded to suppliers who did not satisfy the mandatory requirements as indicated in the evaluation reports. The winning bidders did not provide valid business licenses, tax compliance certificates, certificates of incorporation, national construction authority certificates and bid bond as required by the evaluation criteria.

Further, the tender evaluation documents and minutes did not have engineer's estimate and there were no costed Bills of Quantities. It was therefore, not possible to confirm the reasonableness of the prices quoted.

### **66.2.2 Irregular Contract Variation**

The construction of buildings amount of Kshs.199,833,901 includes an amount of Kshs.4,903,074 relating to construction of Kipini Administration office at a contract sum

of Kshs.9,119,873. The total payment on the contract amounted to Kshs.12,119,873. However, it was noted that the contract price was varied by Kshs.3,000,000 without approval by the Accounting Officer and the evaluation committee contrary to the requirement of Section 139(1)(a) of the Public Procurement and Asset Disposal Act, 2015, which provides 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.

Further, completion certificate and Inspection and Acceptance Committee report supporting the payment of Kshs.4,903,074 were not provided for audit. In addition, the contract document provided for audit did not have a performance security clause contrary to Section 142(1) of the Public Procurement and Asset Disposal Act, 2015 and best practice which requires inclusion of performance security in the contract document to mitigate against the risk of failure of executing obligations of the contract by either party.

### **66.2.3 Irregular Procurement of Construction of Hola Fire Station**

The construction of buildings amount of Kshs.199,833,901 includes a payment of Kshs.7,862,069 made in respect of construction of Hola fire station at a contract sum of Kshs.39,924,780. However, according to the tender opening register and tender opening minutes, the winning bidder, despite not attaching the mandatory 2% bid bond as at the time of the opening of the tender, was evaluated and awarded the tender.

Further the contract document did not include performance security clause contrary to Section 142(1) of the Public Procurement and Asset Disposal Act, 2015, which requires inclusion of performance security in the contract document to mitigate against the risk of failure of executing obligations of the contract by either party.

### **66.3 Unconfirmed Procurement of Construction of Roads**

The acquisition of assets balance of Kshs.1,637,544,388 includes an expenditure of Kshs.684,242,619 in respect of construction of roads. However, review of project files and other documents revealed that payment amounting to Kshs.76,650,661 lacked vital procurement documents including certificates of practical completion, tax compliance certificates, business permits and inspection and acceptance reports. Further, the companies that were awarded the contracts were not prequalified under the category construction of roads works, bridges and foot bridges.

In the circumstances, it was not possible to confirm whether the contracts were competitively awarded and that the County Executive obtained value for money spent on the projects totalling to Kshs.531,977,653 in respect of construction and civil works. Further, Management was in breach of the law.

## **REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE**

### **67. Weaknesses in Internal Control and Governance**

Review of the internal controls and governance revealed the following weaknesses: -

### **67.1 Lack of Employees Appraisal System**

During the year under review, there was no operational staff appraisal system in the County Executive. Management did not set periodic targets as basis for evaluation at the end of every year and the applicable measures to be taken for under-performance. Therefore, the Management lacked the criteria to monitor performance and appropriately reward the staff.

In the circumstances, the existence of a strong and effective internal controls system in the management of the County Executive's human resource could not be confirmed.

### **67.2 Non-Functional Audit Committee**

The County Executive established an audit committee whose members were gazetted on 03 July, 2020. However, it was noted that four (4) out of the six (6) members of the Committee, including the Chairman, resigned rendering the Committee non-functional.

In the circumstances, the effectiveness of the County Executive's risk management and governance structures could not be confirmed.

## COUNTY EXECUTIVE OF LAMU – NO.5

### REPORT ON THE FINANCIAL STATEMENTS

#### Basis for Qualified Opinion

#### 68. Variance Between the IFMIS Records and Financial Statements

Comparison of the balances reflected in the Integrated Financial Management Information System (IFMIS) generated trial balance totalling to Kshs.32,288,505,243 differed with the balances reflected in the financial statements totalling to Kshs.457,433,052 resulting in an unreconciled variance of Kshs.31,831,072,191.

In the circumstances, the accuracy of balances reflected in the financial statements could not be confirmed.

#### 69. Unreconciled Variances in Exchequer Releases

The statement of receipts and payment reflects exchequer releases of Kshs.3,138,788,455 as disclosed in Note 1 to the financial statements. However, re-computation of the amounts reflected in the County Revenue Fund (CRF) bank statements revealed that the County received exchequer totalling to Kshs.2,857,197,673, resulting in unexplained and unreconciled variance of Kshs.281,590,782.

In the circumstances, the accuracy and completeness of exchequer releases of Kshs.3,138,788,455 could not be confirmed.

#### 70. Unreconciled Variances in Compensation of Employees

The statement of receipts and payment reflects compensation of employees' expenditure of Kshs.1,387,366,491 as disclosed in Note 4 to the financial statements. However, comparison of the reported balances with the re-computed - amounts as reflected in the Integrated Personnel and Payroll Database (IPPD) and manual payrolls resulted in unreconciled variances as tabulated below:

	Financial Statements (Kshs.)	IPPD (Kshs.)	Manual Payroll (Kshs.)	Combined IPPD and Manual Payroll (Kshs.)	Variance (Kshs.)
Basic Salaries of Permanent Employees	570,234,142	473,029,907	40,656,024	513,685,931	56,548,211
Personal Allowances Paid as Part of Salary	686,173,055	683,767,672	54,138,257	737,905,929	(51,732,874)
Personal Allowances Paid as Reimbursements	1,536,000	1,420,000		1,420,000	116,000

	<b>Financial Statements (Kshs.)</b>	<b>IPPD (Kshs.)</b>	<b>Manual Payroll (Kshs.)</b>	<b>Combined IPPD and Manual Payroll (Kshs.)</b>	<b>Variance (Kshs.)</b>
Employer Contribution to Compulsory National Social Schemes	44,910,225	50,414,659	1,464,376	51,879,035	(6,968,810)

In the circumstances, the accuracy and completeness of compensation of employees' expenditure of Kshs.1,387,366,491 could not be confirmed.

## **71. Unsupported Use of Goods and Services Expenditure**

The statement of financial performance reflects use of goods and services expenditure balance of Kshs.746,728,208 as disclosed in Note 5 to the financial statements. The following instances of unsupported expenditures were observed:

### **71.1 Routine Maintenance of Vehicles and Other Transport Equipment**

Included in the use of goods and services expenditure amount of Kshs.746,728,208 is routine maintenance of vehicles and other transport equipment amount of Kshs.11,526,148 which was not supported with pre-inspection and post inspection certificates from the Ministry of Transport, Infrastructure, Housing, Urban Development and Public Works contrary to the provisions of Section 104 of the Public Finance Management (National Governments) Regulations, 2015 which states that all receipts and payment vouchers of public moneys shall be properly supported by pre-numbered receipt and payment vouchers and appropriate authority and documentations.

In the circumstances, the accuracy of routine maintenance of vehicles and other transport equipment amount of Kshs.11,526,148 could not be confirmed.

### **71.2 Domestic Travel and Subsistence**

Included in use of goods and services expenditure balance of Kshs.746,728,208 is domestic travel and subsistence allowances totalling to Kshs.122,289,679. However, review of imprest records revealed that twenty-two (22) officers were each given imprest of over Kshs.1,000,000, all totalling to Kshs.33,479,902 and implying that they were out of their working station for more than one hundred and fifty (150) working days and thus spent very little time in the office. It also means that on average, each of these officers was paid imprest of Kshs.5,853 per day throughout the year.

Further, payments totalling to Kshs.18,907,700 were made to Lamu County Kenya Climate Change and the payment vouchers did not indicate payment details. No explanation was provided as to why a Fund dealing with climate change issue was not created and instead Management used domestic travel and subsistence account to make climate related payments.

In addition, payments amounting to Kshs.976,650 were indicated as “Not Found” in the payment schedule and the payment vouchers supporting the amount were not provided for audit. A local travel and tour Company was also paid Kshs.4,191,600 for processing ticketing but the details of the procurement process for this company were not provided for audit.

In the circumstances, the accuracy, completeness and propriety of domestic travel and subsistence expenditure totalling to Kshs.57,555,852 could not be confirmed.

## **72. Unsupported Transfers to Other Government Entities**

The statement of receipts and payments reflects transfers to other Government entities of Kshs.399,426,929 as disclosed in Note 7 to the financial statements. The following instances of unsupported expenditures were observed:

- i. Included in the transfers to other Government entities of Kshs.399,426,929 is an amount of Kshs.27,000,000 transferred to various youth polytechnics within the County. However, expenditure returns including ledgers, cash books, payment vouchers and procurement documents from the polytechnics in support of the expenditure of the funds were not provided for audit.
- ii. Included in the transfers to other Government entities amount of Kshs.399,426,929 is an amount of Kshs.18,375,200 transferred to Department of Lands and Physical Planning on May, 2022 for surveying of Hindi-Magogoni Phase II. However, review of land documents revealed that inception report, ground control survey report and final survey report had not been finalized and submitted. In addition, the list of the processed title deeds, the beneficiary names and miscellaneous receipt (MR) from the Ministry of Lands and Physical planning for the monies that were paid were not provided for audit.
- iii. Included in the transfers to other Government entities amount of Kshs.399,426,929 is an amount of Kshs.9,068,923 transferred to various dispensaries and health centres within the County. However, expenditure returns including ledgers, cash books, payment vouchers and procurement documents from the health facilities in support of the transfers were not provided for audit.
- iv. Included in the transfers to other Government entities amount of Kshs.399,426,929 is an amount of Kshs.187,000,000 transferred to Lamu County Kenya Climate Smart Agriculture Project. However, expenditure returns in support of the transfers were not provided for audit.

In the circumstances, the accuracy and completeness of transfers to other Government entities expenditure of Kshs.241,444,123 could not be confirmed.

## **73. Overstatement of the Bank Balances**

The statement of assets and liabilities reflects a bank balance of Kshs.350,629,392 as disclosed in Note 14A of the financial statements. However, the balance includes two



bank accounts belonging to the Municipality of Lamu with a closing balance of Kshs.31,033,171. The Municipality is a distinct entity of the County Executive which prepares and submits separate financial statements.

In the circumstances, the accuracy of the bank balance of Kshs.350,698,452 could not be confirmed.

#### **74. Unsupported Pending Bills**

The financial statements under other important disclosures as disclosed in Note 16(a) reflects opening accounts payable of Kshs.111,769,595, additions for the year of Kshs.62,481,259, amount paid during the year of Kshs.101,173,606 and closing balance of accounts payable of Kshs.73,077,248 as at 30 June, 2022. However, it was noted that pending payables amounting to Kshs.26,434,024 paid during the year under review were not disclosed in the audited financial statements for 2020/2021.

In the circumstances, the completeness and accuracy of pending accounts payables balance Kshs.73,077,248 as at 30 June, 2022 could not be confirmed.

#### **Other Matter**

#### **75. 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.4,419,376,337 and Kshs.3,138,788,455 respectively resulting to an under-funding of Kshs.1,280,587,882 or 29% of the budget. Similarly, the County spent Kshs.3,527,189,060 against an approved budget of Kshs.4,419,376,337 resulting to an under-expenditure of Kshs.892,187,277 or 20% of the budget.

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

#### **76. Late Exchequer Releases**

Review of the County Revenue Fund bank statement for the month of June and August, 2022 revealed that receipts totalling to Kshs.791,940,658 were received near or after the closure of the financial year. This means that 25% of all the County Executive's receipts were received after the closure of the year and this could have negatively impacted on service delivery.

There is need for The National Treasury to release the exchequers in good time for effective implementation of budgeted activities and programs.

## REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

### **77. Failure to Submit Financial Statements**

Management did not submit to the Auditor-General the financial statements for all level 4 and 5 Hospitals within the County. These include Lamu County Hospital King Fahad, Mpeketoni Subcounty Hospital and Faza Subcounty Hospital. This is contrary to Section 164(1) of the Public Finance Management Act, 2012 which requires that at the end of each financial year, the Accounting Officer for a County Government entity to prepare financial statements in respect of the entity in formats to be prescribed by the Accounting Standards Board and submit the entity's financial statements to the Auditor-General.

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

### **78. Compensation of Employees**

#### **78.1 Non-Compliance with the Fiscal Responsibility Principles on Wage Bill**

The statement of receipts and payments reflects compensation of employees' expenditure totalling to Kshs.1,387,366,491 as disclosed in Note 4 to the financial statements. The expenditure represents 44% of the total revenue of Kshs.3,138,788,455 and thus exceeded the recommended percentage of 35% stipulated in Section 25(1)(a) and (b) of the Public Finance Management (County Governments) Regulations, 2015 which provides 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 which shall not exceed thirty-five (35) percent of the County Government's total revenue.

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

#### **78.2 Discriminatory Recruitment of Employees**

During the year under review, Management advertised for various vacant positions in the local dailies. However, review of minutes for the recruitment process revealed that 574 applicants were not shortlisted because they did not come from Lamu County. This was contrary to Section 5(2) of the Employment Act, 2007 which states that an employer shall promote equal opportunity in employment and strive to eliminate discrimination in any employment policy or practice. Further, Section 5(3) of the Employment Act, 2007 states that no employer shall discriminate directly or indirectly, against an employee or prospective employee or harass an employee or prospective employee (a) on grounds of race, colour, sex, language, religion, political or other opinion, nationality, ethnic or social origin, disability, pregnancy, mental status or HIV status.

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

#### **78.3 Irregular Engagement of Casual Employees**

The statement of receipts and payments reflects expenditure on compensation of employees amount of Kshs.1,387,366,491 which includes wages for temporary

employees amounting to Kshs.84,513,069 as disclosed in Note 4 to the financial statements. However, it was noted that three hundred and fourteen (314) casual employees from three sampled departments who earned a total of Kshs.50,892,000 were engaged for more than three (3) continuous months. This is in contravention of Subsection 1 (a) and (b) of Section 37(1)(a) and (b) of the Employment Act, 2007 which states that where a casual employee works for a period or a number of continuous working days which amount in the aggregate to the equivalent of not less than one month or performs work which cannot 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 or more, the contract of service of the casual employee shall be deemed to be one where wages are paid monthly. In addition, documents supporting their recruitment and the muster rolls were not provided for audit.

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

#### **78.4 Irregular Promotions and Re-Designation of Staff**

Review of the Integrated Personnel and Payroll Database revealed that two hundred and forty-seven (247) employees were promoted to higher job groups during the year under review. However, Management did not provide the recommendations from the respective supervisors, staff appraisal forms, minutes of the interviews conducted and approvals from the County Public Service Board for thirty-one (31) employees for audit. This is contrary to the provisions of Paragraph B.20 of the County Human Resource Manual, 2013 which states that in selecting candidates for promotion, regard will be given to merit and ability as reflected in work performance and results, as well as seniority, experience, and academic or professional qualifications.

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

#### **78.5 Non-Compliance with the to One Third Basic Salary Rule**

During the year under review, forty-six (46) employees were paid net salary which was less than one third of their respective basic salaries. This is contrary to the provisions of Paragraph C.1(3) of the Human Resource Policies and Procedures Manual for the Public Service, 2016 which provides that public officers shall not over commit their salaries beyond two-thirds (2/3) of basic salary.

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

#### **78.6 Payment of Salaries Outside the IFMIS and IPPD**

During the year under review, the County Executive maintained two sets of payrolls. One was maintained in the Integrated Personal and Payroll Database (IPPD) and a manual payroll. It was noted that twenty-one (21) permanent employees from the Department of Health were paid a total of Kshs.9,511,203 through the manual payroll. This is contrary to the provisions of The National Treasury Circular No.13/2019 dated 28 August, 2019 which states that the allocation of personnel emoluments must be supported by Integrated

Personnel Payroll Date (IPPD) and each MDA will be required to provide this information to support personnel requirements.

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

## **79. Irregular Operation of Salary Bank Accounts in Commercial Banks**

The statement of assets and liabilities reflects a bank balance of Kshs.350,629,392 as disclosed in Note 14A to the financial statements which includes Kshs.4,085,383 in respect of three (3) salary accounts held in various commercial banks. However, Management did not provide justification for operating the three (3) salary accounts as the salaries could have been paid from the recurrent account held at the Central Bank of Kenya, contrary to Section 82(1)(a) of the Public Finance Management (County Governments) Regulations, 2015 that states that all County exchequer accounts shall be opened at the Central Bank of Kenya except for imprest bank accounts for petty cash.

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

## **80. Delay in Implementation of Projects**

During the year under review, Management had budgeted to implement two hundred and forty-nine (249) projects. Review of the projects implementation status report revealed that eighty-two (82) projects were complete, ninety-eight (98) projects had not started while sixty-nine (69) were ongoing.

Delay in project implementation may be an indication of ineffectiveness in management of public resource causing delay in service provision to the public. In addition, the prolonged completion of projects may lead to unnecessary additional costs due to inflation.

## **81. Projects and Assets Verification**

Project inspection carried out in the month of July, 2022 revealed projects had not been completed, ownership documents where VIP toilets were built were not provided, works not done as per bill of quantities and no signage erected to identify the project owner.

In the circumstances, the public may not obtain value for money for funds already invested.

## **82. Use of Goods and Services**

### **82.1 Irregular Splitting of Contract**

The statement of receipts and payments reflects use of goods and services expenditure amount of Kshs.746,728,208 which includes specialized materials and services amount of Kshs.134,027,873 as disclosed in Note 5 to the financial statements, out of which an amount of Kshs.5,299,360 was incurred on supply of learning materials. Review of procurement records revealed that Management entered into a contract for supply and delivery of Early Childhood Development learning materials with a local supplier.

However, the tender was split into two (2) contracts. This was contrary to Section 54(1) of the Public Procurement and Asset Disposal Act, 2015 which provides that no procuring entity may structure procurement as two or more procurements for the purpose of avoiding the use of a procurement procedure except where prescribed.

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

## **82.2 Irregular Contract on Cleaning Services and Landscaping**

The statement of receipts and payments reflects use of goods and services expenditure balance of Kshs.746,728,208 which includes other operating expenses amounting to Kshs.61,772,723 as disclosed in Note 5 to the financial statements. Review of expenditure records revealed that Management entered into contract with a company for cleaning services and landscaping on 1 March, 2020. The contract expired on 1 March, 2022 but it was extended to 7 February, 2023. However, detailed performance report showing company's performance during the first contract period as a requirement and subsequent approval were not provided for audit. In addition, the Management had engaged casual employees as cleaners but still outsourced the services of the company.

In the circumstances, it was not possible to confirm whether the contract for cleaning services was regular.

## **83. Acquisition of Assets**

### **83.1 Delayed Construction of a Pitch at Lamu Boys**

The statement receipts and payments reflects acquisition of assets expenditure amount of Kshs.690,587,515 which includes construction and civil works amounting to Kshs.91,464,702 as disclosed in Note 10 to the financial statements, out of which an amount of Kshs.13,059,328 was incurred on construction of Lamu Boys 7-aside pitch. The project was to be completed on 26 October, 2020. However, physical inspection at the time of audit in the month of July, 2022 revealed that the project was incomplete and the performance bond had expired on 19 December, 2020. Management did not provide proof of contract period extension and renewal of the performance bond.

In the circumstances, the value for money on the expenditure totalling to Kshs.13,059,328 could not be confirmed.

### **83.2 Delayed Pipeline Extensions of Siyu-Pate Reticulation Systems**

The statement of receipts and payments reflects acquisition of assets expenditure amount of Kshs.690,587,515 which includes construction and civil works totalling to Kshs.91,464,702 as disclosed in Note 10 to the financial statements, out of which an amount of Kshs.5,249,932 was incurred on pipeline extensions on Siyu-Pate reticulation line. Review of procurement records revealed that Management entered into a contract for pipeline extensions from Siyu to Pate, 3-phase Kenya Power and Lighting Company electricity installation and supply of project management supporting equipment at a contract sum of Kshs.19,000,000. The works commenced on 24 July, 2020 and were to be completed by 31 May, 2021. However, physical inspection at the time of audit in the month of July, 2022 revealed that the project was incomplete and the contractor had

abandoned the site with pending works in pipeline extension and installation of the 3-phase KPLC electricity.

In the circumstances, value for money from the amount of Kshs.5,249,932 spent on the project could not be confirmed.

### **83.3 Irregular Procurement for the Purchase of Cashew Nuts**

The statement of receipts and payments reflects acquisition of assets expenditure amount of Kshs.690,587,515 which includes purchase of certified seeds, breeding stock and live animals of Kshs.37,844,503 as disclosed in Note 10 to the financial statements, out of which Kshs.999,960 was incurred on purchase of cashew nuts seeds. However, procurement documents which include regret letters sent to the unsuccessful bidders, notification of award, acceptance of the award letters and contract agreement were not provided for audit. In addition, despite the recommendation by the evaluation committee that the procurement process for the purchase of cashew nuts seeds be repeated, Management went ahead and awarded the contract.

In the circumstances, it was not possible to confirm whether the contract for the purchase of cashew nuts seeds was competitively awarded.

## **84. Lack of Implementations of the Recommendations of Oversight Bodies**

Management did not provide a status report indicating how the recommendations and findings of the prior years' audit reports were addressed. This was in contravention of Section 31(1)(a) of Public Audit Act, 2015 which provides that within three months after Parliament or the County Assembly has debated and considered the final report of the Auditor-General and made recommendations, a state organ or a public entity that had been audited shall, as a preliminary step, submit a report on how it has addressed the recommendations and findings of the previous year's audit.

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

## **REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE**

### **Basis for Conclusion**

## **85. Lack of Approved Information Communication Technology Policy**

Review of the County Information Communication Technology (ICT) environment revealed that Management did not have a formal approved ICT policy in place, which includes Data Security Policy and disaster recovery plans. Further, formally documented and approved processes to manage upgrades made to all financial and performance information systems were not provided for audit.

In the circumstances, the existence of effective Information Communication Technology controls in the County Executive could not be confirmed.



## **86. Lack of Risk Management Policy and Framework**

During the year under review, Management did not put in place a Risk Management Policy Framework. This was contrary to Regulation 157(1)(a) of the Public Finance Management (County Government) Regulations, 2015 which provides that the Accounting Officer shall ensure that the County Government entity develops risk management strategies, which include fraud prevention mechanism.

In the circumstances, existence of effective risk management systems in the County Executive could not be confirmed.

## **87. Lack of a Complete Fixed Asset Register**

Annex 6 to the financial statements reflects summary of fixed assets register with a balance of Kshs.2,267,473,211. However, the asset register maintained was not prepared in a format prescribed by IPSAS 17 whose minimum requirements are: Identification or serial number, acquisition date, description of asset, location, class, cost of acquisition, accumulated depreciation, net book value and assets are tagged with identification codes.

Further, land for several medical facilities under the Department of Medical Services in various locations had not been surveyed and lacked ownership documents.

In the circumstances, the security and accountability of County assets could not be confirmed.

## **88. Grounded Motor Vehicles**

Physical inspection of the County Executive assets revealed that several motor vehicles under the Department of Medical Services were grounded. Management did not provide measures put in place for ensuring that the grounded vehicles were repaired or disposed of to prevent further loss. In addition, the County Executive did not prepare an annual assets disposal plan for items declared as unserviceable, surplus or obsolete, obsolescence stores, asset or equipment as provided under Regulation 176(1) of the Public Procurement and Asset Disposal Regulations, 2020 which states that an Accounting Officer of a procuring entity shall ensure that an annual assets disposal plan is prepared of items declared as unserviceable or obsolete stores, asset or equipment as set out under Section 53(4) of the Act.

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

## **COUNTY EXECUTIVE OF TAITA/TAVETA – NO.6**

### **REPORT ON THE FINANCIAL STATEMENTS**

#### **Basis for Qualified Opinion**

##### **89. Inaccurate Transfers from County Executive to the County Assembly**

The statement of receipts and payments reflects transfers to other Government entities amount of Kshs.403,816,567 which includes a transfer to the County Assembly amount of Kshs.4,000,000, as disclosed in Note 7 to the financial statements under related party transactions. However, records maintained by the County Assembly reflects receipts amounting to Kshs.739,183,677 resulting in unexplained and unreconciled variance of Kshs.735,183,677 between the two set of financial statements.

In the circumstances, the accuracy and completeness of the transfers to the County Assembly of Kshs.4,000,000 could not be confirmed.

##### **90. Unsupported County Own Generated Receipts**

The statement of receipts and payments reflects transfers from the County Revenue Fund amounting to Kshs.4,789,527,056 which includes County own generated revenue totalling to Kshs.315,437,150 which was not supported with collection control sheets. The receipts also could not be traced into the cashbook as the entries in the cashbook were based on revenue analysis by fee type (billings) instead of the actual receipts collected and recorded in the collection control sheets.

In addition, all receipt books in use were from the authorized vendor since some receipt books recorded in the counter receipt register were not supported with a local purchase order or contract agreement with the authorized vendor. Further, cashbooks from the four (4) Sub-Counties were not completed with the respective receipts and collection control sheet details. Also, evidence confirming the transfer of receipts to the County Revenue Fund and the monthly bank reconciliation statements were not provided for audit.

In the circumstances, the accuracy and completeness of the County own generated receipts totalling to Kshs.315,437,150 could not be confirmed.

##### **91. Unconfirmed Payments to Project Accounts**

The approved budget for the financial year 2021/22 reflects a budget allocation in respect of World Bank projects totalling to Kshs.1,453,802,244. Review of the IFMIS payment details revealed transfers totalling to Kshs.136,487,334 were charged under research, studies, project preparation, designs and supervision in respect to Kenya Climate Smart Agriculture Project (KCSAP) amount of Kshs.83,347,427, Agriculture Sector Development Support Project (ASDSP) amount of Kshs.19,559,107 and EU Instrument for Devolution Advice and Support (IDEAS) amount of Kshs.136,487,334. However, the amounts could not be traced to the respective project account statements.

In the circumstances, the accuracy and completeness of the payment of Kshs.136,487,334 could not be confirmed.

## **92. Irregularities in Non-Current Assets**

The financial statements reflects non-current assets balance of Kshs.5,076.283,504 under Annex 6 which includes land and transport equipment balances of Kshs.2,242,408,724 and Kshs.217,240,270 respectively.

However, the following anomalies were noted;

### **92.1 Grabbed Land**

Review of the land's registry records revealed that two parcels of land with original title measuring 17.500 and 6.439 hectares were sub-divided and new title deeds issued. However, no evidence was provided for audit, to confirm authorization of the sub-division, registration section and approximated areas.

### **92.2 Encroached Land**

Included in the land register is a parcel of land measuring approximately 20.23 ha reserved for showground, under Voi Municipality Block 1. Review of public records revealed registration of caution on the land on 27 June, 2022 by an individual who claims ownership.

### **92.3 Missing Public Records**

#### **92.3.1 Chawia Wusi Kaya**

The land register and public records under Chawia Wusi Kaya registered section of lands indicated that eighteen (18) parcels of land were registered under County Council from L.R No/Certificate No.2502 to 2519. However, there was no trace of ownership records of two parcels, Nos.2506 and 2507, falling within the range of parcel Nos.2502 to 2519, in the land register and public records.

#### **92.3.2 Unexplained Motor Vehicles Registration Numbers**

Information obtained from the transport department indicated that registration of County Government vehicles follows a sequential pattern. However, no explanations were provided for the missing seven (7) registration numbers in the fixed assets register in support of transport equipment.

In the circumstances, the ownership, existence and exact acreage of the parcels of land and the ownership of the seven (7) motor vehicles could not be confirmed.

## **93. Voided Transactions**

The IFMIS report indicates that payments totalling to Kshs.1,070,595,724 for nine hundred and thirteen (913) transactions were voided. However, supporting documents such as the voided payment vouchers, request to void payments, the National Treasury approval and exchequer requisitions from the Controller of Budget (COB) were not provided for audit. Further, the voided payments have not been disclosed as pending

accounts payable. The utilization of funds meant for the voided transactions was also not confirmed.

In the circumstances, these voided transactions may have been irregularly processed to pay transactions not approved by the Controller of Budget.

#### **94. Unsupported Supplementary Budgets and Unexplained Variance**

The statement of comparison of budget and actual amounts reflects adjustments of Kshs.226,903,846 which lacked information regarding actual expenditure and commitments against the planned activities as at the date of request for supplementary allocations and footnotes explaining the reasons for the variations and the impact or implications for the affected programmes.

Further, the supplementary budgets were not supported with memorandum from the Accounting Officer to the County Treasury providing explanation for the additional funding requests.

In addition, whereas the recurrent supplementary budget showed an approved budget of Kshs.222,249,229, the statement of comparison of budget and actual amounts reflects a recurrent budget adjustment of Kshs.218,249,228, resulting in an unexplained and unreconciled variance of Kshs.4,000,000.

In the circumstances, the accuracy of the statement of comparison of budget and actual amounts and regularity of the adjustments of Kshs.226,903,846 could not be confirmed.

#### **95. Irregularities in Receipts**

##### **95.1 Under-Collection of Mining Cess Revenue**

The statement of receipts and payments reflects transfers from the County Revenue Fund of Kshs.4,789,527,056 which includes county own generated revenue of Kshs.315,437,150. The county own generated revenue includes mining cess revenue of Kshs.18,192,450. However, review of invoices issued to an iron ore mining company revealed total invoiced amount of Kshs.47,612,940 at the rate of Kshs.500 per ton of ore transported as per the County Finance Act, 2020, First Schedule, Section 12.1 on mining of common minerals. It was however, noted that only Kshs.11,400,000, (or 24%) of the invoiced amount was paid by the Company as cess, resulting to an uncollected balance of Kshs.36,212,940. In addition, as per the budget, the County Executive had projected to collect Kshs.34,031,250 from iron ore and other minerals during the year. However, only Kshs.18,192,450 was collected resulting to under-collection of Kshs.15,838,800.

In the circumstances, full collection of the projected iron ore and other minerals revenue budget and value for money on the revenue collected of Kshs.18,192,450 could not be confirmed.

##### **95.2 Irregularities in Local Authority Information Operation and Management System (LAIFOMS)**

The County own generated revenue amount of Kshs.315,437,150 includes revenue totalling to Kshs.100,467,733 by Voi and Wundanyi Sub-Counties. However, review of Local Authority Information Operation and Management System (LAIFOMS) revenue

reports revealed that the fees and charges coded in the system were not consistent with those approved by the County Finance Act, 2020. Further, there was no auto reconciliation of customer ledger on billing and payments and controls in the system to prevent multiple registration of customers. The system did not generate a single receipt for multiple billings for a single customer. In addition, the coding and classification of revenue streams was not as per the Standard Chart of Account while the system did not purpose any penalties.

In the circumstances, the completeness and accuracy of own source revenue collected by the two Sub-counties could not be confirmed.

### **95.3 Invalid Valuation Rolls**

The county own generated revenue of Kshs.315,437,150 includes revenue from land/poll rates, property rent and physical planning and development amounts of Kshs.9,880,648, Kshs.5,011,121 and plot rent of Kshs.5,602,126 all totalling to Kshs.20,493,895. However, the County Executive was using Voi Municipality and Taveta Sub-County valuation rolls of 2006 while Mwatate Sub-County, Wundanyi Sub-County and Maungu towns were using the valuation rolls from defunct County Council, which was reviewed in 2009 and came into force in 2012. This is contrary to Part II of Chapter 266 of Valuation for Rating, 2012, Section 3 that requires the valuation roll to be reviewed at least once in every ten (10) years or such longer period as the Minister may approve. No evidence was provided for audit to show any review or the Ministerial approval of a longer period and the County Executive was therefore using outdated valuation rolls despite appreciation in property value, subdivisions or change in ownership.

In the circumstances, the actual current values of land/poll rates, property rent and, physical planning and development revenue could not be confirmed.

### **Other Matter**

## **96. Budgetary Control and Performance**

The summary statement of appropriation - recurrent and development combined reflects final receipts budget and actual amounts on comparable basis totalling to Kshs.7,155,607,993 and Kshs.4,789,527,056 respectively, resulting in a shortfall of revenue totalling Kshs.2,366,080,937 (or 33%) of the budget. Similarly, the County Executive spent Kshs.4,895,595,058 against an approved budget of Kshs.7,115,607,993, resulting in an under-expenditure of Kshs.2,260,012,935 (or 32%) of the budget.

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

## **97. Pending Bills Balances**

The financial statements in Annex 2,3 and 4 reflects total pending bills of Kshs.1,447,913,871, comprising of accounts payable, staff payables and other pending payables of Kshs.1,200,275,144, Kshs.208,952,556 and Kshs.38,686,171 respectively. Review of the pending bills schedules revealed that, pending accounts payable of Kshs.514,301,659 and other pending payables of Kshs.15,217,661, all totalling to

Kshs.529,519,320 have been outstanding from 2019/2020 and earlier years with some dating as far back as 2014/2015.

Further, total pending staff payables of Kshs.208,952,556 and other pending payables of Kshs.38,686,171 are both indicated as additions during the year with Nil balances brought forward from the financial year 2020/2021 and earlier years. However, the respective pending bills schedule provided reflect balances of Kshs.3,219,974 and Kshs.30,600,181 respectively relating to financial year 2020/2021 and earlier years. No explanations were provided for audit the Nil balances brought forward reflected in the financial statements and the resultant variances.

In the circumstances, the accuracy and completeness of the total pending bills amount of Kshs.1,447,913,871 could not be confirmed.

## REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

### **Basis for Conclusion**

#### **98. Non-Compliance with the County Human Resource Management Policy**

##### **98.1 Unplanned Staff Recruitments**

Review of recruitment files revealed that request for the hiring of new staff was done without prior planning and approval as required by the County Human Resource Management Policy and Manual Section B.2(2) which provides that on the basis of these Human Resource plans, County Departments shall be required to develop annual recruitment plans backed by evidence of budgetary allocation which will be forwarded to the County Public Service Board at the beginning of each financial year to enable it plan to fill the vacancies.

Further, during the year under review, an allocation of Kshs.182,400,000 was made for the payment of salaries to two hundred and forty (240) new staff recruits as per the County's supplementary estimates II. However, five hundred and forty-six (546) new staff were recruited into the service during the year under review, resulting into an increase in the annual wage bill to an amount of Kshs.250,696,498 which was more than the allocated amount.

##### **98.2 Irregular Staff Acting Positions**

During the year under review the positions of County Chief Officer - Finance and Economic Planning (Job Group 'S') and County Chief Officer, Public Works, Housing, Roads, Transport and Infrastructure (Job Group 'S') were vacant and two directors performed the roles in acting capacities with effect from 25 November, 2020 and 24 February, 2022 respectively. However, the essential documents for acting appointment which includes, draft indent for advertisement of the vacant post and a seniority list of officers including accounts of their performance were not forwarded to the County Public Service Board as required before the appointment contrary to Section C.14 (4) of the Taita Taveta County Human Resource Management Policy and Manual which states that all recommendations for acting appointments in Job Group 'P' and above shall



be accompanied by a draft indent for advertisement of the vacancy and shall be forwarded to the County Public Service Board.

In addition, the Acting County Chief Officer Finance and Economic Planning had been acting in this post for a period exceeding the permitted six (6) months contrary to Chapter 4.3.1 of the County Government of Taita Taveta Recruitment and Selection Policy, 2020 which provides that an officer may be appointed in an acting capacity for a period of at least thirty days but not exceeding six (6) months.

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

#### **99. Invalid Performance Bonds**

The approved budget reflects county contribution of Kshs.29,624,929 towards World Bank projects. Review of project files for three (3) selected projects for construction of banana processing plant, banana collection centers and construction of Kwawanyika with contract amounts of Kshs.39,740,573, Kshs.11,304,920 and Kshs.65,883,958 respectively, revealed that the performance securities in place had expired on 21 April, 2022 despite the fact that the projects were still ongoing.

In the circumstances, the projects risk of non-performance could not be confirmed.

#### **100. Breach of Conditional Grants Agreement**

The approved budget reflects a budget allocation in respect to county contributions towards World Bank projects totalling to Kshs.1,453,802,244. Review of the agreements and the County contributions summary revealed that the County had not contributed Kshs.90,303,365 for four projects sampled as at the time of audit and as per the signed agreements. The non-compliance may result to inadequate funding and stalling of projects. No explanation was provided for the failure to contribute the funds.

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

#### **101. Irregular Ex-Gratia Payment**

Note 5 to the financial statements reflects an amount of Kshs.930,127,691 in respect to use of goods and services. The amount includes other operating expenses of Kshs.33,235,402. Included in the expenditure was a payment of Kshs.1,500,000 to a hospital on 20 August, 2021 for medical bill of a member of Taita Taveta County Assembly. However, the authority to pay and the budget line the payment was charged to was not provided for audit. Further, no expenditure was provided as to why the bill was met by the County Executive of Taita Taveta yet the beneficiary was not an employee of the Executive.

In the circumstances, the regularity of the payment of Kshs.1,500,000 could not be confirmed.

#### **102. Kenya Climate Smart Agriculture Project GoK Counterpart Funds**

The financing agreements for Kenya Climate Smart Agriculture Project (KCSAP) dated 07 April, 2017 required that the participating Counties factor in co-financing in the recurrent expenditure budget and 20% County contribution to County investments (sub-

projects). However, it was noted that the County Project Coordination Unit (CPCU) has so far only received funds totalling to Kshs.15,645,234 out of the expected Kshs.106,067,561 resulting to a shortfall of Kshs.90,422,327 which has slowed down projects' implementation, consequently, undermining the development objective of increasing agricultural productivity and building resilience to climate change risks in the targeted smallholder farming and pastoral communities of the County.

In the circumstances, value for money on the expenditure may not be realized.

### **103. Undetermined Legal Costs**

The statement of receipts and payments reflects use of goods and services amount of Kshs.955,324,534. Included in the expenditure is other operating expenses amounting to Kshs.33,235,402 as disclosed in Note 5 to the financial statements. Included in the other operating expenses is legal fees amount of Kshs.24,048,678 paid during the year under review and a balance of Kshs.48,255,643 included under pending bills balance as at 30 June, 2022. However, the amount charged as legal costs were not calculated as per Advocate Remuneration Order 2014. The County Government did not also support or explain how the rates charged were arrived at.

In the circumstances, value for money and regularity of the payment of Kshs.24,048,678 and balance of Kshs.48,255,643 could not be confirmed.

### **104. Non-Compliance with the Fiscal Responsibility Principles on Wage Bill**

The statement of receipts and payments reflects an expenditure of Kshs.2,827,889,487 on compensation of employees and as disclosed in Note 4 to the financial statements, representing approximately 59% of the County Government's total revenue of Kshs.4,789,527,056 as reported in the statement of receipts and payments, contrary to Regulation 25(1) (b) Public Finance Management (County Governments) Regulations, 2015 which provides that in addition to the fiscal responsibility principles set out in Section 107 of the Act, the limit set under paragraph (a) above, shall not exceed thirty-five (35) percent of the County Government's total revenue.

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

### **105. Lack of Citizen Participation in Planning and Budgeting**

Review of the budget making process for County Executive for the year under review revealed that the County Executive was not in compliance with Articles 10(2)(d), 35, 232(1)(d) and 232(2) of the Constitution of Kenya, 2010 for failure to follow the guidelines in effective public participation as highlighted by the Public Service Commission. In developing the budget, the Management failed to develop a criteria to be used in identifying the stakeholders that would participate in the budget process and the method of communication. Management did not also determine a public participation approach that would be most effective and failed to provide a feedback to stakeholders of their inputs in policy decisions.

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

## **106. Failure to Implement the Recommendations of Oversight Bodies**

Review of documents revealed that the County Executive did not provide memorandums submitted to the County Assembly and Senate for recommendations made by the County Assembly and Senate on the report of Auditor-General for the financial statements of financial years 2017/2018 and 2018 /2019.

In the circumstances, it was not possible to confirm that Management adhered to the recommendations made by the oversight bodies.

## **107. Non-Compliance with the Law on Staff Ethnic Composition**

Review of the County Executive staff list revealed that out of the 3,298 staff employed by the County, 2,176 were from one ethnic community which was more than one third of the staff. This is contrary to Section 7(2) of the National Cohesion and Integration Commission Act, 2008 which requires that no Public Institution shall have more than one third of its staff establishment from the same ethnic community. Further, analysis of the IPPD payroll during the year under review revealed that out of the three hundred and sixty-three (363) newly recruited staff, two hundred and thirty (230) (63.4%) were from the dominant ethnic community.

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

## **108. Stalled Projects**

Review of the project's implementation status report as at 30 June, 2022, submitted for audit in July, 2022 from the Health Department, revealed that the report had indicated that four (4) projects at contract amounts totalling to Kshs.23,495,735 with certified amount of Kshs.14,116,048 had stalled.

In the circumstances, the value for money on the contracted projects totalling to Kshs.23,495,735 could not be confirmed.

## **109. Inconsistencies in the Projects Implementation Status Report**

As previously reported, in the financial year ended 30 June, 2021, the County Executive had implemented three hundred and three (303) projects across eight (8) departments at a cost of Kshs.738,017,031, out of which Kshs.291,024,171 was paid as at the end of the year 2021. As at 30 June, 2022, only six departments had provided the project status reports for one hundred and sixty-seven (167) projects awarded at a total contract sum of Kshs.868,044,786 out of which an amount of Kshs.269,760,319 was paid. However, no explanation was provided for the inconsistencies with regards to the number of projects and the contract sums for the projects in each department. The amounts paid differed with the previous year as compared to the current year.

Further, as reported previously, the project files did not contain details of the projects budget, contract amounts, progress reports of work certified, payments made and status of the projects as per the inspections done and site meeting minutes as required under Section 152 of the Public Procurement and Asset Disposal Act, 2015.

In the circumstances, the value for money and regularity of the disclosed projects expenditure amounting to Kshs.269,760,319 could not be confirmed.

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

### **Basis for Conclusion**

#### **110. Lack of Audit Committee**

During the financial year ended 30 June, 2022, the County Government of Taita Taveta operated without an Audit Committee as required in Regulation 167 of the Public Finance Management (County Governments) Regulations, 2015 that provides that each County Government entity shall establish an audit committee. Further, records provided for audit did not indicate any evidence of planning for the Committee.

In the circumstances, effectiveness of internal controls system and susceptibility to risks of loss of resources could not be confirmed.

#### **111. Incomplete Non - Current Asset Register**

The summary of non-current asset register in Annex 6 to the financial statements reflects assets balance of Kshs.5,076,283,504 as at 30 June, 2022 (2021 - Kshs.4,727,762,695) However, the asset register provided for audit in support of the balance missed significant information such as the date of acquisition, make and model, current location, serial number, cost or valuation and accumulated depreciation.

In the circumstances, the accuracy, completeness and existence of the status of the assets held by the County Executive could not be confirmed.

## **COUNTY EXECUTIVE OF GARISSA – NO.7**

### **REPORT ON THE FINANCIAL STATEMENTS**

#### **Basis for Qualified Opinion**

##### **112. Inaccuracies in Cash and Cash Equivalents**

The statement of financial position reflects cash and cash equivalents balance of Kshs.27,599,370 and as disclosed in Note 12 to the financial statements. Review of related records revealed the following anomalies;

- i. The balance includes six (6) bank accounts with Nil balances which were not supported with bank statements, certificate of balances, cash books and bank reconciliation statements.
- ii. The Garissa County Revenue Collection account with a balance of Kshs.3,851,377 and eight other bank accounts held at Kenya Commercial Bank (KCB) were not included in the bank balances in Note 12 to the financial statements.
- iii. The bank reconciliation statement for Kenya Devolution Support Project (KDSP) account revealed unpresented cheques amounting to Kshs.10,691,980 whose details of payees and date of clearance were not provided for audit.

In the circumstances, the completeness and accuracy of the bank balances of Kshs.27,599,370 could not be confirmed.

##### **113. Variance Between Financial Statements and Payrolls**

The statement of receipts and payments reflects compensation of employees' balance of Kshs.4,895,318,924. However, the Integrated Personnel Payroll Database and manual payrolls reflected amounts totalling to Kshs.4,950,334,162, resulting in unexplained variance of Kshs.55,015,238.

In the circumstances, the accuracy and completeness of compensation of employees cost of Kshs.4,895,318,924 could not be confirmed.

##### **114. Unsupported Payment of Pending Bills**

The County Executive made payments amounting to Kshs.807,557,659 in respect of pending bills from previous years. However, project files relating to payments amounting to Kshs.64,400,305 were not provided for audit. In addition, review of a sample of payment vouchers revealed that payments totalling to Kshs.16,933,182 were not supported with local purchase orders/ local service orders that had been committed in the previous year. Further, payments amounting to Kshs.207,551,845 could not be traced in the previous year's records.

In the circumstances, the accuracy, disclosure and completeness of the pending bills amounting to Kshs.288,885,332 paid during the year could not be confirmed.

## **115. Use of Goods and Services**

The statement of receipts and payments reflects use of goods and services expenditure amount of Kshs.718,179,797 as disclosed in Note 6 to the financial statements. Review of records revealed the following anomalies;

### **115.1 Unsupported Routine Maintenance - Motor Vehicles and Other Equipment**

Included in the expenditure is an amount of Kshs.26,356,138 incurred on routine maintenance of motor vehicle and other equipment. However, payments amounting to Kshs.9,681,364 were not supported with requisitions from user departments, local service order for the services rendered, certificate of inspection from mechanical engineer before and after the repairs and motor vehicle work tickets. In addition, the repairs done were not recorded in the respective vehicle log books.

In the circumstances, the occurrence, accuracy and completeness of the expenditure of Kshs.9,681,364 incurred on maintenance of motor vehicles could not be confirmed.

### **115.2 Unsupported Routine Maintenance - Other Assets**

Disclosed in Note 6 to the financial statements is an amount of Kshs.2,020,000 incurred on routine maintenance-other assets. However, the payment vouchers and other supporting documents for the expenditure were not provided for audit.

In the circumstances, the occurrence, accuracy and completeness of the expenditure of Kshs.2,020,000 on routine maintenance – other assets could not be confirmed.

### **115.3 Unsupported Rental of Produced Assets**

Included in the use of goods and services amount is rental of produced assets expenditure amounting to Kshs.50,220,578 out of which payments amounting to Kshs.15,200,000 were not supported with invoices, contract of engagement and request from the user department. Further, payments of Kshs.3,700,000 and Kshs.4,500,000 were made towards office rent. However, the details of the rented office including lease agreements were not provided for audit.

In the circumstances, the regularity and completeness of expenditure of Kshs.23,400,000 on rental of produced assets could not be confirmed.

### **115.4 Unsupported Training Expenses**

Included in the use of goods and services is an amount of Kshs.1,560,116 incurred on training. However, payment vouchers and other supporting documents for the expenditure were not provided for audit.

In the circumstances, the completeness and accuracy of training expenses amounting to Kshs.1,560,116 could not be confirmed.



### **115.5 Unsupported Pharmaceutical Expenditure**

An expenditure amounting to Kshs.14,129,229 incurred on purchase of pharmaceutical drugs, non-pharmaceuticals, dressings and lab reagents was not supported with inspection and acceptance committee reports, delivery notes, counter receipt voucher (S13) and local purchase orders (LPOs), and counter issue notes (S11).

In the circumstances, the accuracy and completeness of the expenditure of Kshs.14,129,229 on purchase of pharmaceutical drugs could not be confirmed.

### **115.6 Unaccounted Office and General Supplies**

Included in use of goods and services expenditure is an amount of Kshs.68,863,944 in respect of office and general supplies out of which an expenditure amounting to Kshs.17,195,500 was not supported with accountable documents such as Counter Receipt Vouchers (S13), counter issue notes (S11), inspection and acceptance committee reports and user department purchase requisitions. Further, a payment of Kshs.15,196,284 was not supported with a payment voucher.

In the circumstances, the accuracy and completeness of the expenditure amount of Kshs.32,391,784 on office and several supplies could not be confirmed.

### **115.7 Unsupported Domestic Travel and Subsistence**

Included in the use of goods and services balance of Kshs.718,179,797 is an amount of Kshs.74,984,600 in respect of domestic travel and subsistence allowances. However, payments amounting to Kshs.24,535,600 were not supported with activity budgets, approvals for the activities, back to office reports, list of participants and evidence of travel by the participants. Further, included in the amount of Kshs.74,984,600 are payments to five (5) officers issued with imprests totalling to Kshs.30,456,321, which is about 41% of all domestic travel and subsistence allowance paid during the year. No justification was provided for the officers being issued with this huge amount of imprests.

In the circumstances, the completeness and regularity of domestic travel and subsistence expenditure of Kshs.54,991,921 could not be confirmed.

### **115.8 Unsupported Hospitality Supplies and Services**

Included in the use of goods and services is hospitality, supplies and services expenditure amount of Kshs.18,207,800 out of which payments amounting to Kshs.13,970,500 were not supported with approved requisitions from the user departments and daily attendance registers. In addition, included in the hospitality, supplies and services expenditure are payments made to three (3) officers totalling to Kshs.10,867,000 for cash purchases. No justification was provided for the payments through imprests without following the requisite procurement procedures.

In the circumstances, the accuracy, regularity and completeness of hospitality supplies and services expenditure amounting to Kshs.13,970,500 could not be confirmed.

### **115.9 Unsupported Printing, Advertising and Information Supplies and Services**

Included in the use of goods and services balance of Kshs.718,179,797 is an amount of Kshs.26,397,666 incurred on printing, advertising and information supplies and services. However, an expenditure amounting to Kshs.9,420,114 was not supported with payment vouchers, invoices, delivery notes and other supporting documents.

In the circumstances, the accuracy and completeness of expenditure amounting to Kshs.9,420,114 in respect of printing advertising and information supplies and services could not be confirmed.

### **116. Unsupported Acquisition of Assets**

The statement of receipts and payments reflects an expenditure amounting to Kshs.1,174,954,705 in respect of acquisition of assets as disclosed in Note 9 to the financial statements. Included in the expenditure is an amount of Kshs.255,280,160 relating to purchase of specialized plant, equipment and machinery. However, payments totalling to Kshs.26,567,402 were not supported with approved requisitions from user departments, inspection and acceptance committee reports and stores ledger(S3).

Further, an expenditure of Kshs.49,061,897 incurred on purchase of office furniture and fittings includes payments amounting to Kshs.42,666,263 whose payment vouchers were not provided for audit.

In addition, included in expenditure is an amount of Kshs.9,289,784 incurred on purchase of certified seeds, breeding stock and live animals. However, payment vouchers and other supporting documents for the expenditure were not provided for audit.

In the circumstances, the accuracy and completeness of the expenditure totalling to Kshs.78,523,448 incurred in acquisition of assets could not be confirmed.

### **117. Unaccounted Other Grants and Payments**

The statement of receipts and payments reflects transfer of other capital grants of Kshs.986,711,029 as disclosed in Note 8 to the financial statements. Included in the expenditure is an amount of Kshs.710,261,170 relating to other capital grants and transfers out of which an amount of Kshs.112,625,978 was transferred to the Kenya Urban Support Programme (KUSP) being implemented by Garissa Municipal Board. Review of the Board's financial statements revealed that, out of an amount of Kshs.112,625,978 transferred, an amount of Kshs.10,200,000 was recognized in the financial statements of the Board, resulting in unaccounted for transfer of Kshs.102,425,978.

In the circumstances, the accuracy and completeness of transfer of other capital grants and transfers of Kshs.112,625,978 could not be confirmed.

### **118. Unsupported Finance Costs Including Loan Interest**

As disclosed in Note 11 to the financial statements, the statement of receipts and payments reflects an amount of Kshs.23,157,242 in respect of finance costs including loan interest incurred on monthly overdraft of the salary account held at a local bank. The interest is charged by the bank for processing salaries of employees based on schedule of payments before actual transfer of funds by the County Executive. However, Management did not provide details of any agreement between the County Executive and the Bank for the overdraft facility.

In the circumstances, the accuracy and regularity of finance cost amount of Kshs.23,157,242 could not be confirmed.

### **Other Matter**

### **119. Budgetary Control and Performance**

The summary statement of appropriation reflects final receipts budget and actual on comparable basis of Kshs.10,440,738,131 and Kshs7,748,750,749 respectively resulting to an under-funding of Kshs.2,691,987,382 or 26% of the budget. Similarly, the County Executive spent Kshs.8,833,460,349 against an approved budget of Kshs.10,440,738,131 resulting to an under-expenditure of Kshs1,607,277,782 or 15% of the budget.

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

### **120. Late Exchequer Issues**

The statement of receipts and payments reflects total exchequer receipts amount of Kshs.7,293,035,276 and proceeds from domestic and foreign grants amount of Kshs.384,317,973 out of which an amount of Kshs.1,769,080,118 or 23% of the receipts were received in June, 2022.

In the circumstances, the late remittances by The National Treasury could have affected the County Executive's planned and budgeted programmes and activities.

### **121. Pending Bills**

Annex II to the financial statements reflects pending bills amounting to Kshs.1,383,348,868 as at 30 June, 2022. However, the County Executive did not maintain a register with details of ages of the bills, opening amounts, additions during the year, payments as well as the closing balances.

Failure to settle bills during the year to which they relate to adversely affects the provisions of the subsequent year to which they will form a first charge.

### **122. Unresolved Prior Year 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 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

#### **123. Failure to Transfer Rental Deductions to the County Revenue Fund**

Review of the records provided for audit revealed that an amount of Kshs.2,161,960 was deducted as rent from salaries of staff occupying County Executive houses. However, the amount deducted was not transferred to the County Revenue Fund as required by Regulation 80(1) of the Public Finance Management (County Governments) Regulation, 2015.

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

#### **124. Human Resources**

##### **124.1 Unconfirmed Remittance of Payroll Deductions**

The statement of receipts and payments reflects compensation of employees cost of Kshs.4,895,318,924. Review of payroll records reflects deductions made from payroll amounting to Kshs.1,000,350,709. However, no remittance statements or acknowledgement receipts from relevant bodies were provided for audit. Failure to remit deductions within the stipulated timelines exposes the entity to risks of penalties and interests on delayed amounts.

In the circumstances, full remittances to the relevant bodies could not be confirmed.

##### **124.2 Payments to a County Officer on Behalf of Casuals**

The statement of receipts and payments reflects compensation of employees cost of Kshs.4,895,318,924. Review of the manual payroll provided for audit revealed payments made to a County Officer amounting to Kshs.8,520,620 on behalf of casuals. However, payment schedules and acknowledgement of receipts of wages by the beneficiaries were not provided for audit. Management did not explain the reasons for not paying the wages directly to the respective workers bank accounts.

In the circumstances, the regularity of the payments of Kshs.8,520,620 could not be confirmed.

##### **124.3 Non-Compliance with the Fiscal Responsibility Principles – Wage Bill**

Review of the County Executive payrolls revealed that an amount of Kshs.4,895,318,924 was incurred on compensation of employees which is 63% of the County Executive total receipts of Kshs.7,748,750,749. This was contrary to the set limit of 35% stipulated in

Regulation 25 (1)(b) of the Public Finance Management (County Governments) Regulations, 2015.

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

#### **124.4 Unsupported Recruitment of New Employees**

Review of the Integrated Personnel and Payroll Database system data for the year under review, revealed an additional forty-five (45) employees in the payroll. However, documents supporting the recruitment were not provided for audit to confirm whether the recruitment of the new officers was done in compliance with the Human Resource Policies and Procedures Manual for the Public Service May, 2016.

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

#### **124.5 Non-Compliance with the Law on Staff Ethnic Composition**

Review of employee records revealed that the County Executive had three thousand nine hundred and fifty-seven (3,957) employees out of whom two thousand eight hundred and ten (2,810) or 71% were from the dominant ethnic community. This was 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.

#### **124.6 Irregular Retainment of Staff Past Retirement Age**

Analysis of the IPPD data provided for audit for the financial year 2021/2022 revealed that one hundred and thirty-one (131) employees were above the mandatory retirement age. Further, review of employee records revealed that some of the employees who were beyond 60 years old were engaged in 2018 and were yet to be confirmed.

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

#### **124.7 Non-Compliance with a Third of the Basic Pay Rule**

Review of the payroll records for the twelve (12) months from July, 2021 to June, 2022 revealed that five hundred and twenty-five (525) members of staff received net salaries that was less than a third of their basic pay, contrary to the provisions Section 19(3) of Employment Act, 2007.

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

#### **124.8 Irregular Payment of Salary on Transfer of Services**

Review of employee records revealed that an officer transferred her services to Council of Governors (COG) as per her appointment letter. The officer was appointed as director of health services for a contract period of 3 years from 19 August, 2021 and a request was made to stop her salary up to 3 August, 2024. However, the officer received salary

payments for the period between September, 2021 to January, 2022 amounting to Kshs.1,169,390 and no recovery from the former staff had been made as at 30 June, 2022.

In the circumstances, the salary payment of Kshs.1,169,390 was irregular and may lead to loss of public funds.

#### **125. Overpayment for Works**

The County Executive awarded a contract for the upgrading to bitumen standards of Galbet Township access road at a contract sum of Kshs.81,825,853 in the financial year 2019/2020. Review of records indicated that the contractor had been paid a total of Kshs.73,417,109 as at 30 June, 2022. Included in the total payment is an amount of Kshs.15,043,000 relating to culvert and drainage works which was priced in the bill of quantities at Kshs.11,404,250. No justification was provided for the overpayment of Kshs.3,638,750.

Further, physical inspection carried out on 1 August, 2022 revealed that the drainage works were poorly done.

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

#### **126. Irregular Variation of Contracts**

Review of procurement and other records provided for audit revealed that a contract for the construction of the proposed storm water drainage and pedestrian walkways was awarded at a contract sum of Kshs.91,458,775 but was varied to Kshs.101,643,235 resulting to Kshs.10,184,460 variation or 11% of the contract sum. Similarly, a contract for the proposed construction of Qorahey Market amounting to Kshs.74,341,042 was varied to Kshs.83,959,580 resulting to a variation of Kshs.9,618,538 or 13% of the original contract sum. Although variation of the contracts was initiated by the project managers and approved by Garissa Municipality Board, the board minutes approving the variation were not provided for audit.

In the circumstances, the contracts may have been varied irregularly and stakeholders may not have obtained value for their resources.

#### **127. Non-Compliance with Financing Agreement on Agriculture Sector Development Support Program II (ASDSP II)**

Included in other grants and payments amount of Kshs.986,711,029 is an amount of Kshs.6,000,000 transferred to Agriculture Sector Development Support Program II (ASDSP II) as disclosed in Note 8 to the financial statements. Review of the financing agreement established that one of the pre-conditions to commence implementation of Agriculture Sector Development Support Program was for counties to make own contribution to the programme to trigger the Government of Kenya and Government of Sweden counterpart funding. The contribution schedule in the signed memorandum of understanding provided that an amount of Kshs.5,500,000 should be disbursed in each of the financial year. However, as at 30 June, 2022, the County Executive owed the project an amount of Kshs.16,500,000.



In the circumstance, Management was in breach of the financing agreement.

#### **128. Irregular Procurement of Non-Pharmaceutical Products**

The statement of receipts and payments reflects acquisition of assets amount of Kshs.1,174,954,705 as disclosed in Note 8 to the financial statements. Included in the expenditure is an amount of Kshs.331,591,538 incurred on specialized materials and services out of which an expenditure of Kshs.25,046,160 was incurred on purchase of non-pharmaceutical products. Review of procurement records revealed that Management used direct method of procurement in identifying the suppliers. No, justification was provided for the use of this method of procurement.

In the circumstances, Management was in breach of the law and value for money in this expenditure could not be confirmed.

#### **129. Stalled Projects**

Physical inspection carried out in the month of November, 2022 revealed that twelve (12) projects with a contract sum of Kshs.503,090,150 undertaken by the Garissa County Executive in previous financial years had stalled. During the year under review, an amount of Kshs.6,468,237 was paid towards these projects yet no activities were on-going. Management did not explain reasons for failure to complete these projects.

In the circumstances, delay in completion of the projects may lead to escalation of project costs and the public may not obtain value for money on the expenditure already incurred.

#### **130. Unapproved Inter-Account Borrowing of Funds**

Review of financial records revealed that there were payments of Kshs.119,256,070 and Kshs.58,395,000 to Garissa County recurrent account and development accounts respectively and which were borrowed between the county votes and accounts without seeking County Assembly's approvals. Further an inter-borrowing of Kshs.4,143,659 was done on 6 July, 2022 from Road Maintenance Levy Fund (RMFL) account without approval. This was contrary to Regulation 47(1)(d) of the Public Finance Management (County Governments) Regulations 2015 which prohibits inter-vote borrowing.

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

#### **131. Irregular Use of Emergency Fund**

Note 8 to the financial statements reflects other grants and payments of Kshs.986,711,029 which includes an amount of Kshs.60,403,634 and Kshs.176,046,225 incurred on emergency relief and refugee assistance and emergency donations respectively. Review of the expenditure and related records revealed that there was no budgetary allocation to the Fund and the expenditures were incurred in normal activities of the County Executive which were not of emergency nature. This was contrary to Section 110(1) and (10) of the Public Finance Management Act, 2012 which provides the guidelines on incurring expenditure on emergencies.

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

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

### **Basis for Conclusion**

#### **132. Lack of Approved Staff Establishment**

Review of employee records revealed that three thousand nine hundred and fifty-seven (3,957) employees were in the Integrated Personnel and Payroll Database system (IPPD) and two thousand five hundred and thirty-seven (2,537) in the manual payroll. However, the County Executive is yet to approve its staff establishment.

In the circumstances, it was not possible to determine if the County Executive operated with an optimal number of staff.

#### **133. Land and Property Rents and Rates**

The County Executive had budgeted to raise an amount of Kshs.10,000,000 from land and property rent and rates. Review of land and property rent and files records revealed that an amount of Kshs.13,908,727 was collected, resulting to Kshs.3,908,727 or 39% over collection. However, an updated register of land and properties and a ledger of billings, waivers and outstanding payment by defaulters were not provided for audit. Further, there was no clear policy in place to ensure optimum collection. Failure to keep an updated register of land and properties and ledger of billings, waivers and outstanding payments may result to loss of revenue from land and property rent and rates.

In the circumstances, clear policy in place to ensure optimum collection could not be confirmed.

#### **134. Unconfirmed Existence County Motor Vehicles**

Review of motor vehicle inventory revealed that the County Executive had a total fleet of one hundred and sixty-nine (169) vehicles deployed to various departments. Out of this fleet, forty (40) vehicles are in good condition, ninety-six (96) are grounded whereas twenty-three (23) vehicles are unserviceable and have been marked for disposal. The remaining ten (10) vehicles were said to be lost/disappeared or in the hands of private individuals. Management has not given information on the circumstances in which the vehicles disappeared or got into the hands of private individuals. In addition, motor vehicle log books, transfer letters or any proof of ownership for all the vehicles were not provided for audit.

In the circumstances, the effective of controls on custody of motor vehicles could not be confirmed.

# COUNTY EXECUTIVE OF WAJIR– NO.8

## REPORT ON THE FINANCIAL STATEMENTS

### Basis for Adverse Opinion

#### 135. Lack of Description in Expenditure Schedules

The statement of receipts and payments reflects payments totalling to Kshs.2,279,959,175. However, the ledger schedules provided by Management to support the amounts in the financial statements did not disclose details including the nature and purpose of the payments for the transactions reflected in the schedules. Instead, the schedules reflected default description including communication, supplies and services, Wajir County Government Standing Imprest and construction of buildings while some schedules did not have any description. It was therefore not possible to confirm the nature of payments in the ledger transactions and whether expenditure was incurred in accordance with the chart of accounts in the approved budget.

In the circumstances, the accuracy, completeness and propriety of the amounts reflected in the financial statements could not be confirmed.

#### 136. Use of Goods and Services

The statement of receipts and payments reflects expenditure on use of goods and services amount of Kshs.1,658,100,886. The following observations were made:

##### 136.1 Unsupported Expenditure

The payments summarised below totalling to Kshs.92,018,288 were not supported with the relevant documents including imprest warrants, approvals, stores records, deployment letters, motor vehicle logbooks (GP55) and register of repairs.

Details	Amount (Kshs.)
Office and General Supplies	12,556,360
Domestic Travel and Subsistence	6,701,100
Specialised Materials	32,551,810
Fuel, Oil and Lubricants	20,111,736
Routine Maintenance of Motor Vehicles	10,020,492
Other Operating Expenses- Security Operations	29,334,250
<b>Total</b>	<b>92,018,288</b>

In the circumstances, the accuracy and completeness of expenditure amounting to Kshs.92,018,288 on use of goods and services could not be confirmed.

##### 136.2 Unaccounted for Medical Supplies

Included in the expenditure is an amount of Kshs.272,690,656 in respect of specialized materials and services which includes an amount of Kshs.124,019,214 paid to Kenya Medical Supplies Authority for supply and delivery medical drugs. However, the

expenditure was not supported with stores records contrary to Section 162 of Public Procurement and Disposal Act, 2015. Further, review of the expenditure revealed that an amount of Kshs.48,903,387 was paid as a pending bill relating to 2020/2021 financial year. The pending bill was however not disclosed in the previous year's financial statement. In addition, the County Executive incurred an expenditure of Kshs.127,119,014 on supply of medical drugs against a budget of Kshs.125,000,000 resulting in an over-expenditure of Kshs.2,119,014.

In the circumstances, the accuracy and occurrence of expenditure on specialised materials and services of Kshs.272,690,656 could not be confirmed.

### **136.3 Unsupported Insurance Costs**

The amount includes an amount of Kshs.337,332,736 in respect of insurance costs out of which expenditure amounting to Kshs.200,966,936 was paid as part payment for premiums in respect of three thousand seven hundred and forty-five (3,745) employees' medical insurance cover. However, the medical cover agreement between the Executive and the Insurer was not provided for audit. Further, the list of employees covered by the scheme was not provided for audit to confirm whether the medical cover was as per the rates approved by the Salaries and Remuneration Commission. In addition, the County Executive recruited additional employees during the year under review and there was no evidence provided to confirm that the new employees were included in the cover.

In the circumstances, the accuracy and completeness of the expenditure of Kshs.337,332,736 in respect of insurance costs could not be confirmed.

### **136.4 Rentals of Produce Assets**

Included in the rentals of produced assets amount is an expenditure amounting to Kshs.15,383,000 on hire of transport services. Review of records provided for audit revealed that the Executive did not have a transport policy guideline on management of transport. Further, there was no documentary evidence to confirm that the transport officer certified and confirmed that the departments did not have enough vehicles to justify hiring of the vehicles.

In the circumstances, the propriety of Kshs.15,383,000 spent on hire of transport services could not be confirmed.

### **136.5 Consultancy Services for Cadastral Survey Registration**

The County Executive entered into a contract for consultancy services for Cadastral Survey Registration within three neighbourhoods of Wajir township at a contract sum of Kshs.46,745,960 and contract period of 12 months. During the year under review, an amount of Kshs.14,023,788, being 30% payment after completion of re-planning of Halane and Got Caate areas and completion of surveying and beaconing 1,100 plots was paid. However, the survey report prepared, and which was required to be approved by relevant government agency as required by part 6.4 of the contract was not provided for audit.

In the circumstances, the propriety and accuracy of payment amount of Kshs.14,023,788 for consultancy services could not be confirmed.

## **137. Acquisition of Assets**

### **137.1 Unsupported Purchase of Office Furniture and General Equipment**

The statement of receipts and payments reflects acquisition of assets amount of Kshs.2,279,959,175 as disclosed in Note 11 to the financial statements which includes expenditure of Kshs.39,794,229 incurred on purchase of office furniture and general equipment. However, review of the payment documents revealed that payments amounting to Kshs.5,330,500 were not supported with requisitions from the relevant departments, invoices, delivery notes and Local Purchase Orders. The furniture acquired was not inspected by the inspection and acceptance committee and recorded in the asset register.

In the circumstances, the accuracy, propriety and completeness of purchase of office furniture and general equipment amount of Kshs.5,330,500 could not be confirmed.

### **137.2 Construction, Completion and Operationalization of Model Health Centre**

The statement of receipts and payments reflects acquisition of assets amount of Kshs.2,279,959,179. Included in this amount is construction of buildings expenditure amounting to Kshs.214,872,952 out of which an amount of Kshs.11,085,862 was paid for construction, completion and operationalization of a model health centre at Sabuli Health Centre as part payment of an outstanding debt of Kshs.26,802,132. However, the contract was awarded on 18 December, 2009 at contract sum of Kshs.47,993,132 by Wajir South Constituency Development Fund in collaboration with District Medical officer of Health Wajir South under Economic Stimulus Program. Certificate of practical completion indicated that the contractor completed the works on 20 May, 2014. A letter from the Ministry of Health Ref. MOH/MI/4/12/46 dated 3 October, 2019 indicated that the construction of Sabuli Health Centre under Economic Stimulus Program was on specified budget targeting construction of two hundred and one (201) model Health centres at a cost of Kshs.21,190,000 each across the Country and the contractor had been paid the full amount. Further, the amount was not disclosed as a pending bill in the 2020/2021 financial statements.

In the circumstances, the propriety and regularity of the payment of Kshs.11,085,862 in respect of the construction of the health centre could not be confirmed.

## **138. Unsupported Transfers to Other Government Entities**

The statement of receipts and payments reflects transfers to other government entities amount of Kshs.544,105,443 which includes Kshs.29,265,500 in respect of current grants to government and other levels of government. However, expenditure totalling to Kshs.2,470,000 was not supported by professional opinion, stores records and payment vouchers were not authorised. In addition, an amount of Kshs.2,750,000 spent on fuel was not recorded in the fuel register and supported by work tickets and detail orders.

In the circumstances, the propriety of expenditure amount Kshs.5,220,000 on current grants to government and other levels of government could not be confirmed.

## **139. Other Grants and Transfers**

The statement of receipts and payments reflects other grants and transfers amount of Kshs.620,548,820. The following observations were made:

### **139.1 Unaccounted Reallocation**

The amount includes expenditure amounting to Kshs.408,750,796 in respect of other grants and payments. Review of the expenditure, vote book and the supporting schedules provided for audit revealed that expenditure totalling to Kshs.104,313,660 was charged under this account instead of other operating expenses item. Management did not provide authority for reallocation of the expense.

In the circumstances, the accuracy and propriety of other grants and transfers of Kshs.104,313,660 could not be confirmed.

### **139.2 Unsupported Expenditure on Other Grants and Transfers**

The statement of receipts and payments reflects other grants and transfers of Kshs.620,548,820 which includes Kshs.211,798,024 in respect of emergency relief and refugee assistance. However, review of the expenditure revealed that there was no documentary evidence to prove that expenditure on drugs and borehole spare parts totalling to Kshs.23,945,000 was of emergency nature. No satisfactory explanation was given for the failure to incur the expenditure from the relevant budgetary allocations provided.

In addition, other grants and transfers includes a payment of Kshs.31,470,000 paid to a motor vehicle supplies company for supply of three (3) ambulances. As at the time of audit in November, 2022 the ambulances had not been delivered. Further, the supplier was sourced through direct procurement and Management did not provide an explanation for not including the expenditure under acquisition of assets.

In the circumstance, the accuracy, completeness and regularity of other grants and transfers amount of Kshs.55,415,000 could not be confirmed. In addition, the existence of motor vehicles acquired at a cost of Kshs.31,470,000 could not be confirmed.

## **140. Cash and Cash Equivalents**

The statement of financial assets and liabilities reflects cash and cash equivalents balance of Kshs.90,996,169 as disclosed under Note12 to the financial statements. The following observations were made:

### **140.1 Inaccuracies in Cash and Cash Equivalents**

The cash and cash equivalents balance comprise of bank balances for eighteen (18) bank accounts. However, the supporting documents including cashbook, monthly bank reconciliation statements for nine (9) bank accounts were not provided for audit. Further, bank balance certificates for the eighteen (18) bank accounts were not provided for audit.

In the circumstance, the existence and accuracy of the bank balances of Kshs.90,996,169 reflected in the statement of financial assets could not be confirmed.



## **140.2 Irregular Payments from the Imprest Standing Account**

Included in the payments is bank balance of Kshs.845,439 for standing imprest account. During the year under review, an amount of Kshs.84,600,000 was transferred from the recurrent account held at Central Bank of Kenya to the Wajir County Government Standing Imprest account. The County Executive made payments totalling to Kshs.84,165,546 from the account. However, the Management provided payment documents for an expenditure amounting to Kshs.73,632,914 resulting to unsupported expenditure of Kshs.10,532,632.

Further, the payments were in respect of normal operations including payment for utilities, domestic travel and subsistence allowance instead of operating the account for petty cash transactions in accordance with Regulation 82(1)(a) of the Public Finance Management (County Governments) Regulations, 2015 which provides that for, all county government bank accounts shall be opened at the Central Bank of Kenya except for imprest bank accounts for petty cash. Payments from the account were not processed through IFMIS as required.

In the circumstances, the accuracy, completeness and regularity of payments amounting to Kshs.84,165,546 processed through the standing imprest account and outside IFMIS could not be confirmed.

## **141. Expenditure for Non-Existing Budgetary Allocation**

The statement of receipts and payments reflect other grants and payments of Kshs.620,548,820. Review of the payments generated from the Integrated Financial Management Information (IFMIS) System revealed that payments amounting to Kshs.403,813,202 were made from an account referred to as provision of encumbrance under expenditure code 9910101. However, review of the approved budget established that there was no expenditure budgeted for, under this account. It was therefore not possible to confirm the legality and validity of expenditure amounting to Kshs.403,813,202.

In the circumstances, the accuracy and regularity of other grants and payments of Kshs.408,750,796 could not be confirmed.

## **142. Pending Bill**

### **142.1 Inaccuracies in Pending Accounts Payable Balance**

The financial statements reflects pending accounts payable balance of Kshs.759,291,011 as disclosed under other important disclosures 1 while Annex 2 to the financial statements reflects pending accounts payable balance of Kshs.606,749,349 resulting to an unexplained variance of Kshs.152,541,062. Further review of the supporting schedule revealed that pending bills amounting to Kshs.477,726,413 were outstanding for more than three years and pending bills amounting to Kshs.372,686,236 for suppliers contracted between 2014/2015 to 2020/2021 disclosed at annex 2 as outstanding, were not disclosed in the audited financial statement for 2020/2021.

In addition, ledgers and other supporting documents were not provided for audit to support the movement from Kshs.1,461,334,372 balance reported as at 30 June, 2021 to

the balance of Kshs.606,749,349 as at 30 June, 2022. The County Executive set aside in the approved budget an amount of Kshs.931,757,724 towards settlement of pending bills. However, the amount budgeted was not supported with a breakdown of the pending bills to be paid as first charge. No justifiable explanation was provided for failure to settle the pending bills as a first charge during the 2020/2022 financial year.

In the circumstances, the accuracy, propriety and completeness of pending accounts payable of Kshs.759,291,011 could not be confirmed.

#### **142.2 Other Pending Payables**

Disclosure 2 under other important disclosures reflects other pending payables balance of Kshs.711,796,110 as at 30 June, 2022 while annex 4 reflects other pending payables balance of Kshs.678,577,574 resulting to an unexplained and unreconciled variance of Kshs.33,218,536. Further an amount of Kshs.372,915,420 was disclosed as additions during the year. However, records provided for audit supported additions totalling to Kshs.253,969,855 resulting to overstatement of additions by Kshs.118,945,565.

In the circumstances, the accuracy of other pending payables balance of Kshs.711,796,110 as at 30 June, 2022 as disclosed in the financial statements could not be confirmed.

#### **143. Unjustified Payment of Expenditures for Wajir Water and Sewerage Company**

The statement of payments and receipts reflects total expenditure amounting to Kshs.8,993,171,397 which includes payments of Kshs.184,336,104 paid on behalf of Wajir Water and Sewerage Company Limited. However, the Company is a distinct legal entity of the County that is supposed to carry out its operations separately and prepare its own financial statements in accordance with the Public Sector Accounting Standards Boards requirements.

In the circumstances, the propriety and regularity of expenditure of Kshs.184,336,104 paid on behalf of Wajir Water and Sewerage company could not be confirmed.

#### **144. Unsupported Legal Fees**

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflects other operating expenses amount of Kshs.385,866,927 which includes an amount of Kshs.37,420,000 paid to three (3) law firms. However, the details of the court cases, the status of the cases including date of commencement, appearances from commencement to 30 June, 2022, the procurement details, date of judgment and the verdict if any and the instructions to act on behalf of the County were not provided for audit.

In the circumstances, the accuracy and completeness of operating expenses amounting to Kshs.385,866,927 could not be confirmed.

#### **145. Late Exchequer Receipts**

The statement of comparison of budget and actual amounts reflects total actual receipts of Kshs.9,056,500,335. However, review of the bank statements revealed that the County Executive received Kshs.9,056,500,328 as exchequer transfers from County Revenue

Fund. Further, included in the funds received from County Revenue Fund were funds amounting to Kshs.1,193,390,776 were received in July, 2022 after the end of the financial year.

In the circumstances, the cut off, presentation and disclosure of the exchequer releases amounting to Kshs.1,193,390,776 could not be confirmed.

## **Other Matter**

### **146. Budgetary Control and Performance**

The statement of comparison of budget and actual amounts: reflects final receipts budget and actual amounts on comparative basis of Kshs.10,692,214,192 and Kshs.9,056,500,335 respectively resulting in an under-funding of Kshs.1,635,713,857 or 15% of the budget. Similarly, the County Executive spent Kshs.8,993,171,397 against an approved budget of Kshs.10,692,214,192 resulting in an under-expenditure of Kshs.1,699,042,795 or 14% of the budget.

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

### **147. Unresolved Prior Year Matters**

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 had addressed the audit recommendations and findings of the previous years' audits as required by Section 31(1)(a) of the Public Audit Act, 2015, which provides that within three months after Parliament or the County Assembly has debated and considered the final report of the Auditor-General and made recommendations, a state organ or a public entity that had been audited shall, as a preliminary step, submit a report on how it has addressed the recommendations and findings of the previous year's audit.

## **REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

### **Basis for Conclusion**

#### **148. Compensation of Employees**

##### **148.1 Non-Remittance of Statutory Deductions**

During the year under review, the County Executive deducted from employees' salaries an amount of Kshs.484,950,373 for National Social Security Fund, loans and pension deductions. Out of these deductions, the County Executive remitted a total amount of Kshs.269,479,145 to the respective organizations. However, the balance totalling to Kshs.215,471,228 was not remitted to the respective organisations.

Further, the County Executive did not pay outstanding pension dues from previous years amounting to Kshs.437,781,758 as reported in the previous year's audit report.

As a result, the total outstanding statutory pension dues as at 30 June, 2022 amounted to Kshs.653,252,986. However, annex 4 to the financial statements reflects a balance of Kshs.678,577,574 resulting in an unreconciled difference of Kshs.25,324,588. In addition, Pay As You Earn (PAYE) totalling to Kshs.631,843,306 was directly debited from recurrent account through Kenya Revenue Authority agency notices to settle PAYE tax payable. Review of the of the payroll data revealed that an amount totalling to Kshs.651,203,964 was deducted as PAYE from employees resulting to unremitted deductions totalling to Kshs.19,360,658. Further, the unremitted amount was not disclosed in the financial statements as pending bills. This was contrary to the Section 19(4) of the employment Act, 2007 which provides that an employer who deducts an amount from an employee's remuneration in accordance with subsection (1)(a), (f), (g) and (h) shall pay the amount so deducted in accordance with the time period and other requirements specified in the law, agreement court order or arbitration as the case may be.

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

### **148.2 Engagement of Unjustified Number of Advisors**

Review of Manual and Integrated Personnel and Payroll Database revealed that the County Executive had engaged fifty-one (51) advisors to the Governor at job group R. This exceeded the maximum of three (3) advisors envisaged in the Transitional Authority Circular No. TA/7/8/48 dated 6 September, 2013. Review of the personnel files for the advisors revealed that there was no documentary evidence to confirm that forty-three (43) advisors who earned a total of Kshs.93,105,170 during the year under review had the relevant qualifications. In addition, there was no evidence provided to confirm whether the positions of the advisors were regularized by the County Public Service Board contrary to advisory issued by the Transition Authority.

In the circumstances, regularity and value for money on the expenditure of Kshs.93,105,170 on advisors to the Governor could not be confirmed.

### **148.3 Employees Retained in the Payroll Beyond the Retirement Age**

Review of the Integrated Personnel and Payroll Database (IPPD) revealed that thirty-nine (39) employees who had attained the mandatory retirement age of sixty (60) years were still in the payroll as at 30 June, 2022. The employees were paid emoluments totalling to Kshs.26,309,723 in the year under review. No records were provided for audit to confirm that the officers were entitled to prolonged stay in the service as provided for by Regulation 70(1)(a) of the Public Service Commission Regulations, 2020 which provides that subject to the Constitution and Section 80 of the Act, any other relevant written law or a specific government policy, the mandatory retirement age in the public service shall be sixty years.

In the circumstances, Management was in breach of law.

## **149. Budget Process**

### **149.1 Non-Compliance with Budget Procedures**

Review of the Budget process of the County revealed that the Management did not prepare County Budget Review and Outlook Paper for the year ended 30 June, 2022 as

required by Section 118 of Public Finance Management Act, 2012. It was further observed that the Executive did not publish the County Fiscal Strategy Paper, the County Budget Review and Outlook Paper, and the County Annual Development Plan as required by Sections 117(8), 118(4)(b) and 126(4) of the Public Finance Management Act, 2012. In addition, although the Management prepared a fiscal strategy paper, there was no documentary evidence that the County Fiscal Strategy Paper was submitted to the County Assembly by 28 February, 2022 as required by Section 117 of the Public Finance Management Act, 2015. Further, the Circular required to be issued by the County Executive Committee Member for Finance setting out guidelines to be followed by all of the county government's entities in the budget process as per Section 128(2) of the Public Finance Management Act, 2012 was not provided for Audit. No proper explanation was provided for the failure to comply with the legal requirements.

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

### **149.2 Late Submission of Budget**

The County Assembly of Wajir approved the County budget on 30 August, 2021. This was as a result of late submission of the budget to the Assembly by the County Executive on 3 August, 2021 for approval which was three (3) months after the date set by Section 129 of the Public Finance Management Act, 2012 that requires the budget estimate to be submitted to the County Assembly by the 30<sup>th</sup> of April in that year. This was contrary to Section 133 of the Public Finance Management Act, 2012 which requires the budget to be approved by 30 June of each year.

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

### **149.3 County Budget and Economic Forum**

Section 137(1) of the Public Finance Management Act, 2012 requires the County Executive to establish a forum to be known as the County Budget and Economic Forum. The forum shall consist of members identified in Section 137(2) of the Public Finance Management Act, 2012. However, the County Executive did not provide evidence to confirm that it constituted a County Budget and Economic Forum.

It was not clear how consultations by the County Government on preparation of County Development Plans, the County Fiscal Strategy Paper and the Budget Review and Outlook Paper for the County and matters relating to budgeting, the economy and financial management at the County level as required by Section 137 of the Public Finance Management Act, 2012 were executed without a County Budget and Economic Forum during the year under review.

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

## **150. Irregular Expenditure on Consultancy Services**

Included in the other operating costs is Kshs.30,114,584 paid in respect of consultancy services. However, review of the expenditure revealed that the County Executive procured consultancy services for Risk Management Strategy and Policy Framework at a cost of Kshs.2,960,000. Review of the expenditure established that the evaluation and technical analysis report was signed by one (1) out of the four (4) evaluation committee members. Professional opinion raised on the 6 October, 2021 was signed by the County



Chief Officer Finance contrary to Section 84 of the Public Procurement and Asset Disposal Act, 2015 which requires the head of procurement to sign the professional opinion.

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

## **151. Other Grants and Transfers**

### **151.1 Kenya Climate Smart Agriculture Support Project**

During the year under review, the County Executive transferred an amount of Kshs.109,028,347 to Kenya Climate Smart Agriculture Support Project. Review of procurement documents revealed that the project procured nine (9) motor cycles from a motor vehicle dealer at a cost of Kshs.4,066,851. Physical inspection carried out on 20 July, 2022 revealed that the nine (9) motor cycles which were procured in the month of January, 2022 were not in use since delivery by the supplier. Further the logbook for one (1) motor cycle was not provided for audit.

In the circumstances, it was not possible to confirm whether the Project obtained value for money spent of the acquisition of the motor cycles.

### **151.2 Kenya Devolution Support Program**

Included in other capital and transfers of Kshs.408,750,796 is Kshs.95,000,000 in respect of transfers to Kenya Devolution Support Program. A motor vehicle dealer was contracted through direct procurement to supply three (3) ambulances at a total cost of Kshs.31,470,000. However, the procurement records for the supply were not provided for audit. Further, the purchase amount was paid in advance as the ambulances were yet to be delivered as at the time of audit in the month of August, 2022. This was in contravention of Section 146 of the Public Procurement and Asset Disposal Act, 2015 which provides that no works, goods or services contract shall be paid for before they are executed or delivered and accepted by the accounting officer of a procuring entity or an officer authorized by him or her in writing except where so specified in the tender documents and contract agreement.

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

## **152. Acquisition of Assets**

### **152.1 Purchase of Certified Seeds**

The statement of receipts and payments reflects expenditure on acquisition of assets amounting to Kshs.2,279,959,175 which includes expenditure of Kshs.2,993,000 on purchase of certified seeds, breeding stock and live animals. Review of the payment documents revealed that the expenditure was not supported with stores records contrary to Regulation 166(3) of the Public Procurement and Asset Disposal Regulations, 2020 which provides that when managing the inventory, stores and assets in accordance with Section 162 of the Act, the accounting officer shall ensure that the stores received under paragraph (2) are taken on charge.

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



### **152.2 Irregular Procurement - Construction of Buildings**

Review of the expenditure documents on construction of buildings revealed that payments amounting to Kshs.7,794,660 made to the contractors were pending bills relating to 2019-2020 and 2020-2021 financial years. However, the amounts were not disclosed in the audited financial statements for 2020-2021 as pending bills. In addition, a contract worth Kshs.4,995,190 was awarded without the successful bidder filling and signing the certificate of independent quotation determination contrary to sub clause 2.2 of standard tender documents. Further, payments amounting to Kshs.5,258,500 were not supported with a signed contract agreement between the County Executive and the contractor contrary to Section 135(4) of the Public Procurement and Asset Disposal Act, 2015 which states that no contract is formed between the person submitting the successful tender and the accounting officer of a procuring entity until the written contract is signed by the parties.

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

### **152.3 Construction and Civil Works**

Included in the construction and civil works amount is expenditure amounting to Kshs.47,422,164 for afforestation and water reticulations programs in several locations of the County. Review of the payment documents revealed that the County Executive did not undertake or provide evidence of conducting feasibility studies on the mapping and identification of the sites selected for the proposed afforestation programmes. However, the County Forest management plans and county forest records and databases were not provided for audit review. In addition, the payments were not supported by notification letters sent to the losing bidders contrary to Section 87(3) of Public Procurement and Asset Disposal Act, 2015 which provides that when a person submitting the successful tender is notified under subsection (1), the accounting officer of the procuring entity shall also notify in writing all other persons submitting tenders that their tenders were not successful, disclosing the successful tenderer as appropriate and reasons thereof.

Further, physical inspection conducted on 18 July, 2022 in Furaha Girls Secondary School and Wajir County Headquarter, revealed that branding of the project was not done as required by the Bills of Quantities while the fruit trees provided in the Bills of Quantities were not in existence.

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

### **152.4 Overhaul and Refurbishment of Construction and Civil Works**

The statement of receipts and payments reflects acquisition of assets of Kshs.2,279,959,175 which includes Kshs.133,079,055 in respect of overhaul and refurbishment of construction and civil works. Review of tender records revealed that tenders for all road works were evaluated by same committee members contrary to Section 46(4)(b) of the Public Procurement and Asset Disposal Act, 2015 which requires rotation of members for tender evaluation committee not to appear as a permanent committee. Unsuccessful bidders were not notified through regret letters. Further, physical inspection carried out on 19 July, 2022 on grading and gravelling of Wajir High Guguf roads revealed that there was no signboard to identify the project as provided in the Bill of Quantities.

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

#### **152.5 Purchase of Motor Vehicles**

The statement of receipts and payments reflects acquisition of assets balance of Kshs.2,279,959,175 which includes an amount of Kshs.50,683,008 on purchase of motor vehicles. However, expenditure totalling to Kshs.49,990,800 in respect of acquisition of four (4) water bowzers was not supported by procurement records as required by Section 68(1) of the Public Procurement and Asset Disposal Act, 2015, which provides that an accounting officer of a procuring entity shall keep records for each procurement for at least six years after the resulting contract has been completed or if no contract resulted, after the procurement proceedings were terminated.

In the circumstances, it was not possible to confirm whether laid down public procurement procedures were followed in the acquisition of motor vehicle worth Kshs.49,990,800.

#### **152.6 Failure to Publish Financial Manual**

The County Treasury did not publish financial manuals as required by Regulation 9(1) of the Public Finance Management (County Governments) Regulations, 2015, which provides that the County Treasury shall publish financial manuals and forms which may be used by the County Government entities to support implementation of these Regulations.

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

#### **153. Failure to Operate on E- Procurement Platform**

Enquiry from the procurement department on the extent of utilization of the e-procurement module in IFMIS established that all procurement plans were developed in IFMIS. However, procurement of goods, works and services was done manually. As a result, the requisition, approval of the requisition, tendering, issue of purchase orders and invoicing were done manually contrary to Executive Order No.2 of 2018 Part IV (B) which required that by the 1 January, 2019 all public procuring entities undertake all their procurement through the e-procurement module.

In the circumstances, the Management was in breach of the Executive Order.

#### **154. Consultancy Services for Preparation of Integrated Strategic Urban Spatial Development Plans**

The County Executive undertook consultancy services for preparation of Integrated Strategic Urban Spatial Development Plans for Bute, Eldas, Griftu, Hadado, Habaswein Khorof-hara and Tarbaj towns in 2017/2018 financial year at a contract sum of Kshs.60,926,893. The County Executive paid Kshs.13,130,796, being 25% of the contract sum which was to be paid upon submission of the interim report as required by part 6.4 of the payment schedule.

However, Management did not provide for audit, the interim report of the work done to support the payment of the 25% of the contract price. Further, the amount had not been listed as a pending bill in the 2020/2021 financial statements.

In the circumstances, value for money on the expenditure of Kshs.13,130,796 could not be confirmed.

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

### **Basis for Conclusion**

#### **155. Payment of Salaries through Manual Payroll**

During the year under review, the County Executive maintained both manual and electronic payrolls. One payroll was in the Integrated Payroll and Personnel Database system while the other was in excel spreadsheet. One thousand three hundred and sixty-seven (1,367) employees were paid a total of Kshs.43,381,302 through the manual payroll.

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

#### **156. Lack of Staff Establishment**

The County Executive did not have an approved staff establishment that indicates the optimal number of staffs for each category, the current number of staff in post and the variance.

In the circumstances, it was not possible to confirm whether the County Executive was operating within an optimal level of staff establishment.

#### **157. Weaknesses in Information Technology (IT) Controls**

During the year under review, the 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, IT internal control weaknesses, disaster management, business recovery and continuity of the operations could not be confirmed.

#### **158. Weaknesses in Management of Fixed Assets**

Annex 6 of the financial statements reflects fixed assets balance of Kshs.16,683,271,108 as at 30 June, 2022. However, the County Executive did not maintain a fixed asset register. In addition, the County Executive did not have in place policies and procedures relating to asset management and fixed assets were not physically inspected on a regular basis. Further, the County Executive did not maintain a register of land and buildings recording each parcel of land and the terms on which it was held, with reference to the conveyance, address, area, dates of acquisition, disposal or major change in use, capital expenditure, lease hold terms, maintenance contracts and other pertinent management details.

In the circumstances, the existence of an effective mechanism to safeguard the asset could not be confirmed.

## COUNTY EXECUTIVE OF MANDERA – NO.9

### REPORT ON THE FINANCIAL STATEMENTS

#### Basis for Adverse Opinion

#### 159. Presentation and Accuracy of the Financial Statements

Comparison of the amounts reflected in the financial statements and the corresponding account balances in the Integrated Financial Management Information System (IFMIS) Ledgers revealed the following discrepancies:

Description	Financial Statements Amount Kshs.	IFMIS Ledger Amount Kshs.	Variance Kshs.
Compensation of Employees	2,945,863,521	2,881,808,686	64,054,835
Use of Goods and Services	2,367,996,193	2,134,561,729	233,434,464
Transfers to Other Government Units	1,709,878,092	1,024,793,983	685,084,109
Other Grants and Transfers	753,539,029	753,539,021	8
Acquisition of Assets	3,941,134,934	4,008,774,934	(67,640,000)

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

#### 160. Misclassification of Other Receipts

The statement of receipts and payments reflects exchequer releases (transfers from the CRF) amount of Kshs.10,669,260,693 which, according to the supporting schedules provided for audit, includes receipts which did not come from exchequer issues received into the County Revenue Fund (CRF) amounting to Kshs.374,108,701, comprising transfers from other Government entities, own generated revenue and return to CRF issues amounts of Kshs.241,181,601, Kshs.132,899,851 and Kshs.27,249 respectively. The receipts of Kshs.374,108,701 therefore relates to other receipts item.

In the circumstances, the accuracy of the reported exchequer releases (transfers from the CRF) and other receipts amounts of Kshs.10,669,260,693 and Kshs.5,880,000 respectively could not be confirmed.

#### 161. Use of Goods and Services

The statement of receipts and payments, reflects use of goods and services expenditure of Kshs.2,367,989,543 and as disclosed in Note 4 to the financial statements. Review of documents in relation to the expenditure revealed the following anomalies:

### **161.1 Unsupported Medical Supplies**

The use of goods and services expenditure amount of Kshs.2,367,989,543 includes specialized materials and services amounting to Kshs.537,944,065 spent on drugs, non-pharmaceutical and lab reagents for various health facilities within the County. However, included in the latter amount is Kshs.9,559,062 for which, the respective health facilities' stores' counter requisition and issue vouchers (S 11), indicating how supplies were issued out were not provided for audit.

In the circumstances, the accuracy and completeness of the expenditure of Kshs.9,559,062 could not be confirmed.

### **161.2 Unsupported Expenditure on Legal Fees**

The use of goods and services expenditure amount of Kshs.2,367,989,543 includes other operating expenses amounting to Kshs.570,273,421 out of which, Kshs.27,786,021 was in respect of legal fees. However, the latter amount includes an amount of Kshs.6,748,000 whose supporting documents showing initial fee note, amounts paid to date, outstanding balances (if any per case), the case(s) being handled and status of those cases, evidence of court attendance, rate as per advocate remuneration roll, statements or ledgers of advocates accounts and case files were not provided for audit.

In the circumstances, the accuracy and completeness of the expenditure of Kshs.6,748,000 could not be confirmed.

### **161.3 Unsupported Payments on Repair of Motor Vehicles**

Included in the use of goods and services expenditure amount of Kshs.2,367,989,543 is routine maintenance-vehicles and other transport equipment amount of Kshs.119,611,890 out of which, an amount of Kshs.5,050,000 was spent on repair of motor vehicles. However, the supporting motor vehicle work tickets indicating the dates the vehicles were in the garage were not provided for audit.

In the circumstances, the accuracy and completeness of the expenditure of Kshs.5,050,000 could not be confirmed.

### **161.4 Unsupported Payments for Water Trucking Services**

Included in the use of goods and services expenditure of Kshs.2,367,989,543 is rental of produced assets amount of Kshs.197,974,352 out of which, an amount of Kshs.3,389,646 was paid for water trucking services. However, the supporting water trucking schedule showing the date, centre, number of trips and volume of water delivered; and work tickets showing the movement of motor vehicles supplying water to various centres were not provided for audit.

In the circumstances, the accuracy and completeness of the expenditure of Kshs.3,389,646 could not be confirmed.

### **161.5 Unsupported Expenditure on Office and General Supplies and Services**

Included in the use of goods and services expenditure amount of Kshs.2,367,989,543 is office and general supplies and services amount of Kshs.249,998,169 which further includes an expenditure of Kshs.3,000,000 whose supporting documents such as requisitions from user department to initiate the procurement process and inspection and acceptance committee certificate to confirm that goods delivered conformed to the orders for supplies, were not provided for audit.

In the circumstances, the accuracy and completeness of the expenditure of Kshs.3,000,000 could not be confirmed.

### **161.6 Unsupported Payments for Fuel, Oil and Lubricants**

Included in the use of goods and services expenditure amount of Kshs.2,367,989,543 is fuel, oil and lubricants amount of Kshs.43,509,026 which further includes an expenditure of Kshs.935,000 whose supporting fuel registers and detailed orders were not provided for audit.

In the circumstances, the accuracy and completeness of the expenditure of Kshs.935,000 could not be confirmed.

### **161.7 Unsupported Expenditure on Contracted Security Services**

Included in the other operating expenses amount of Kshs.570,273,421 is an expenditure of Kshs.40,147,205 incurred on provision of security services. However, procurement records showing how the service provider was selected were not provided for audit.

In the circumstances, the accuracy and completeness of the expenditure of Kshs.40,147,205 could not be confirmed.

### **161.8 Unsupported Cash Payments**

The use of goods and services amount of Kshs.2,367,989,543 includes cash payments amounting to Kshs.33,520,376 which comprise of an amount of Kshs.4,150,000 paid to two (2) suppliers through the Department of Agriculture and Kshs.29,370,376 paid to Mandera County Special Purpose Account through the Department of Lands. However, Management did not provide explanations and details of the cash payments.

In the circumstances, the accuracy and completeness of cash payments totalling to Kshs.33,520,376 could not be confirmed.

## **162. Acquisition of Assets**

The statements of receipts and payments, reflects acquisition of assets expenditure of Kshs.3,941,134,934 and as disclosed in Note 7 to the financial statements. However, review of documents in relation to the expenditure revealed the following anomalies:



### **162.1 Unsupported Expenditure on Rehabilitation and Maintenance of Water Infrastructure**

Included in the acquisition of assets amount of Kshs.3,941,134,934 is rehabilitation of civil works amount of Kshs.442,260,004 out of which, Kshs.9,025,000 was in respect of rehabilitation and maintenance of water supply infrastructure. However, certificate of practical completion and inspection and acceptance certificate supporting the latter amount were not provided for audit.

Further, the amount of Kshs.442,260,004 includes an amount of Kshs.295,198,200 paid to a contractor through the Department of Water in respect of rehabilitation of civil works contracts relating to water and sewerage infrastructure. However, the relevant contract agreements supporting the latter amount were not provided for audit.

In the circumstances, the accuracy and completeness of the payments of Kshs.9,025,000 and Kshs.295,198,200 could not be confirmed.

### **162.2 Unsupported Expenditure on Construction of Buildings**

Included in the acquisition of assets expenditure of Kshs.3,941,134,934 is construction of buildings amount of Kshs.791,280,028 which further includes Kshs.84,175,239 paid to various contractors. However, supporting documents, including contract documents indicating the contract sums and the contract periods, and inspection and acceptance committee certificates confirming that works were carried out as per specifications, were not provided for audit.

In the circumstances, the accuracy and completeness of the expenditure of Kshs.84,175,239 could not be confirmed.

### **162.3 Unsupported Expenditure on Refurbishment of Buildings**

Included in the acquisition of assets expenditure of Kshs.3,941,134,934 is refurbishment of buildings amount of Kshs.351,880,838 which further includes an amount of Kshs.1,200,000 paid to various contractors. However, supporting documents such as certificate of completion indicating the stage of works done and inspection and acceptance committee certificate confirming that works were carried out as per specifications, were not provided for audit.

In the circumstances, the accuracy and completeness of the expenditure of Kshs.1,200,000 could not be confirmed.

### **162.4 Unsupported Payments on Construction of Road Projects**

Included in the acquisition of assets expenditure of Kshs.3,941,134,934 is construction of roads amount of Kshs.504,169,455 out of which, Kshs.71,809,702 was spent on road projects in respect of which, the supporting inspection and acceptance committee certificates to confirm that works were carried out as per specifications, were not provided for audit.

In the circumstances, the accuracy and completeness of the expenditure amounting to Kshs.71,809,702 could not be confirmed.

## **162.5 Purchase of Specialized Plant, Equipment and Machinery**

### **162.5.1 Construction and Equipping of Radiology Centre**

Included in the acquisition of assets expenditure amount Kshs.3,941,134,934 is purchase of specialized plant, equipment and machinery amount of Kshs.113,021,576 out of which, an amount of Kshs.9,527,586 relates to a contract for the construction and equipping of radiology center at Rhamu Sub-county at a contract sum of Kshs.30,092,952, for a contract period of one (1) year commencing on 26 May, 2021 and ending on 31 May, 2022. However, certificate of practical completion and inspection and acceptance committee report supporting the payment of Kshs.9,527,586 were not provided for audit.

Further, audit inspection carried out on 19 November, 2022 revealed that the radiology building was complete but not in use. It was also noted that: an X-ray unit supplied at a cost of Kshs.7,500,000 was not being utilized because a voltage regulator required to be installed at a cost Kshs.1,500,000 had not been installed; registration, inspection and licensing with a provision of Kshs.500,000 in the bill of quantities was not implemented; and the ultrasound equipment supplied at a cost of Kshs.2,500,000 was not being utilized.

In the circumstances, the propriety and value for money of the expenditure of Kshs.9,527,586 could not be confirmed.

### **162.5.2 Procurement of Medical Equipment**

The purchase of specialized plant, equipment and machinery amount of Kshs.113,021,576 also includes a payment of Kshs.29,482,759 for the supply, delivery, installation and commissioning of oxygen plant and medical equipment for Mandera West, Kutulo and Mandera North Sub-Counties. However, inspection and acceptance committee report supporting the payment of Kshs.29,482,759 was not provided for audit.

Further, audit inspection conducted on 19 November, 2022 revealed that the Biochemistry machine (open dry biochem) supplied at a cost of Kshs.2,900,000 for Rhamu Hospital was not in use due to lack of the startup reagents and non-training of the user department personnel.

In the circumstances, the propriety and the value for money of the expenditure of Kshs.29,482,759 could not be confirmed.

## **162.6 Construction and Civil Works**

### **162.6.1 Unsupported Expenditure on Construction and Civil Works**

Included in the acquisition of assets expenditure of Kshs.3,941,134,934 is construction and civil works amount of Kshs.1,712,683,468 which further includes Kshs.321,731,503 paid to a contractor through the Department of Finance and Kshs.165,363,795 paid to five (5) contractors through the Department of Public Works, both totalling to Kshs.487,095,298. However, the relevant contract agreements supporting the latter

amount were not provided for audit. As a result, it was not possible to ascertain the contract sums, contract periods and amounts of retentions deductible from the amounts payable to the contractors.

In the circumstances, the accuracy and completeness of the expenditure of Kshs.487,095,298 could not be confirmed.

#### **162.6.2 Unsupported Expenditure on National Government's Airstrips**

Included in the construction and civil works amount Kshs.1,712,683,468 is Kshs.121,956,189 incurred on construction of airstrips which falls under the National Government functions. Although Management provided the letter of approval from the Ministry of Transport and Infrastructure for construction of airstrips, there was no evidence of a written agreement between the two levels of Government detailing the levels of technical, financial and capacity building support expected from National Government agencies like Kenya Airport Authority and Kenya Civil Aviation Authority, as required by Article 187 of Kenyan Constitution, to guide the implementation of these projects. In addition, it was not clear whether the same projects were also funded by the National Government through the line ministries and respective National Government Constituencies Development Funds.

In the circumstances, the accuracy and completeness of the expenditure of Kshs.121,956,189 could not be confirmed.

#### **Other Matter**

#### **163. Budgetary Control and Performance**

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis amounts of Kshs.13,283,669,212 and Kshs.10,675,140,693 respectively, resulting to under-funding of Kshs.2,608,528,519 (or 20% of the budget). Similarly, the statement reflects final expenditure budget of Kshs.13,283,669,212 and actual expenditure on comparable basis of Kshs.11,718,405,118, resulting to under-expenditure of Kshs.1,565,264,094 (or 12% of the budget).

The underfunding and under-expenditure affected the planned activities and may have impacted negatively on service delivery to the residents of Mandera County.

#### **164. Failure to Contribute Counterpart Funds**

The statement of receipts and payments reflects transfer to other Government entities expenditure of Kshs.1,709,878,092 which, as disclosed in Note 5 to the financial statements, includes an amount of Kshs.10,522,896 transferred to the Agriculture Sector Development Support Programme (ASDSP). Review of the Memorandum of Understanding between Government of Kenya and Government of Sweden revealed that one of the pre-conditions to commence implementation of ASDSP was for Counties to make own contribution to the programme to trigger the Government of Kenya and Government of Sweden counterpart funding. The contribution schedule in the signed Memorandum of Understanding provided that an amount of Kshs.5,500,000 should be

contributed by Counties in each of the financial years. However, during the financial year under review, the Mandera County Government did not make own contribution amount of Kshs.5,500,000 to the Agriculture Sector Development Supporting Programme II.

As a result, the project did not receive an amount of Kshs.2,500,000 from the Government of Kenya and Kshs.18,493,936 from the Government of Sweden, totalling to Kshs.26,493,936, being funds for the financial year ended 30 June, 2022.

The non-funding led to the delay in the commencement of implementation of planned activities as per the work plan for the year ended 30 June, 2022.

#### **165. Pending Bills**

As disclosed in Note 1.a to the financial statements, under other important disclosures section, the County Executive had pending accounts payables of Kshs.500,228,176 relating to works, supply of goods and services; salary arrears of Kshs.1,208,874,922; and legal fee arrears of Kshs.82,308,279, all totalling to Kshs.1,791,411,377.

The existence of huge pending bills at the close of the financial year may affect efficiency in implementation of subsequent year's budgeted programs.

#### **166. Unresolved Prior Year Matters**

In the report for the previous year, several issues were raised under the Report on Financial Statement, 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 addressed the issues as at 30 June, 2022.

### **REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

#### **Basis for Conclusion**

#### **167. Non-Preparation of Financial Statements for Level 5 and Level 4 Hospitals**

During the financial year ended 30 June, 2022, Mandera County Department of Health, the Management of Mandera County Referral Hospital (level 5 Hospital) and the Management of six (6) level 4 hospitals based in various Sub-Counties within Mandera County did not prepare and submit annual reports and financial statements to the Auditor-General as required by the National Treasury Circular No. AG.4/16/3 Vol.11(66) issued on 06 July, 2022. The Circular required all level 4 and level 5 hospitals to prepare financial statements as per the guidelines provided by the Public Sector Accounting Standards Board (PSASB) on presentation of the financial statements.

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

#### **168. Acquisition of Assets**

The statement of receipts and payments, and as disclosed in Note 7 to the financial statements, reflects acquisition of assets expenditure amounting to Kshs.3,941,134,934. Review of the expenditure revealed the following unsatisfactory matters:

### **168.1 Delay in the Implementation of Upgrading of Road**

The acquisition of assets expenditure amount of Kshs.3,941,134,934 includes construction of roads amount of Kshs.504,169,455 out of which, Kshs.42,637,931 is in respect of a contract for upgrading of Malka Punda Road to bitumen standard in Mandera East Sub-county at a contract sum of Kshs.169,239,438, for a contract period of two (2) years, starting on 29 April, 2021 and ending on 30 April, 2023. However, physical inspection conducted on 19 November, 2022 revealed slow progress in the implementation of the project which was 56% complete and, therefore, was unlikely to be completed within the contract period.

In the circumstances, the expected service delivery from the project may not be realized as expected.

### **168.2 Slow Progress of the Construction of Box Culvert Celled Drifts**

Included in the acquisition of assets expenditure amount of Kshs.3,941,134,934 is construction and civil works amount of Kshs.1,712,683,468 out of which, Kshs.30,000,000 relates to a contract for construction of box celled culverts, celled drift at Arabia Sub-county at a contract sum of Kshs.146,591,520, for a contract period of approximately two (2) years from 12 April, 2021 to 30 April, 2023. However, physical inspection of the project carried out on 19 November, 2022 revealed that the project was 52% complete and was, therefore, unlikely to be completed by the contract's expiry date of 30 April, 2023.

In the circumstances, benefits expected from the project may not be realized as expected.

## **169. Irregular Procurement of Water Supplies and Sewerage Services**

The statement of receipts and payments reflects expenditure totalling to Kshs.11,718,405,425 which includes an amount of Kshs.772,730,231 incurred under the Department of Water. However, analysis of payment records relating to the Department revealed that out of the latter amount Kshs.295,198,200 (38%) was paid to a contractor in respect of contracts related to rehabilitation of water and sewerage infrastructure. This was contrary to Article 227(1) of the Constitution of Kenya, 2010, which provides that when a state organ or any other public entity contracts for goods or services, it shall do so in accordance with a system that is fair, equitable, transparent, competitive and cost-effective.

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

## **170. Lack of Approved Staff Establishment**

Review of records relating to compensation of employees revealed that during the year under review, the County Executive had two payroll systems in operation – a manual payroll and an Integrated Personnel and Payroll Database (IPPD) system. The payrolls reflected three thousand four hundred and five (3,405) employees in the PPD system, while five hundred and thirty-five (535) employees were in the manual payroll. However, the County Executive was yet to update or approve its personnel establishment and thus managed its personnel without an approved staff establishment. This was contrary to

Section 5(2)(f) of the County Government Act, 2012 which states that one of the functions of the County Government is establishment and staffing of its public service as contemplated under Article 235 of the Constitution.

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

#### **171. Non-Compliance with the One Third Basic Pay Rule**

Analysis of the IPPD system data for the 2021/2022 revealed that three (3) employees were being paid net salaries that were less than a third (1/3) of their respective basic pays during the year, thus over committing their salaries, contrary to Section 19 (3) of the Employment Act, 2007 which provides that no deductions should be made from the wages of an employee exceeding two thirds of such wages.

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

#### **172. Illegal Payments**

The statement of receipts and payments reflects use of goods and services expenditure amount of Kshs.2,367,989,543 which as disclosed in Note 4 to the financial statements includes an amount of Kshs.570,273,421 relating to other operating expenses. The amount includes Kshs.1,000,000 paid to the Council of Governors as legal funds, contrary to Section 37 of the Intergovernmental Relations Act, 2012 which requires operational expenses of the Council of Governors to be funded by the National Government. Further, the operating expenses amount of Kshs.570,273,421 includes a contribution of Kshs.2,400,000 to Frontier Development Council, a regional bloc and Kshs.22,479,999 paid as constituency office expenses. However, the two payments were not backed by any law.

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

#### **173. Irregular Procurement of Legal Services**

Included in the other operating expenses amount of Kshs.570,273,421 is Kshs.27,786,021 incurred on legal fees in respect of legal services rendered to the County Executive. However, review of payment vouchers and supporting documents revealed that the legal services were not competitively sourced from the registered pre-qualified legal firms, contrary to Section 95(3) of the Public Procurement and Asset Disposal Act, 2015, which provides that a procuring entity shall invite tenders from only the approved persons who have been pre-qualified. Further, a firm was paid Kshs.19,716,512 (or 71%) out of the total legal fees of Kshs.27,786,021, contrary to Section 106(2)(b) of the Public Procurement and Asset Disposal Act, 2015, which stipulates that an Accounting Officer of a procuring entity shall ensure that request for quotations are given to as many persons as necessary to ensure effective competition and shall be given to at least three persons, unless that is not possible. This indicates skewed procurement of legal services to the disadvantage of other firms.

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



#### **174. Non-Establishment of County Emergency Fund**

The statement of receipts and payments reflects other grants and transfers expenditure of Kshs.753,539,029 which, as disclosed in Note 6 to the financial statements, includes an expenditure of Kshs.633,539,028 in respect of emergency relief and refuge assistance. However, the County Executive did not establish and operate a County Emergency Fund contrary to Section 110 (2) of the Public Finance Management Act, 2012 that provides that a County Executive may establish an Emergency Fund to enable payments to be made when an urgent and unforeseen need for expenditure arises for which there is no specific legislative authority arises.

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

#### **175. Non-Compliance with Year End Closing Procedures**

Disclosed under Note 8A to the financial statements are bank balances for eleven (11) bank accounts operated by the County Executive. The Management closed processing of the 2021/2022 financial year receipts and payments on 18 July, 2022, obtained bank balance certificates for the eleven (11) as at 19 July, 2022. Explanations from the Management was based on the fact that The National Treasury released substantial amount of money budgeted for 2021/2022 few days towards the close of financial year 2021/2022 and allowed County Governments a window of up to 18 July, 2022 to clear all payments which were due for payment and validated by the Controller of Budget (COB) so as to minimize the pending bills especially during that period of transition of County leadership and governance.

However, review of cash books, bank statements and 2021/2022 IFMIS data confirmed that bank balance reflected under Note 8A to the financial statements represented the actual cash and cash equivalents as at 30 June, 2022. However, the bank balance certificates as at 19 July, 2022 was contrary to Treasury Circular No.AG.3/88/VOL.VII. (21) dated 11 May, 2022 on year end closing procedures, which required bank balances certificates obtained as at 30 June, 2022 and reconciled to receipts and payments processed within 18 July, 2022.

In the circumstances, the Management breached requirements of the Treasury Circular.

### **REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE**

#### **Basis for Conclusion**

#### **176. Un-Updated Fixed Assets Register**

The summary of non-current asset register at Annex 3 reflects a non-current assets balance of Kshs.38,272,934,528, which includes assets added during the year under review totalling to Kshs.3,941,134,934, relating to buildings and structures; transport equipment; office equipment, furniture and fittings; machinery and equipment; and infrastructure assets (roads and rails). However, the supporting fixed assets register provided for audit had not been updated with the assets purchased during the year.

In the circumstances, the effectiveness of the internal controls on non-current assets and their continuous application could not be confirmed.

#### **177. Non-Functional Audit Committee**

Information provided indicated that the County Executive had established an internal audit unit and an Audit Committee. However, during the year under review, the Committee did not deliberate on any of the six (6) reports prepared by the internal audit department.

The dormancy of the Audit Committee constituted weak internal controls which could have resulted to poor governance and possibility of financial loss.

## COUNTY EXECUTIVE OF MARSABIT - NO.10

### REPORT ON THE FINANCIAL STATEMENTS

#### Basis for Qualified Opinion

#### 178. Variances Between Prior Year Audited Balances and the Comparative Balances

The financial statements for the year under review reflects various prior year balances which differs with corresponding balances of the prior year audited financial statements as detailed below:

Description	Note	Balance as Per Audited Accounts (2020/2021) (Kshs)	Comparative Balance as Per 2021/2022 Financial Statements (Kshs)	Variance (Kshs)
<b>Statement of Receipts and Payments</b>				
Ex-chequer releases	1	7,355,586,600	6,915,702,182	439,884,418
Other Grants and Transfers	5	1,549,598,660	1,492,682,124	56,916,536
Surplus/Deficit		576,945,291	16,095,509	560,849,782
<b>Statement of Assets &amp; Liabilities</b>				
Total cash and cash equivalents	8	834,000,498	198,710,181	635,290,317
Fund Balance	10	203,618,111	129,177,576	74,440,535
<b>Statement of Cash flow</b>				
Ex-chequer releases	1	7,355,586,600	6,915,702,182	439,884,418
Other Grants and Transfers	5	1,549,598,660	1,492,682,124	56,916,536
Net Cash flow from operating activities		2,635,264,600	2,074,414,819	560,849,781
Net Increase/decrease in Cash & Cash equivalents		568,950,794	8,101,013	560,849,781
Cash & Cash Equivalent at the beginning of the year		265,049,703	190,609,168	74,440,535
Cash & Cash Equivalent at the end of the year	8	834,000,497	198,710,181	635,290,317

In addition, the statement of cash flows reflects cash and cash equivalents as at 1 July, 2021 of Kshs.198,668,161, whereas Note 8 reflects an amount of Kshs.198,710,181 resulting into unexplained variance of Kshs.42,020.

In the circumstances, accuracy of the prior year comparative amounts included in the financial statements for the year ended 30 June, 2022 could not be confirmed.

#### **179. Unsupported Expenditure on Fuel, Oil and Lubricants**

The statement of receipts and payments, reflects an amount of Kshs.1,196,525,008 as disclosed in Note 3 to the financial statements in respect to use of goods and services. The amount includes an amount of Kshs.90,479,716 incurred on fuel, oil and lubricants out of which Kshs.6,246,959 is in respect to fuel. However, supporting documents including fuel registers, work tickets, detail orders, statements of consumption from the contracted suppliers and contract agreements were not provided for audit.

In the circumstances, the accuracy and regularity on the expenditure amounting to Kshs.6,246,959 on fuel, oil and lubricants could not be confirmed.

#### **180. Unsupported Procurement of Relief Food**

The statement of receipts and payments reflects an amount of Kshs.1,516,738,672 in respect to other grants and payments as disclosed in Note 5 to the financial statements. Included in the amount is Kshs.735,792,700 relating to emergency relief and refugee assistance out of which expenditure of Kshs.61,142,700 relates to purchase and supply of relief foods. However, supporting documents including advertisement for the tender, the individual bids, tender opening minutes, evaluation reports and the statement of professional opinion were not provided for audit.

In the circumstances, the regularity and accuracy of the expenditure of Kshs.61,142,700 for purchase and supply of relief foods could not be confirmed.

#### **181. Presentation of Financial Statements**

##### **181.1 Disclosure of Non-Current Assets**

The statement of receipts and payments reflects an amount of Kshs.1,245,692,734 in respect of acquisition of assets and as disclosed in Note 7 to the financial statements. However, the County Executive did not disclose a summary of fixed assets in Annex 6 to the financial statements as required by the reporting template.

In addition, the County Executive's assets were not tagged as a mechanism of tracking them and the Management had not established policies and procedures on assets management as required by Section 132(2) of Public Finance Management (County Government) Regulations, 2015 that provides that an Accounting Officer shall ensure that processes and procedures both electronic and manual are in place for the effective, efficient, economical and transparent use of the county government entity's assets. The financial statements are not presented as per the accounting standards as prescribed by the Public Sector Accounting Standards Board.

In the circumstances, the accuracy of non-current assets could not be confirmed.

## 181.2 Expenditure Charged to Wrong Account

The statement of receipts and payments and as disclosed in Notes 3 and 7 to the financial statements reflects Kshs.273,166,152 and Kshs.206,436,911 in respect to other operating expenses and construction of buildings, respectively. The expenditure includes an amount of Kshs.41,816,579 incurred on several items that were charged to the wrong expenditure item as shown below:

Line Description	Account charged	Correct account	Amount (Kshs.)
Diesel fuel; Unleaded, 1ltr	Other Operating Expenses	Fuel, oil and Lubricants	10,000,000
June, 2022 Salary	Other Operating Expenses	Compensation of employees	25,884,579
Hire of Motor Vehicles	Construction of Buildings	Rental of produced assets	1,472,000
Supply and Delivery of Tent	Construction of Buildings	Emergency relief and supplies	3,500,000
Transport Facilitation; Car Hire Services	Construction of Buildings	Rental of produced assets	960,000
<b>Total</b>			<b>41,816,579</b>

This resulted to unexplained mis-posting to various accounts amounting to Kshs.41,816,579.

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

### Other Matter

## 182. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.8,258,605,617 and Kshs.6,673,433,204, respectively, resulting to an under-funding of Kshs.1,585,172,413 or 19% of the budget. Similarly, the County Executive spent Kshs.6,764,060,672 against an approved budget of Kshs.8,258,605,617 resulting to an under-expenditure of Kshs.1,494,544,945 or 18% of the budget.

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

## 183. Prior Year Unresolved Issues

In the report 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 Control, Risk Management and Governance. However, although the Management has indicated that some of the issues have been

resolved, the matters remained unresolved as the Senate and County Assembly are yet to deliberate on the Report for 2020/2021.

## REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

### **Basis for Conclusion**

#### **184. Project Implementation Status Report**

The County Executive had an approved development budget of Kshs.4,312,229,581. However, the projects implemented during the year were two hundred and fifteen (215) with a budget of Kshs.1,082,035,260 resulting to an unexplained variance of Kshs.3,230,194,321. The Project Implementation Status Report reflects that one hundred and forty-five (145) projects worth Kshs.365,015,250 were completed, thirty-three (33) projects worth Kshs.557,020,010 were ongoing, thirty-seven (37) projects worth Kshs.160,000,000 had not started. This may be an indication of inadequacy in project planning and control mechanisms to ensure efficient absorption of available funds.

In the circumstances, the public may not have obtained value for money on the stalled projects.

#### **185. Lack of Approved Staff Establishment**

Review of staffing requirements revealed that as at 30 June, 2022, the County Executive had in place two thousand eight hundred and seventy-seven (2,877) members of staff comprising of two thousand and forty-five (2,045) under IPPD and eight hundred and thirty-two (832) under manual payroll. However, the approved staff establishment was not provided for audit contrary to Section B 6 (3) of the County Public Service Human Resource Manual 2013 which provides that in the recruitment process, due consideration will be given to appropriate organizational structure in each department and optimal staffing levels.

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

#### **186. Non-Compliance with the One-Third of Basic Salary Rule**

During the year under review, eleven (11) employees earned a net salary of less than a third (1/3) of the 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 two-third (2/3) of such wages.

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

#### **187. Irregular Extension of Probationary Period**

Review of employees records revealed that five hundred and ninety-three (593) officers employed on 1 December, 2021 had been on probation for more than six (6) months without confirmation contrary to Section 42(2) of the Employment Act, 2007 which states



that a probationary period shall not be more than six months but may be extended for a further period of not more than six months with the agreement of the employee.

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

#### **188. Non-Compliance with the Law on Staff Ethnic Composition**

The County Public Service Board recruited five hundred and ninety-three (593) officers during the year under review, out of whom four hundred and forty-nine (449) or (76%) were from the dominant ethnic community in the County contrary to the provisions of Section 65(1e) of County Governments Act, 2012 which provides that, in selecting candidates for appointment, the Board shall ensure that at least thirty percent (30%) of the vacant positions at the entry-level are filled by candidates who are not from the dominant ethnic community in the County.

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

#### **189. Non-Remittance of Statutory Deductions**

The compensation of employees' expenditure of Kshs.211,135,809 includes deductions from employees in form of PAYE, NSSF, NHIF and Pension Contributions. Management deducted gratuity payments from staff members between February, 2020 to June, 2022 amounting to Kshs.41,527,429 in relation to Local Authorities Provident Fund (LAPFUND). However, the Management did not remit the statutory deductions to the relevant organizations contrary to Section 19(4) of Employment Act, Cap 226, which states that an employer who deducts an amount from an employee's remuneration in accordance with subsection (1)(a), (f), (g) and (h) of the Act shall pay the amount so deducted in accordance with the time period and other requirements specified in the law, agreement, court order or arbitration as the case may be.

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

#### **190. Irregular Recruitment of Staff**

The County Public Service Board recruited five hundred and ninety-three (593) new members of staff during the year under review, out of which ninety (90) of them were engaged as support staff, clerks, drivers, artisans, fire Marshalls and revenue Clerks. However, the recruited officers had no requisite qualification certificates for appointments as prescribed in the advertisements.

Further, the Board recruited twenty-seven (27) officers in different positions exceeding the number required as per the advertisements approved by respective accounting officer's contrary to Section B 6 (3) of the County Public Service Human Resource Manual 2013 which provides that in the recruitment process, due consideration will be given to appropriate organizational structure in each department and optimal staffing levels.

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

### **191. Payment of Salaries Using Same Bank Account**

Review of the Integrated Payroll and Personal Database (IPPD) and bank remittance schedules for the year under review, revealed that the net salaries for four (4) employees were paid through one bank account despite them having different personal numbers, Identification card numbers and names. This is contrary to Section E.2 (2) of County Public Service Human Resource manual, 2013 which provides that all officers will be paid salary in Kenyan Currency through their bank accounts.

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

### **192. Delayed Construction of Governor's and Deputy Governor's Residences**

As disclosed in Note 3 to the financial statements, the statement of receipts and payments reflects an amount of Kshs1,196,525,008 on use of goods and services which further includes an amount of Kshs.52,738,579 on rentals of produced assets. This amount further includes an amount of Kshs.2,160,000 paid to a company for provision of accommodation to the Deputy Governor for two (2) years. Although the officer was entitled to the benefits, Salaries and Remuneration Commission Circular Ref. No. SRC/TS/COG/6/61/48 Vol. II (64) part (f) put a 30 June, 2022 deadline for drawing of this benefit and required the County Governments to construct official residences and furnish the Salaries and Remuneration Commission with the status of its implementation.

However, there was no evidence that the County Executive had started construction of residences for the Governor and Deputy Governor in compliance with the Salaries and Remuneration Commission circular.

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

### **193. Irregular Expenditure to County Assembly Forum**

As disclosed in Note 5 to the financial statements, transfer of Kshs.1,516,738,672 was made in respect to other grants and payments/transfers. Included in the amount is Kshs.615,251,583 relating to other current transfers and grants out of which Kshs.4,100,000 was paid as membership subscriptions to County Assembly Forum (CAF). However, this body does not draw its mandate from the Constitution of Kenya or an Act of Parliament. Therefore, the basis for the payments to CAF is contrary to Regulation 105(1) of the Public Finance Management (County Governments) Regulations, 2015, 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.

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

### **194. Non-Preparation of Financial Statements**

As previously reported, the Municipality Board, County Executive of Marsabit Social Protection Fund, Marsabit County Enterprise Fund and Marsabit Water and Sewerage Company (MAWASCO) which were established in 2018, 2014, 2015 and 2017, respectively, did not prepare and submit for audit, the entities' financial statements. This was contrary to Section 167(1 to 3) of the Public Financial Management Act, 2012, which

provides 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 which shall contain information on the financial and non-financial performance of the fund and not later than three months after the end of each financial year, the administrator of a county public fund shall submit the financial statements prepared under this section to the Auditor-General.

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

#### **195. Lack of Citizen Participation in the Budget Making Process**

During the year under review, the County Executive had an approved budget of Kshs.9,331,541,485 comprising of Kshs.4,745,539,032 and Kshs.4,586,002,452 in respect to recurrent and development expenditure, respectively. However, the Management did not provide for audit, County Integrated Development plan (CIDP), County Fiscal Strategy Paper (CFSP) and the Annual Development Plan (ADP) to confirm that the necessary steps were followed in ensuring that the budget preparation process was complete and consultative in accordance with Section 7 of the Public Finance Management (County Government) Regulations, 2015, which provides that the County Executive Committee Member should publish the process and procedures for public participation in the planning and budgeting.

In addition, the County Executive did not provide for audit, a file copy of the County's Budget Review and Outlook Paper, the Governor's warrant on the assent of the County Assembly approved budget and evidence that budget was passed by the County Assembly.

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

#### **196. Allocation of Resources in Excess of Regulatory Thresholds**

As disclosed in Note 5 to the financial statements, payments of Kshs.1,516,738,672 made under other grants and payments includes emergency relief and refugee assistance payments of Kshs.735,792,700 or approximately 9% of the County Executive revenue of Kshs.8,258,605,617, in 2021/2022 financial year. This is contrary to Section 113 of the Public Finance Management Act, 2012 which only allow two percent allocation for emergency supplies.

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

#### **197. Irregular Procurement of Specialized Materials and Services**

The statement of receipts and payments and as disclosed in Note 3 to the financial statements reflects an amount of Kshs.1,196,525,008 on use of goods and services. This amount includes an amount of Kshs.99,804,028 in respect of specialized materials and services out of which the County Executive made procurements of dialysis reagents worth Kshs.15,794,503 for the county referral hospital from different suppliers and on various occasions instead of floating a single annual open tender thereby engaging in irregular

split of procurement contract contrary to Section 54 (1) of Public Procurement and Asset Disposal Act, 2015 which provides that no procuring entity may structure procurement as two or more for the purpose of avoiding the use of a procurement procedure.

Further, the procurement was made without specifying procurement method used and without allocating a unique tender number contrary to Section 74(1)(b) of the Public Procurement and Asset Disposal Act, 2015 that requires every procurement to be assigned a unique and a special number.

In the circumstances, Management was breach of the law.

## **198. Acquisition of Assets**

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflects an amount of Kshs.1,245,692,734 in respect to acquisition of assets. However, physical inspection of the projects revealed the following unsatisfactory issues:

### **198.1 Delay in Completion of Level Four Hospital**

The County Executive contracted a company at a contract sum of Kshs.483,369,790 in July, 2019 for the construction of level four (4) hospital at Sololo. The contract period was seventy-eight (78) months with commencement date of 1 July, 2019 and completion date of 25 February, 2021.

Physical inspection conducted in the month of September 2022 revealed that although Management had paid an amount of Kshs.321,615,488 (67%) of contract sum and the project had taken a total of two hundred and twenty-six (226) weeks yet the project completion level was below 50%. In addition, the contract extension approvals were not provided for audit. Further, the project management did not hold site meetings to assess the implementation of the project and confirm the metrics during the engineers visit to give valuation certificates for payments.

In the circumstances, the completion of the project is doubtful and value for money on the Kshs.321,615,488 could not be confirmed.

### **198.2 Delay in Completion of Tuition Block for Medical Training College**

The County Executive contracted a company at a sum of Kshs.200,920,462 in July, 2018 for the construction of a tuition block for a medical training college. The contract period was seventy-eight (78) weeks with the commencement date of 09 July, 2018 and a completion date of 10 January, 2020.

Physical inspection carried out in the month of September, 2022 revealed that although Management had paid an amount of Kshs.168,465,894 (84% of contract sum) and the project had taken two hundred and seventy-four (274) weeks, the project was less than 50% complete. The contract extension approvals were not provided for audit.

Further, there was no evidence that the project management held site meetings to assess the implementation of the project and to confirm the metrics during the engineers visit to give valuation certificates for payments.

In the circumstances, the completion of the project is doubtful and the value for money on Kshs.168,465,894 expenditure could not be confirmed.

### **198.3 Incomplete Fish Factory**

Management contracted a company at a contract sum of Kshs.34,811,743 in January, 2018 for the construction of a fish factory at Loyangalani for a period of sixty-three (63) weeks. The commencement date was 12 January, 2019 while the completion date was projected to be 25 June, 2020. Physical inspection carried out in September, 2022 revealed that although the County Executive had paid an amount of Kshs.30,734,551 (88% of the contract sum) the project was below 50% complete.

Further, no supporting documents were provided for audit, in relation to payment of Kshs.12,121,216, Kshs.11,300,000 and Kshs.2,600,000 totalling to Kshs.26,012,216 in respect to payment of certificate No.3, prime cost and contingencies and project management expenses, respectively.

In addition, documents in support of contract variation from an amount of Kshs.2,225,407 to Kshs.37,037,150 and the approval were not provided for audit. This is contrary to Section 139(1) of Public Procurement and Asset Disposal Act, 2015 which require an amendment or a variation to a contract resulting from a procurement to be effective only if the variation or amendment has been approved in writing by the respective tender awarding authority within the procuring entity. It is not clear when the project will be completed.

In the circumstances, value for money on the expenditure of Kshs.30,734,551 could not be confirmed.

### **199. Unconfirmed Recruitment for Interns**

Note 2 to the financial statements reflects compensation of employees' of Kshs.2,597,312,583 which includes an amount of Kshs.102,885,000 paid as stipend to youth engaged through work placement program for a period of one-year effective 1 July, 2021. However, approval from the County Public Service Board and other supporting documents for the employment/placement of interns were not provided for audit. This was contrary to article 232 (1)(g) of the constitution on fair competition and merit as the basis of appointments and promotions in the public service.

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

### **200. Accountability for Sub-counties Expenditures**

As disclosed in Note 5 to the financial statements Management incurred an amount of Kshs.1,516,738,672 on other grants and payments. This amount includes an amount of Kshs.16,695,759 the County Executive released to Authority to Incur Expenditure (AIEs) holders in Sub-county offices. However, no documentary evidence was provided for audit to show how the Sub county treasuries were established and the AIE holders appointed contrary to Regulation 51(1)(g) and (i) of the Public Finance Management (County Governments) Regulations, 2015 that stipulates the establishment of Sub-county treasuries and keeping of accounting records by AIE holders. In addition, expenditure returns and supporting documents from the sub counties were also not provided for audit.

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

## **201. Unsupported Insurance of Motor Vehicles and Motor Cycles**

The statement of receipts and payments reflects use of goods and services expenditure amounting to Kshs.1,196,525,008 and as disclosed in Note 3 to the financial statements which includes Kshs.67,323,141 in respect of insurance costs. This amount includes an expenditure of Kshs16,490,534 paid to an insurance company for provision of motor vehicle and motor cycle insurance. However, tender bids, insurance policy document, contract agreement, advertisement for the tender and the valuation reports for the insured motor vehicles were not provided for audit, thus it was not possible to confirm whether the insurance firm had been identified competitively as per the Public Procurement and Asset Disposal Act, 2015.

In the circumstances, value for money of the expenditure of Kshs.16,490,534 could not be confirmed.

## **202. Unsupported Purchase and Distribution of Water**

The statement of receipts and payments reflects an amount of Kshs.1,516,738,672 and as disclosed in Note 5 to the financial statements in respect to other grants and payments. Included in the expenditure is an amount of Kshs.735,792,700 relating to emergency relief and refugee assistance out of which an expenditure of Kshs.11,050,000 was in respect to water tracking within the county to mitigate drought. However, signed distribution lists of beneficiaries, livestock and locations to which, water was delivered were not provided for audit.

Further, documentary evidence on appointment of an inspection and acceptance committee to confirm delivery was not provided for audit, contrary to Section 48(3) of the Public Procurement and Asset Disposal Act, 2015 which states that the inspection and acceptance committee shall immediately after the delivery of the goods, works or services; inspect and where necessary, test the goods received, inspect and review the goods, works or services in order to ensure compliance with the terms and specifications of the contract; and accept or reject, on behalf of the procuring entity, the delivered goods, works or services.

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

## **REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE**

### **Basis for Conclusion**

## **203. Weaknesses in Information, Communication and Technology (ICT) Environment**

During the year under review, Management did not put in place an (ICT) strategy, steering committee, ICT Security Policy, Business and ICT continuity plan including an off-site back-up plan to ensure data confidentiality, integrity and availability resulting to inadequacy in ICT governance.



Further, Management did not formulate a disaster management and recovery policies including fire suppression systems contrary to Section 149(2)(c) of the Public Finance Management Act, 2012 which provides that a public entity should always ensure that all its records, financial or otherwise kept in electronic form are adequately protected and backed up. Consequently, in the event of a disaster it is doubtful the County Executive would recover vital information and be able to restore its operations.

In the circumstances, adequacy of ICT security, business continuity and preparedness in case of disaster could not be confirmed.

#### **204. Weakness in Internal Audit, Risk Management and Control**

Review of internal audit function revealed that the department lacked an Internal Audit Charter, Risk Management Policy, Risk Assessment Reports and risk register during the year under review. This was contrary to Section 155.(1)(a) of the Public Finance Management Act, 2012 that provides that a county government entity shall ensure that it has appropriate arrangements for conducting internal audit according to the guidelines issued by the Accounting Standards Board.

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

#### **205. Lack of Operational Audit Committee**

Review of audit committee records revealed that the County Executive had not established an Audit Committee to monitor governance, accountability and control systems, offer objective advice on issues concerning risk control and follow up on the implementation of the recommendations of internal and external auditors in accordance with Section 155 (5) of the Public Finance Management Act, 2012. This Act provides that a county government entity shall establish an internal auditing committee whose composition and functions are to be prescribed by the regulations. In the absence of an operational audit committee, the County Executive may suffer a compromised risk management and governance which is critical in ensuring a strong internal control system.

In the circumstances, effectiveness of the governance structure could not be confirmed.

#### **206. Salaries Paid Through Manual Payroll**

The statement of receipts and payments, and as disclosed in Note 2 to the financial statements reflects compensation of employees' expenses totalling to Kshs.2,597,312,583 which includes an amount of Kshs.394,895,462 paid to eight hundred and thirty-two (832) staff members through manual payroll using excel spreadsheet. This was contrary to Section 1.5.1 of The National Treasury Financial Accounting Recording and Reporting Manual which requires salaries, allowances or arrears of county government employees to be processed through Integrated Payroll and Personnel Database (IPPD) The accuracy of Kshs.394,895,462 could not be confirmed.

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

## **COUNTY EXECUTIVE OF ISIOLO - NO.11**

### **REPORT ON THE FINANCIAL STATEMENTS**

#### **Basis for Qualified Opinion**

##### **207. Non-Disclosure of Outstanding Land Rents and Rates**

The statement of assets and liabilities reflects an amount of Kshs.43,382,290 and as disclosed in Note 23 to the financial statements in respect to account receivables which comprise outstanding imprests. However, revenue records provided for audit reflects an amount of Kshs.82,906,825 in respect to outstanding land rent and land rates for the year under review which was not disclosed in the financial statements. Further, there was no evidence provided to show what measures the Management had taken to ensure collection of the long outstanding receivables.

In the circumstances, the accuracy of the disclosure of accounts receivables in Note 23 to the financial statements as at 30 June, 2022 could not be confirmed.

##### **208. Unsupported Cash and Cash Equivalents**

The statement of assets and liabilities and Note 22 (A) to the financial statements reflects an amount of Kshs.1,267,763,174 in respect to bank balances. However, records including Cashbooks, bank reconciliation statements, certificate of bank balances of seven bank accounts with running balances of Kshs.687,309 were not provided for audit.

In the circumstances, the accuracy of the balance of Kshs.687,309 in respect to cash and cash equivalents as at 30 June, 2022 could not be confirmed.

##### **209. Understatement of County Own Generated Receipts**

The statement of receipts and payments and Note 10 to the financial statements reflects an amount of Kshs.90,327,797 in respect to County own generated receipts. However, the annual revenue reports and monthly revenue analysis from the Local Authority Integrated Financial Operations Management System (LAIFORMS) reflects an amount of Kshs.107,832,875 in respect to annual revenue collected resulting to unexplained variance of Kshs.17,505,078 between what is reported in the financial statements and LAIFORMS revenue records.

In the circumstances, the accuracy of the balance of Kshs.90,327,797 in respect to County own generated receipts as reported in the statement of receipts and payments could not be confirmed.

##### **210. Outstanding Accounts Receivables**

The statement of assets and liabilities and as disclosed in Note 23 to the financial statements reflects an amount of Kshs.43,382,290 in respect to account receivables comprising of outstanding imprests and advances, that have only been outstanding. In addition, included in the balance of Kshs.43,382,290 is an amount of Kshs.1,799,700 in respect to salary advance from the previous years. It was not clear why the same had not

been cleared through the respective individual salaries account. Further, supporting documents including requests for salary advance, approvals for the salary advances and monthly deductions from the respective officers' salaries were provided for audit.

In the circumstances, the recoverability of the outstanding imprest balance of Kshs.43,382,290 could not be confirmed.

## **211. Presentation of Financial Statements**

The financial statements did not include amounts in respect to analysis of pending staff payables, other pending payables, related party transactions and contingent liabilities register in the annexes to the financial statements. This is contrary to the requirements of Public Sector Accounting Standards Board (PSASB) reporting template issued in June, 2022, which requires the annexes be included in the financial statements. Further, the date of approval of the financial statements by the CEC-Finance is not reflected in the Section of the approval of the financial statements and not indicated in the footer to the statements of receipt and payments, the statement of assets and liabilities, statement of cashflows and statement of comparison of budget and actual amounts contrary to the requirements of the reporting template issued by PSASB which requires the approval date of the financial statements to be included.

In the circumstances, the presentation of the financial statements is not in compliance with the reporting template issued by PSASB.

## **212. Irregular Payment of Rent for Governor's Delivery Unit**

The statement of receipts and payments and as disclosed in Note 13 to the financial statements reflects a balance of Kshs.912,866,907 in respect to use of goods and services. This balance includes an amount of Kshs.143,966,995 in respect of rentals of produced assets which further includes an amount of Kshs.6,000,000 paid in respect to office space rented by the Governor's Delivery Unit.

The invoices were dated between March, 2019 and September, 2020. However, scrutiny of the pending bills for the previous financial years of 2019 and 2020 revealed that these invoices were not listed or disclosed as part of the pending bills in the financial statements for the respective years. It was not clear why the same were not disclosed in the year when they were incurred.

In the circumstances, authenticity and existence of the payment and whether it was as a proper charge to public funds could not be confirmed.

## **213. Fixed Assets Register**

Annex 6 to the financial statements reflects the summary of non-current assets at a historical cost amounting to Kshs.17,708,499,054 which includes an amount of Kshs.331,562,052 in respect to additions during the year under review. However, as reported in the previous years, Management had not incorporated various assets and liabilities in the financial statements amounting to Kshs.14,155,106,914 and Kshs.158,259,036 respectively, from the defunct County Council of Isiolo as at 30 June, 2022. Further, the Management did not maintain an updated fixed asset register for the year under review contrary to Regulation 132(1) of the Public Finance

Management (County Governments) Regulations, 2015 which stipulates that the Accounting Officer of a County Government entity shall take full responsibility and ensure proper control systems exists for assets.

In the circumstances, the accuracy, valuation, ownership, existence, completeness, location and security of the non-current assets of Kshs.17,708,499,054 could not be confirmed.

## **Other Matter**

### **214. Budgetary Control and Performance**

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on a comparable basis amounts of Kshs.6,345,840,136 and Kshs.4,873,314,649, respectively, resulting to an under-funding amounting to Kshs.1,472,525,488 or 23% of the budget. Similarly, the County Executive spent an amount of Kshs.4,742,835,841 against an approved budget amount of Kshs.6,345,840,135 resulting to an under-expenditure amounting to Kshs.1,603,004,295 or 25% of the budget. Further, the statement also reflects an amount of Kshs.153,686,337 in respect to budgeted County's own generated revenue which includes an amount of Kshs.3,800,000 in respect to revenue estimates from liquor licenses. Even though this source of revenue was included in the budget, the liquor licensing bill had not been passed and the County Executive could not collect the liquor license fees.

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

### **215. 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. Although the Management has indicated that the issues have been responded to, the matters have remained unresolved as the Senate has not deliberated on the same.

## **REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

### **Basis for Conclusion**

#### **216. Non-Submission of the Financial Statements**

##### **216.1 Receiver of Revenue Financial Statements**

Management of the County Executive did not prepare and submit to the Auditor-General the financial statements in respect of revenue collected, received, and recovered by the receiver of revenue during the financial year under review contrary to Section 165(1) and (3) of the Public Finance Management Act, 2012 which states in part, that not later than three months after the end of the financial year, the receiver of revenue for the County Government shall submit the financial statements to the Auditor-General.

## **216.2 Emergency Fund Financial Statements**

Information available indicate that although the County Executive had established an Emergency Fund in line with the provisions of Section 110(1) of the Public Finance Management Act, 2012, the financial statements for the Emergency Fund were not prepared and presented to the Auditor-General for audit in line with Section 115 (1) of the Act, which requires the County Treasury to prepare and submit to the Auditor-General, financial statements in respect of the Emergency Fund for that year, not later than three months after the end of each financial year.

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

## **217. Failure to Prepare Quarterly Reports**

As reported in the previous year, no evidence was presented for audit to confirm whether Management prepared quarterly cash flow projections and procurement plans as required in Regulation 43(3) of the Public Finance Management (County Governments) Regulations, 2015, which states that cash flow plans shall be broken down into a three-month rolling basis and that the quarterly cashflow projections shall be supported by procurement plans.

Further, the County Treasury did not publish and publicize quarterly liquidity position reports on the impact of revenue collection efforts, spending and County public debt operations as well as the cash position of the County Executive as required by Regulation 45(6) which states that the county treasury shall publish and publicize the quarterly liquidity position reflecting the impact of revenue collection effort, spending and county public debt operation on the cash position of the county government.

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

## **218. Failure to Prepare and Publish Contract Awards**

As reported in the previous year, Management did not prepare, publish, and publicize all contract awards as required under Section 138(1) and (2) of the Public Procurement and Asset Disposal Act, 2015. Further, monthly progress reports on implementation of procurement contracts were not provided for audit. As a result, there was no evidence that Management monitored implementation of contracts regularly as required in Section 152 of the Public Procurement and Asset Disposal Act, 2015, which states that the head of the procurement function shall prepare monthly progress reports of all procurement contracts of the procuring entity and submit them to the accounting officer.

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

## **219. Failure to Remit Own Generated Receipts into County Revenue Fund**

The statement of receipts and payments and as disclosed in Note 10 to the financial statements reflects an amount of Kshs.90,327,797 in respect to county's own generated revenue. Revenue records provided revealed that an amount of Kshs.45,927,847 held in a collection bank account at National Bank of Kenya had not been transferred to the County Revenue Fund account as at 30 June, 2022.

Further, the only transfer of funds from this account to the County Revenue Fund was done on 1 July, 2021. This revenue account received revenue deposits on daily basis but the same was not transferred into the CRF account contrary to the Public Finance Management (County Governments) Regulations, 2015 81(2) which requires revenue collected to be paid into the County Revenue Fund (CRF) not later than five (5) days after the receipt. No satisfactory explanations were given for failure to transfer the funds into the CRF account on regular basis.

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

## **220. Non-Rotation of Suppliers**

Analysis of the IFMIS payment details, payment vouchers and bank statements revealed that the County Executive regularly awarded contracts to twelve (12) suppliers from the list of registered/pre-qualified suppliers. The twelve (12) firms were awarded contracts totalling to Kshs.320,928,567 across the County departments in the year under review contrary to Section 91(5) of the Public Procurement and Asset Disposal Regulations, 2020 which requires the accounting officer to ensure a fair and equitable rotation amongst the persons in the list of registered suppliers.

No justifiable reason was given to show why the Management preferred to award contracts to only the twelve (12) suppliers while ignoring the other 129 prequalified suppliers (firms). The principle of fairness and equitable rotation of suppliers was ignored.

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

## **221. Anomalies in Construction of Early Childhood Development Education (ECDE) Classrooms**

The statement of receipts and payments and as disclosed in Note 18 to the financial statements reflects a balance of Kshs.362,746,932 in respect to acquisition of assets. This balance includes an amount of Kshs.18,995,450 in respect to construction of buildings which further includes an amount of Kshs.2,398,079 for construction of ECDE classrooms at Tuluroba by the Department of Education. However, the following anomalies were noted:

- i) Construction services were procured from a firm whose single business permit had expired on the 31 December, 2019. This contractor was, therefore, not eligible to be awarded this tender.
- ii) Tender opening and tender evaluation committee minutes were not provided for audit casting doubt as to whether there was competitive bidding for these works.
- iii) In addition, evidence provided for audit showed that the contractor was single sourced contrary to Section 158 of the Public Procurement and Asset Disposal Regulations, 2020 which requires the procurement of goods, works and services to be competitively sourced.



- iv) No evidence was provided to show that inspection and acceptance committee was put in place to inspect the works done contrary to Section 48 of Public Procurement and Asset Disposal Act, 2015.

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

## **222. Irregular Procurement of Oxygen Cylinders and Oxygen Plant Spare Parts**

The statement of receipts and payments and as disclosed in Note 13 to the financial statements reflects a balance of Kshs.912,866,907 in respect to use of goods and services which includes an amount of Kshs.184,094,398 in respect to specialized materials and service. This expenditure includes an amount of Kshs.2,623,000 paid to a firm for supply and delivery of Oxygen Cylinders and Oxygen Plant spare parts. Request for quotations was used as the preferred procurement method. However, the following anomalies were noted:

- i) Evaluation minutes showed that only one bidder was evaluated for the tender.
- ii) Quotations from the other bidders were not provided for review casting doubt whether the procurement was competitive. The County Government may have directly awarded the tender contrary to Section 105(2d) of the Public Procurement and Asset Disposal Act, 2015 which requires at least three persons to submit their bids prior to evaluation.
- iii) The signed professional opinion from the head of procurement was not provided for audit review casting doubt as to whether it was raised contrary to the requirements of Section 84 of the Public Procurement and Asset Disposal Act, 2015.

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

## **223. Fixed Assets Management**

### **223.1 Uninsured Assets**

Annex 6 to the financial statements reflects an amount of Kshs.17,708,499,054 in respect to historical cost of non-current assets as at 30 June, 2022 for buildings, office equipment, transport equipment, ICT equipment and machinery. However, as reported in the previous year, out of this amount, only motor vehicles with a book value of Kshs.350,676,804 were insured leaving a balance of Kshs.17,357,822,250 in respect to the book values of the assets. This is contrary to Section 160(1) of the Public Procurement and Asset Disposal Act, 2015 which states that an Accounting Officer of a procuring entity shall manage its inventory, assets, and stores for the purpose of preventing wastage and loss and continuing utilization of supplies.

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

## **223.2 Weaknesses in Management of Unserviceable and Obsolete Assets**

Annex 6 to the financial statements discloses a balance of Kshs.17,708,499,054 in respect to summary of non-current assets which includes an amount of Kshs.350,676,804 in respect to transport equipment. As reported in the previous year, defective and unserviceable motor vehicles have been grounded in parking yards in the County for a considerable long period of time. However, no explanation was given as to why the unserviceable motor vehicles and transport equipment's have not been bonded and earmarked for disposal in line with Section 163(1) of the Public Procurement and Asset Disposal Act, 2015 which requires that an accounting officer shall establish a disposal committee as and when prescribed for the purpose of disposal of unserviceable, obsolete, obsolescent, or surplus stores, equipment, or assets.

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

## **224. Unaccounted for Fuel Oil and Lubricants**

The statement of receipts and payments and as disclosed in Note 13 to the financial statements reflects a balance of Kshs.912,866,907 in respect to use of goods and services which includes an amount of Kshs.30,322,168 in respect to fuel oil and lubricants which in turn includes an amount of Kshs.17,849,438.00 paid to a Company for supply of fuel, oil and lubricants. However, though a framework agreement was used as the preferred procurement method for fuel, oil and lubricants, there was no evidence of mini competition performed amongst the framework suppliers' contrary to Section 114(3)(b) of the Public Procurement and Asset Disposal Act, 2015 which states in part that when implementing a framework agreement, a procuring entity may invite mini competition among persons that have entered into the framework agreement in the respective category.

There was also no evidence that call off orders were made by the buyer and the supplier accepted in line with Section 114(3)(a) of the Public Procurement and Asset Disposal Act, 2015 which states in part that, "when implementing a framework agreement, a procuring entity may procure through call-offs order among persons that have entered into the framework agreement in the respective category." Further, updated fuel registers to control and monitor fuel consumption were not provided for audit.

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

## **225. Non-Adherence to the Requirements on Mandatory Retirement Age**

Analysis of the staff records revealed that fifty-one (51) county officers were in service even after attaining the mandatory retirement age of sixty (60) years contrary to the provisions of the Public Service Commission Circular Ref No: PSC/ADM/13(7) dated 19 November, 2020 on mandatory retirement age of public officers that provides the mandatory retirement age to be 60 and 65 years for non-disabled and for people with disability, respectively.

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

## **226. Irregular Allocation of all Procurements**

The statement of receipts and payments and as disclosed in Note 18 to the financial statements reflects an amount of Kshs.362,746,932 in respect to acquisition of assets. However, procurement information provided for audit indicated that Management did not allocate at least 30% of its annual procurement budget for goods, works or services to enterprises owned by youth, women, and persons living with disability contrary to Section 149 of the Public Procurement and Assets Disposals Regulations, 2020 which requires that an accounting officer of a procuring entity shall allocate at least 30% of its annual procurement budget for the purpose of procuring goods works or services to enterprises owned by youth, women, and persons with disability. Further, no evidence was provided for audit to confirm the County Executive submitted quarterly payment performance statistic to The National Treasury and the Authority demonstrating compliance with the obligation to pay invoices within sixty (60), days contrary to Section 150(4) of the same regulations which requires procuring entities to submit a quarterly payment performance statistic to The National Treasury and the Authority demonstrating compliance with the obligation to pay invoices within sixty (60) days for publication.

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

## **227. Non-Operationalization of Municipality of Isiolo**

Records reviewed including Board minutes showed that the Board met only twice in the financial year under review. This is contrary to the provisions of the Section 8(1)(a) of the State Corporations Act which requires that the Board shall meet at least once per quarter (ie four times in the financial year). Matters concerning the Municipality may not have been articulated by the Board as required by the Act.

Further, Section 46(1) of the Urban Areas and Cities Act, 2011 requires that the Board shall cause to be kept proper books and records of its incomes, expenditure, assets, and liabilities, and (2) within a period of three months after the end of each financial year the Board shall submit them to the county executive committee member for onward transmission to the Office of the Auditor-General together with the statement of assets and liabilities.

However, even though the Board has been in existence since January, 2019, it has not kept, prepared, and submitted financial statements to the County Executive Committee Member for onward transmission to the Office of the Auditor-General contrary to the law.

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

## **228. Failure to Maintain a Retention Account**

The statements of receipts and payments reflects balance of Kshs.362,746,932 in respect of acquisition of assets which includes an amount of Kshs.215,872,976 in respect of Construction of Buildings, Construction and Civil Works, and Overhaul and Refurbishment of Construction and Civil Works combined. However, the County Executive did not maintain a retentions account to deposit a specified percentage (10%) deductible from construction contract sums over the defect's liability period and from

which the same is paid on expiry of that period. Further, records showing the total retention money deducted from contractor's contract sum, total amount paid, and the outstanding amount due to contractors as at 30 June, 2022 were not maintained.

In the circumstances, the operation, completeness, and existence of retentions funds could not be confirmed.

## **229. Irregular Dollar Currency Bank Accounts**

The statement of assets and liabilities and as disclosed in Note 22A to the financial statements reflects an amount of Kshs.1,267,763,174 in respect to bank balances as at 30 June, 2022. As reported in the previous year, the County Executive operated two revenue dollar accounts in two commercial banks in Isiolo town contrary to Regulation 76(2) of the Public Finance Management (County Governments) Regulations, 2015 which requires all foreign currency denominated bank accounts operated by public entities to be kept at the Central Bank of Kenya, unless exempted by the Cabinet Secretary for Finance.

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

## **230. Lack of Project Implementation Status Report**

The statement of receipts and payments and as disclosed in Note 18 to the financial statements reflects an amount of Kshs.362,746,932 in respect to acquisition of assets. This balance include amounts of Kshs.18,995,450, Kshs.58,963,976, Kshs.165,949,895, and Kshs.30,927,631 in respect to construction of buildings, construction of roads, construction of civil works, refurbishment, and construction of civil works, respectively. However, the County Executive did not provide an updated project implementation status report (PIS) for audit to confirm the status of the budgeted and implemented projects in the year under review.

In the circumstances, the status of the projects that were planned, budgeted for and implemented in the year under review could not be confirmed.

## **231. Non-Compliance with the Law on Staff Ethnic Composition**

During the year under review, the total number of employees of the County Executive was one thousand six hundred and ten (1610) out of which seven hundred and sixty-three (763) or 47 % of the total number were members of the dominant ethnic community in the County. This is contrary to Section 7(2) of the National Cohesion and Integration Commission Act, 2008 which requires 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.

## **232. Management of Imprest**

### **232.1 Non- Accountability of Imprest**

Included in the statement of receipts and payments reflects use of goods and services amount of Kshs.912,866,907. Included in this amount is Kshs.188,460,431 that was

issued to various officers in various departments in form of imprests but the amount was expensed and charged to various expenditure items before it was accounted for contrary to Regulation 91(1), and Regulation 93(5) of the Public Finance Management (County Governments) Regulations, 2015 which require a holder of a temporary imprest to account for or surrender the imprest within seven (7) working days after returning to duty station.

### **232.2 Irregular Multiple Imprests**

Imprest records provided for audit reflects an amount of Kshs.12,841,900 that was issued as additional imprest to various officers from various departments before surrender of imprest issued earlier contrary to Regulation 93 (8) of the Public Finance Management (County Governments) Regulations, 2015 which require an accounting officer or AIE Holder to ensure that no second imprest is issued to an officer before the first imprest is surrendered or recovered in full.

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

## **REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE**

### **Basis for Conclusion**

### **233. Lack of Approved Internal Audit Work Plan and Quarterly Reports**

Review of internal audit records provided for audit from the head of internal audit revealed that the internal audit section did not have an annual work plan approved by the internal audit committee contrary to Regulation 163(2) of the Public Finance Management (County Governments) Regulations, 2015 which states in part that the annual work plan developed shall be submitted to the audit committee by 15 February each financial year, approved by the audit committee and shared with the accounting officer of the entity. It was, therefore, not possible to establish how the department operates without an approved audit workplan and whether there was adequate audit coverage of all the county activities in the year under review.

In addition, there was no evidence of submission of internal audit report to the audit committee and evidence of action taken on the findings and recommendations arising from the internal audit reports contrary to Regulation 164(2) of the Public Finance Management (County Governments) Regulations, 2015, which states in part that the final report, including the actions taken by the accounting officer should be reported to the audit committee.

Further, there was no evidence of quarterly internal audit reports prepared and presented to the accounting officer of the entity in the year under review contrary to Regulation 164(1) and (2) of the Public Finance Management (County Governments) Regulations, 2015.

In the circumstances, the effectiveness of the internal controls processes of the County Executive could not be confirmed.

### **234. Lack of Assessment of Internal Audit Unit Performance**

Review of the internal audit performance revealed that there was no performance assessment, appraisal reports and independence, and competency reports and professional assessment of its effectiveness undertaken by a professionally recognized body or institution. This is contrary to Regulation 159. (1) to (3) of the Public Finance Management (County Governments) Regulations, 2015 which requires that each year the head of internal audit unit shall assess its own effectiveness through an internal performance appraisal and shall carry out annual review of the performance of the internal audit activity commenting on its effectiveness in the annual report to County Treasury. Further, each year the Audit Committee shall carry out annual review of the independence, performance and competency of the internal audit unit and comment on their effectiveness in the annual report.

In addition, at least once every three years but not more than five years, internal audit unit shall undergo a professional assessment of its effectiveness undertaken by a professionally recognized body or institution.

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

### **235. Lack of Independence of Internal Audit**

Review of the County's internal audit unit revealed that the department lacks functional and financial independence. The department was part of the County Executives' finance department and depended financially on the finance department to function. The internal audit department did not have an independent budget to enable it to accomplish its mandates.

In addition, the department was not sufficiently facilitated to ensure that it effectively completed its internal audit program. Review done on the audit reports revealed that there were instances the department was denied access to records thus limiting their scope contrary to Regulation 155(3) of the Public Finance Management (County Governments) Regulations, 2015 which requires the internal auditor to have direct and prompt access to all records, officials or personnel holding any contractual status and to all the premises and properties of the entity. In view of the foregoing, the Internal audit department may not discharge its mandate adequately and may not be relied upon as the custodian of internal controls systems in the County Executive.

In the circumstances, and in the absence of an active audit committee the overall internal control system and risk management in the County Executive could not be confirmed.

### **236. Lack of Functional Audit Committee**

Review of the Governance Structures revealed that the County Executive had an Audit Committee which was appointed on 1 December, 2018 as evidenced by the Committee's appointment letters. The Committee's term of office ended on 1 December, 2021. However, evidence adduced for audit showed that the Committee members had not been re-appointed as of 30 June, 2022 contrary to Regulation 170(1) of the Public Finance Management (County Governments) Regulations, 2015 which requires the audit



committee members to be re-appointed for a further one term in case their term in office lapses.

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

### **237. Lack of Risk Management Policy**

As reported in the previous year, the County Executive did not have a Risk Management Policy in place, contrary to Regulation 153(1)(b) of the Public Finance Management (County Governments) Regulations, 2015 which requires that internal auditors shall have a duty to give reasonable assurance through the Audit Committee on the state of risk management, controls, and governance within the organization.

In the circumstances, it was not possible to confirm the effectiveness of the internal controls, risk management and governance of the County Executive.

### **238. Under-Collection of Own Generated Revenue**

During the year under review, the County Executive budgeted to collect own generated revenue amounting to Kshs.153,686,337 from various revenue sources as per the appropriations bill. However, the County Executive managed to collect and account for only an amount of Kshs.90,327,797 or 59% of the budgeted revenue collection in the year under review leading to under-collection amounting to Kshs.63,358,540.

Further, the County Executive used a revenue collection system namely Local Authority Integrated Financial Operations Management System (LAIFORMS). This revenue collection system was largely manual and required the revenue collectors to manually collect the revenue, issue manual receipts, post to LAIFORMS and then bank the cash collected. This could have denied the County Executive part of the revenue.

In the circumstances, it was not possible to determine if the County Executive through the use of LAIFORMS accounted for all the revenues collected in the year under review.

## **COUNTY EXECUTIVE OF MERU - NO.12**

### **REPORT ON THE FINANCIAL STATEMENTS**

#### **Basis for Qualified Opinion**

##### **239. Lack of Valuation and Title Deeds for Land**

Annex 3 to the financial statements reflects a balance of Kshs.9,165,729,104 in respect of summary of non-current asset register which includes a balance of Kshs.42,337,783 in respect of land. However, the County Executive did not provide a list of all parcels of land owned by the County, specific location of land, approximate size, value of land and respective title deeds.

In addition, although the County Executive explained that it has already made efforts to acquire ownership documents, the verification and validation exercise for the assets owned by the devolved unit has not been undertaken and therefore the existence, valuation and location of specific land parcels could not be established. Further, no title deeds in the name of the County Executive were provided for audit.

In the circumstances, the accuracy, existence, value and ownership of the fixed assets balance of Kshs.9,165,729,104 could not be confirmed.

##### **240. Unsupported Penalty and Interest on Tax**

The statement of receipts and payment reflects compensation of employees' amount of Kshs.4,496,439,039 as disclosed in Note 3 to the financial statements which includes expenditure of Kshs.57,597,233 on other personnel payments. However, the amount increased from Nil in 2020/2021 financial year to Kshs.57,597,233 in the current financial year without justification.

Further, the amount of Kshs.57,597,233 includes an amount deducted by Kenya Revenue Authority (KRA) from County Revenue Fund as penalties and un-remitted Pay As You Earn (PAYE). However, the balance was not analysed to distinguish the penalties charged and principal PAYE amount. In addition, the County Executive did not explain why it failed to remit PAYE deductions within the statutory deadlines.

In the circumstances, the accuracy, regularity and completeness of the other personnel payments amounting to Kshs.57,597,233 could not be confirmed.

##### **241. Unsupported Expenditure on Legal Fees**

The statement of receipts and payments reflects an amount of Kshs.1,275,786,103 and as disclosed in Note 4 to the financial statements in respect of use of goods and services which includes an amount of Kshs.233,706,236 incurred on other operating expenses. Included in the expenditure is an amount of Kshs.38,822,518 in respect of legal fees for various court cases filed against the County Executive out of which an amount of Kshs.9,438,070 was not supported.

In the circumstances, the accuracy and completeness of the legal fees expenditure amounting to Kshs.9,438,070 could not be confirmed.

## **Other Matter**

### **242. Budgetary Control and Performance**

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.11,464,494,220 and Kshs.10,036,211,627 respectively resulting to an under-funding of Kshs.1,428,282,593 or 12% of the budget. Similarly, the County Executive spent Kshs.10,296,334,453 against an approved budget of Kshs.11,464,494,220 resulting to an under-expenditure of Kshs.1,168,159,767 or 10% of the budget.

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

### **243. 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 nor given any explanation for the failure to implement the recommendations.

## **REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

### **Basis for Conclusion**

#### **244. Non-Compliance with the Fiscal Responsibility Principles - Wage Bill**

The statements of receipts and payments reflects an amount of Kshs.4,496,439,039 in respect of compensation of employees as disclosed in Note 3 to the financial statements which translates to 45% of the total receipts of Kshs.10,036,211,627. This is contrary to Regulation 25(1)(b) of the Public Finance Management (County Governments) Regulations, 2015 which limits 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.

#### **245. Non-Compliance with the One-Third of Basic Salary Rule**

Review of the monthly payroll records revealed that one hundred seventy-three (173) employees' salary deductions fell below the a-third (1/3) of the basic salary contrary to Section 19 (3) of the Employment Act, 2007 which require that deductions made by an employer from the wages of his employee at any one time shall not exceed two thirds of such wages. No explanation from Management was provided for the employee earnings below the statutory minimum.

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

## **246. Non-Compliance with the Law on Staff Ethnic Composition**

Review of the Integrated Personnel and Payroll Database (IPPD) Payroll revealed that 90% of the County Executive employees were from the same dominant ethnic community. This is contrary to Section 7(2) of the National Cohesion and Integration Act, 2008 which requires that all public officers 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.

## **247. Lack of an Approved Staff Establishment**

The County Executive did not have an approved staff establishment contrary to Section B 5(2) of the County Public Service Human Resource Manual, 2013 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. Further, Section B 6(3) states that in the recruitment process, due consideration will be given to appropriate organizational structure in each department, optimal staffing levels, schemes of service and career progression guidelines.

In the circumstances, it was not possible to establish if the County Executive operated at optimum staffing levels.

## **248. Failure to Pay Gratuity to Temporary Employees**

During the year under review, the County Executive paid Kshs.203,187,379 as basic salaries of temporary employees. However, the County Executive engaged employees on contract basis but failed to include the clause on gratuity on the terms of service as required by the Employment Act, 2007. The clause states that, contracted employees to be paid 31% of the basic pay at the end of the contract. Management did not explain failure to pay gratuity to the contracted employees.

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

## **249. Incomplete Projects**

### **249.1 Incomplete Refurbishment of Cancer Centre**

The County Executive Department of Health issued a tender for refurbishment of Cancer Centre at a contract sum of Kshs.10,501,446. Certificate No.1 of Kshs.5,090,983 was paid on 21 February, 2022. However, physical inspection of the project revealed incomplete works including painting, ablution blocks, parking and waiting bay and landscaping.

In the circumstances, value for money on the project's expenditure of Kshs.5,090,983 could not be confirmed.

## **249.2 Stalled Construction of Ward Block**

Review of Health Department records revealed that the County Executive awarded a contract for construction of Ward Block at Miathene Sub County Hospital at a contract sum of Kshs.19,621,139 on 2 July, 2020, out of which Kshs.3,657,087 was paid during the year. However, physical inspection of the project carried out in the month of July, 2022 revealed that the contractor was not on site. Contract records indicate that the contractor abandoned the project when it was about 30% of completion level.

The contractor had not applied for an extension and the County Executive had not initiated termination process. Although the contract period had expired, no extension has been requested hence completion of the project is doubtful.

In the circumstances, value for money on the expenditure of Kshs.3,657,087 in respect of the project could not be confirmed.

## **249.3 Stalled Construction of Theatre**

Review of Health Department projects records revealed that the Management awarded a contract for construction of Kangeta Theatre at a contract sum of Kshs.11,988,413 on 2 July, 2020. During the year under review, the contractor was paid Kshs.1,278,887. However, the work plan, evidence of site visits, project monitoring and evaluation reports, scope of works, special specification if any and priced bills of quantities by the Accounting Officer were not provided for audit. Further, physical inspection of the project carried out in the month of July, 2022 revealed that the contractor abandoned the project when it was about 48% completion level. Further, despite the expiry of the contract duration, no evidence was provided on extension of the contract period for audit. No measure appears to have been put in place by the Management to complete the project.

In the circumstances, value for money for the project's expenditure of Kshs.1,278,887 could not be confirmed.

## **249.4 Delay in Erection and Completion of Ward Block**

The County Executive awarded a contract for erection and completion of Ward Block at Meru Teaching and Referral Hospital at a contract sum of Kshs.387,469,465. However, the tender opening register, tender opening minutes, notification of award and information to unsuccessful bidders, program of works, evidence of site visits, project monitoring and evaluation, complete contract document, scope of works, priced bills of quantities, general conditions of contract and evidence of appointment of inspection and acceptance committee by the Accounting Officer were not provided for audit contrary to Section 78(6) and (10) of the Public Procurement and Asset Disposal Act, 2015 .

Further, payment certificates numbers 18 and 20 of Kshs.23,946,067 and Kshs.18,069,067, respectively, revealed the following anomalies:

- a) The Ward Block was not operational despite being commissioned on 19 July, 2022.

- b) The electricity installation, lifts, networking, water tanks and medical gas plan room/gas point, ceiling, gas piping and electrical wiring had not been done.
- c) Sub-contractors' payment has been delayed leading to stalling of major works. These included electrical and mechanical works, plumbing, water tanks, cabling and medical gas installation.
- d) Project status and completion level was not documented.

In the circumstances, value for money on the expenditure of Kshs.42,015,134 for the construction of the ward block could not be confirmed.

#### **249.5 Stalled Renovation Works at Nyambene Hospital**

The County Executive's Health Department awarded a contract for renovation works at Nyambene Level 4 Hospital on 12 June, 2020 at a contract sum of Kshs.13,903,916. However, physical inspection of the project carried out in the month of July, 2022 revealed that the contractor abandoned the project when it was about 40% completion level. Further, the County Executive had not initiated the termination process, or put in place measures to have the project completed.

In the circumstances, value for money on the project's expenditure amounting to Kshs.13,903,916 could not be confirmed.

#### **250. Abandoned Health Facility Projects**

The County Executive spent an amount of Kshs.130,223,075 on construction of various health facilities during the year under review. However, physical inspection on sampled projects carried out in July, 2022 totalling Kshs.72,511,952 revealed that most of the health facilities had been abandoned by the contractors.

Management has not put in place measures to ensure that the projects are completed.

In the circumstances, it was not possible to confirm that the County Executive obtained value for money on the expenditure of Kshs.72,511,952 incurred on these projects.

#### **251. Expired Contract on Consultancy Services for Preparation of Development Plans**

During the year under review, the County Executive paid the fourth and final payment of Kshs.1,985,000 for consultancy services for digital topographical mapping and preparation of urban development plans for Nchiiru-Kianjai-Urru and its environs. Review of documents provided for audit revealed the following anomalies;

- i. The consultancy contract was awarded on 14 February, 2017 at a contract sum of Kshs.22,385,000 for a contract period of twelve (12) months and a contract completion period of February, 2018. However, the payment of the fourth and final amount of Kshs.1,985,000 was made after the expiry of the contract period.



- ii. There was no inspection and acceptance certification by the Contract Implementation Team to confirm that the services were actually rendered and in compliance with the terms of the contract.
- iii. The payment of Kshs.1,985,000 was a pending bill but had no validation report on the unpaid claim.
- (iv) There was no evidence of public participation during identification and implementation of the projects to ensure ownership and support by the public.

In the circumstances, value for money on the project's expenditure of Kshs.1,985,000 could not be confirmed.

## **252. Expired Contract on Consultancy Services for Preparation of Urban Development Plans**

During the year under review, the County Executive paid the fourth and final payment of Kshs.1,857,000 for consultancy services for digital topographical mapping and preparation of urban development plans for Karachi, Ngundune, Muriri, Muthara, Karama township and their environs. Review of documents provided for audit revealed the following anomalies;

- i. The consultant was awarded the contract on 14 February, 2017 at a contract sum of Kshs.23,595,000 for a contract period of twelve (12) months with contract period ending in February, 2018. Therefore, payment of the fourth and final amount of Kshs.1,857,000 during the year under review was based on an expired contract.
- ii. There was no inspection and acceptance certification by the Contract Implementation Team to confirm that the services were rendered in compliance with the terms of the contract.
- iii. The payment of Kshs.1,857,000 was a pending bill but had no verification report attached authenticating on validation of the payment.
- iv. Evidence of public participation to ensure stakeholders support for the project were not provided for audit.

In the circumstances, value for money on the consultancy expenditure of Kshs.1,857,000 in respect of urban development plans could not be confirmed.

## **REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE**

### **Basis for Conclusion**

## **253. Weaknesses on Routine Maintenance of Vehicles**

Review of motor vehicles records revealed the following internal control weakness:

- (i) No efficiency analysis reports were provided for county vehicles. In the absence of these reports, it is not possible to identify unserviceable vehicles which are costly to repair and maintain.

- (ii) The Logbooks for services, repairs and maintenance undertaken were not provided for audit.
- (iii) No record of work done was posted in vehicle logbooks, or work tickets
- (iv) Invoices were not examined, authorized and approved for payment.
- (v) There was no matching of invoices, Local Purchase Orders (LPOs) and requisitions.

In the circumstances, the effectiveness of internal controls in the routine maintenance of vehicles amount of Kshs.11,606,069 could not be confirmed.

#### **254. Weaknesses in the Supplies of Assorted Pharmaceuticals at Various Hospitals**

Physical inspection of drugs supplied by KEMSA to various hospitals in Meru County revealed expired drugs, poor record keeping, undelivered drugs and lack of inspection and acceptance reports. The malpractices were noted in Meru Teaching and Referral Hospital, Mikinduri Sub-County Hospital and Nyambene District Hospital.

In the circumstances, the effectiveness of internal controls on assorted pharmaceuticals in the Hospitals could not be confirmed.

#### **255. Lack of Policy on Airtime**

During the year under review, the County Executive does not have policy guidelines on the expenditure of airtime which would stipulate airtime entitlement for each job group and its limit. Further, employees were refunded money spent on airtime in disregard of the Salaries and Remuneration Commission circular number SRC/ADM/CIR/1/13 VOL (138) of 10 August, 2015 which gave guidelines on airtime entitlement.

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

#### **256. Use of Manual Payroll**

The statement of receipts and payments reflects an amount of Kshs.4,496,439,039 in respect of compensation of employees as disclosed in Note 3 to the financial statements. Included in this expenditure is an amount of Kshs.203,187,379 paid through the manual payroll system. The use of manual payroll is prone to errors. This is 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, the existence of effective internal controls in the management of manual payroll could not be confirmed.

## COUNTY EXECUTIVE OF THARAKA-NITHI - NO.13

### REPORT ON THE FINANCIAL STATEMENTS

#### **Basis for Qualified Opinion**

#### **257. Inaccuracies in Financial Statements**

The financial statements presented for audit had the following inaccuracies;

- 257.1** The statement of receipts and payments reflects comparative transfers from county revenue fund amount of Kshs.4,663,952,412 while the previous year's audited financial statements reflects an amount of Kshs.5,047,131,344 resulting to an unreconciled variance of Kshs.383,178,932;
- 257.2** The previous year's audited financial statements reflects county own generated receipts amount of Kshs.254,745,602, other receipts amount of Kshs.18,450 and transfers to other government units amount of Kshs.429,024,953 which are omitted from current year's financial statements.
- 257.3** The statement of assets and liabilities reflects prior year adjustment amounting to Kshs.642,472. However, this presentation is not in line with International Public Sector Accounting Standard (IPSAS) 3 which requires all prior year adjustments to be effected through the previous period balances.

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

#### **258. Overpayment of Salaries and Allowances**

The statement of receipts and payments reflects compensation of employees amount of Kshs.2,105,920,482 as disclosed in Note 3 to the financial statements. However, the amount includes overpayment of Kshs.2,575,470 on basic salary and house allowance for ninety-two (92) employees.

In the circumstances, the accuracy and completeness of salaries and allowances amount of Kshs.2,575,470 could not be confirmed.

#### **259. Unsupported Use of Goods and Services**

The statement of receipts and payments reflects use of goods and services amount of Kshs.868,995,535 as disclosed in Note 4 to the financial statements. The amount includes office and general supplies and services of Kshs.31,868,947 out of which payments of Kshs.704,200 were not supported with payment vouchers, Local Purchase Orders (LPOs), contract agreements, delivery notes, requisitions and procurement records.

Further, the amount includes printing, advertising and information supplies and services of Kshs.34,631,357 out of which Kshs.1,999,589 was expenditure on three (3)

documentaries featuring development projects but the contract agreement and letter of acceptance were not provided for audit.

In addition, included in this amount is specialized materials and supplies of Kshs.240,202,999 out of which Kshs.1,637,700 was not supported with requisitions, tender advertisements, tender opening and evaluation minutes, invoices, delivery notes and payment vouchers.

In the circumstances, the accuracy and completeness of use of goods and services amount of Kshs.4,341,489 could not be confirmed.

#### **260. Unsupported Feasibility Research Studies and Appraisal**

The statement of receipts and payments reflects acquisition of assets amount of Kshs.949,787,298 as disclosed in Note 8 to the financial statements. The amount includes research studies, project preparation, design and supervision of Kshs.29,329,500 out of which Kshs.3,900,000 was paid to two (2) firms to conduct feasibility studies and appraisals. However, the signed reports for these research studies and appraisals, details of adoption of the reports and their implementation status were not provided for audit.

In the circumstances, the accuracy and completeness research studies, project preparation, design and supervision expenditure of Kshs.3,900,000 could not be confirmed.

#### **261. Unaccounted Purchase of Certified Seeds**

The statement of receipts and payments reflects acquisition of assets amount of Kshs.949,787,298 as disclosed in Note 8 to the financial statements. The amount includes purchase of certified seeds, breeding stock and live animals totalling to Kshs.39,201,125 out which Kshs.21,701,125 was paid to two (2) firms for supply of seeds. However, the following unsatisfactory matters were noted;

- i. Management did not explain the criterion used to distribute the seeds in terms of number of kilograms, coverage area and amount to pay per kilogram.
- ii. The counter receipt vouchers used for distribution of seeds omitted the names and contacts of recipients.
- iii. Out of the 1000kgs Boma Rhodes seeds received, only 310.5kgs were verified to have been distributed resulting to 689.5kgs unaccounted for equivalent to Kshs.827,400 at a rate of Kshs.1,200 per kilogram.
- iv. The M-Pesa statements for the pay bill account were not provided for audit to verify amounts received and into which bank account they were deposited.

In the circumstances, the accuracy and completeness of purchase of certified seeds, breeding stock and live animals expenditure of Kshs.21,701,125 could not be confirmed.

## **262. Un-Recovered Payments from Suppliers**

The statement of assets and liabilities reflects accounts receivables balance of Kshs.5,227,248 as disclosed in Note 10 to the financial statements. The amount includes recoverable payments from suppliers balance of Kshs.861,918 that was erroneously overpaid to two (2) firms in the previous year and which is yet to be recovered.

In the circumstances, the accuracy and recoverability of the receivables balance of Kshs.861,918 could not be confirmed.

## **263. Un-Accounted Contractors' Retention Money**

The statement of assets and liabilities reflects account payables balance of Kshs.122,745,179 as disclosed in Note 11 to the financial statements. The amount includes contractors' retention money of Kshs.98,444,567 as at 30 June, 2022, however, the deposits bank account had a balance of Kshs.7,191,117 resulting to unexplained variance of Kshs.91,253,450.

In the circumstances, the accuracy and completeness of the account payables balance of Kshs.98,444,567 could not be confirmed.

## **264. Lack of Ownership Documents**

Annex v to the financial statements reflects summary of non-current assets register with historical cost amount of Kshs.5,232,354,936. The following unsatisfactory matters were noted;

- i. The amount includes land valued at Kshs.4,386,080 but details of the number of parcels, location, sizes and their respective ownership documents were not provided for audit.
- ii. The balance includes purchase of vehicles and other transport equipment of Kshs.388,850,117 but logbooks for forty-seven (47) motor vehicles and fifty-four (54) motor cycles were not provided for audit. In addition, two (2) new motor cycles were not in use, had no registration numbers and details on their acquisition were not provided for audit.
- iii. Seventy (70) motor vehicles and twenty-seven (27) motor cycles were grounded without evidence of any measures being taken to repair or dispose them.

In the circumstances, the accuracy, valuation and ownership of land and motor vehicles balance of Kshs.393,236,197 could not be confirmed.

## **Other Matter**

## **265. Budgetary Control and Performance**

The statement of comparison of budget and actual amounts: reflects final receipts budget of Kshs.5,461,847,701 and actual on comparable basis of Kshs.4,302,362,399 resulting to an under-funding of Kshs.1,159,485,302 or 21% of the budget. Similarly, the County

Executive spent Kshs.4,266,268,720 against an approved budget of Kshs.5,461,847,701 resulting to an under-expenditure of Kshs.1,195,578,981 or 22% of the budget.

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

## **266. Unresolved Prior Year Audit Matters**

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

## **REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

### **Basis for Conclusion**

## **267. Failure to Inspect Goods**

The statement of receipts and payments reflects acquisition of assets amount of Kshs.949,787,298 as disclosed in Note 8 to the financial statements. The amount includes purchase of certified seeds, breeding stock and live animals of Kshs.39,201,125 out of which Kshs.19,700,000 was for purchase of green grams, beans, maize from a Government agency. However, there was no evidence of inspection and acceptance to confirm the quantity and quality of seeds. This was contrary to Section 48(3)(a) of the Public Procurement and Asset Disposal Act, 2015 which states that immediately after delivery of goods, an inspection and acceptance committee shall inspect and where necessary, test the goods received.

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

## **268. Long Outstanding Imprest**

The statement of assets and liabilities reflects accounts receivables balance of Kshs.5,227,248 as disclosed in Note 10 to the financial statements. Included in the amount is Kshs.4,365,330 in respect of outstanding imprest issued between 11 November, 2017 and 25 June, 2022 that had not been surrendered or accounted for. This was 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. Further, it was noted that some officers held multiple imprests that remained unsurrendered. This was contrary to Regulation 93(4)(b) of the Public Finance Management (County Governments) Regulations, 2015 which states that before issuing temporary imprest, accounting officer shall ensure that the applicant has no outstanding imprest.

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



## **269. Procurement Irregularities**

During the year under review, the following procurement irregularities were noted;

- i. Management did not prepare and publish all contracts awarded through the Public Procurement Information Portal (PPIP). This was contrary to Executive Order No.2 of 2018 and Circular Ref No. OP/CAB 39/1A of 28 June, 2018 that required all Public Entities (PEs) to publish contract awards in the format and manner stated therein.
- ii. A report to Public Procurement Regulatory Authority on preferences and reservations indicating awards to youths, women and persons with a disability was not provided for audit. This is contrary to Section 157(10)(12)(13) of the Public Procurement and Assets Disposal Act, 2015.
- iii. Quarterly and annual reports on inventory and stock take as required by Section 162(2) of the Public Procurement and Asset Disposal Act, 2015 which states that the head of procurement function shall conduct quarterly and annual inventory and stock taking in order to ensure compliance with all respective governing laws and submit the report to the accounting officer.

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

## **270. Irregular Budget Allocation to the County Assembly**

The County Assembly of Tharaka Nithi had an approved budget of Kshs.449,413,000 which was equivalent to 8% of the total budgeted revenue of Kshs.5,911,260,701 for the whole County Executive of Tharaka Nithi. This 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 seven per cent (7%) of the total revenue of the county government or twice the personnel emoluments of that County Assembly, whichever is lower.

In the circumstances, Management was in breach of law.

## **271. Non-Compliance with the Fiscal Responsibilities Principles -Wage Bill**

The statement of receipts and payments reflects an expenditure of Kshs.2,105,920,482 on compensation of employees representing 51% of the total receipts of Kshs.4,152,925,123. This is contrary to Regulation 25(1)(a) and (b) of the Public Finance Management (County Governments) Regulations, 2015 which states that the county government's expenditure on wages and benefits for its public officers, shall not exceed thirty-five (35) per cent of the County Government's total revenue.

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

## **272. Non-Compliance with the One-Third of Basic Salary Rule**

During the year under review, four hundred eighty-four (484) 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 which states that Public Officers shall not over-commit their salary beyond two thirds ( $\frac{2}{3}$ ) of their basic salaries and heads of Human Resource Units should ensure compliance.

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

### **273. Delay in Remittance of Withholding Tax**

The statement of assets and liabilities reflects account payables balance of Kshs.122,745,179. The amount includes unremitted withholding taxes of Kshs.24,300,612 which comprise of Kshs.4,808,246 from previous years and Kshs.19,492,366 for the current financial year. However, Management did not explain failure to remit these taxes to the Kenya Revenue Authority. This is contrary to Section 42(A) 4 subsection 4(B) of the Tax Procedures Act, 2015 which states that the tax withheld shall be remitted to Commissioner on or before the twentieth day of the month following the month in which the deduction is made.

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

### **274. Irregular Procurement of Routine Maintenance Services**

The County Executive made a payment of Kshs.1,853,248 in respect of repairs and maintenance of motor vehicles. However, there was no evidence of requisition for the services, approvals from the user department and a record of maintenance, repairs and replacement in respect to the equipment. This is contrary to Regulation 174(3) of the Public Procurement and Asset Disposal Regulations, 2020 which requires preparation of these records. In addition, the Local Service Orders were issued after the repairs. Further only one (1) provider out of the fourteen (14) registered service providers was awarded the services contrary to Regulation 91(5) of the Public Procurement and Asset Disposal Regulations, 2020 which requires an accounting officer to ensure a fair and equitable rotation amongst the registered suppliers.

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

### **275. Irregular Composition of Procurement Committees**

During the year under review, the tender opening committee and tender evaluation committee for construction of a dormitory at Ibiriga Youth Polytechnic consisted of the same members. This is contrary to Section 78(1)(b) of the Public Procurement and Asset Disposal Act, 2015 which stipulates that at least one of the members of tender opening committee shall not be directly involved in the processing or evaluation of the tenders.

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

### **276. Stalled Water Project**

The statement of receipts and payments reflects acquisition of assets amount of Kshs.949,787,298 as disclosed in Note 8 to the financial statements. The amount includes infrastructure and civil works of Kshs.358,917,489 out of which Kshs.1,465,250 was paid for the supply of pipes and fittings for Rukindu Water Project. However, physical verification in the month of July, 2022 revealed that the pipes and fittings were still lying at the county store, a year after their delivery without explanations.

In the circumstances, value for money on infrastructure and civil works expenditure of Kshs.1,465,250 could not be confirmed.

### **277. Irregular Award for Upgrading Road**

A contract for upgrading Mitheru- Kaanwa road to bitumen standards was awarded in the financial year 2017/2018 to cover 7.5 kms at a contract sum of Kshs.247,899,400 and Kshs.35,000,000 for one (1) kilometer tarmacking was paid to the first contractor. During the year under review a payment of Kshs.48,191,300 was made towards the construction. The contract was terminated but the reasons for termination and the original signed contract agreement were not provided for audit. Further, there was no evidence of assessment, inspection and valuation reports of the work done to support the payment made.

In addition, a second contractor was paid Kshs.48,191,300 which was not supported by evaluation reports of the tender bids received, engineer estimates, valuation of works done and certificates of work done. Also, the signed contract agreement was not provided for audit to determine terms of engagement.

Further, physical inspection in the month of July, 2022 revealed that a stretch of approximately a hundred (100) metres tarmacked road had deep and wide potholes and lacked drainage system.

In the circumstances, value for money on the construction of roads amounting to Kshs.48,191,300 could not be confirmed.

### **278. Stalled Works at the Deputy Governor's Residence**

During the financial year 2018/2019, a contract for construction of Deputy Governor's residence was awarded at a contract sum of Kshs.30,279,440 and Kshs.23,930,894 or 79% of contract price was paid by 14 April, 2020. Physical inspection in the month of July, 2022 revealed that roofing and plastering had been done which was estimated to be at 79% level of completion. However, external finishes including the main gate, windows panes, ground levelling and internal finishes including wardrobes, kitchen fittings and painting had not been done, no works were ongoing and the contractor was not on site. In addition, the period for rent payment/ leasing Deputy Governor's residence as per the Salaries and Remuneration Commission Circular No: SRC/TS/COG/6/61/48 VOL.II (64) lapsed on 30 June, 2022.

In the circumstances, value for money on the expenditure of Kshs.23,930,894 for construction of Deputy Governor's residence could not be confirmed.

### **279. Failure to Operationalize Itigururu Agricultural Training Centre**

The contract to erect and complete Agricultural Training Center at Itigururu was awarded in the financial year 2017-2018 at a contract sum of Kshs.56,052,040 which was explained to have been fully paid by March, 2020. However, contract agreements and evaluation reports including the relevant payment vouchers and certificates of the works completed were not provided for audit. Physical inspection in the month of July, 2022

revealed that the principal's office and a seminar hall were complete. However, the institution was not operational since there were no lecture rooms or posting of teaching and non-teaching staff.

In the circumstances, the value for money on the expenditure of Kshs.56,052,037 for construction of an Agricultural Training Center at Itigururu could not be confirmed.

#### **280. Abandoned Construction of Tunyai - Ntaara Road**

The contract to upgrade 20 Kilometers of Tunyai-Ntaara road to bitumen standards was awarded in November, 2018 at a contract sum of Kshs.689,341,600 for a period of three (3) years ending November, 2022. As at 30 June, 2022 Kshs.117,999,162 had been paid. However, physical verification in the month of July, 2022 revealed upgrading of only 4 Kilometers and the contractor was not on site.

In the circumstances, value for the money on expenditure of Kshs.117,999,162 for upgrading Tunyai-Ntaara road to bitumen standards could not be confirmed.

#### **281. Abandoned Construction of Kambandi - Cheera Road**

The contract to upgrade 11.5 kilometres of Kambandi-Cheera-Ruguti road to bitumen standards was awarded at a sum of Kshs.356,261,151 for a period of three (3) years ending 30 June, 2021. However, after a payment of Kshs.108,972,469 or 31% of the contract sum, only 3 Kilometres were verified to be upgraded. Management did not explain the delays or highlight measures being taken to upgrade the remaining 8.5 Kilometers. In addition, contract documents including bills of quantities, certificates of work done and evaluation reports were not provided for audit.

In the circumstances, value for money on the expenditure of Kshs.108,972,469 for upgrading Kambandi-Cheera-Ruguti road to bitumen standards could not be confirmed.

#### **282. Failure to Operationalize Green Grain Drying Storage**

The tender to construct green grain drying storage at Mukothima was awarded in 2018 at a contract sum of Kshs.31,956,538 and certificate of completion issued in the year 2020. However, Management did not provide evidence to show that feasibility studies was conducted and physical inspection revealed that the facility is not operational. In addition, on 25 May, 2022, an agreement between the County Government and a private investor to lease the facility at a monthly rent of Kshs.20,000 and to purchase green grams from farmers at Kshs.115.00 per kilogram was signed. However, no documents were provided to show how the investor was identified and the basis of determining both the monthly rentals and price per kilogram of green grams.

In the circumstances, value for money on the expenditure of Kshs.31,956,538 for construction of green grain drying storage at Mukothima could not be confirmed.

#### **283. Failure to Operationalize Veterinary Laboratory**

The contract for the construction of veterinary laboratory at Marimanti was awarded in 2018 at a contract sum of Kshs.17,858,003 and the entire amount paid by June, 2019

after completion of the works. However, physical inspection in the month of July, 2022 revealed that the facility was not in use, the structure had visible marks of leaking roof and some doors were hanging loosely. In addition, the laboratory was not equipped and relevant staff had not been posted to the institution.

In the circumstances, value for money on the expenditure of Kshs.17,858,003 for construction of veterinary laboratory at Marimanti could not be confirmed.

#### **284. Pending Bills**

Appendix III to the financial statements reflects pending bills balance of Kshs.872,160,551. Included in the balance are pending bills some dating back in the year 2014. Management did not provide an explanation why the long outstanding bills were not taken as a first charge and prioritized for payments in the subsequent years. This was 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 and the accounting officer shall ensure this is done to the extent possible that the County Government does not default on debt obligations.

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

### **REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE**

#### **Basis of Conclusion**

#### **285. Lack of Risk Management Strategy**

The County Executive did not have a documented Risk Management Strategy. This is contrary to Regulation 158 of the Public Finance Management (County Governments) Regulations, 2015 which requires the accounting officer to ensure that the County Government entity develops risk management strategies, which include fraud prevention mechanism and develops a system of risk management and internal controls that builds robust business operations.

In the circumstances, the effectiveness of controls of risk management could not be established.

#### **286. Failure to Update Register and Tag Fixed Assets**

Annex v to the financial statements reflects summary of non-current assets with historical cost of Kshs.5,232,354,936. However, the fixed assets registers included only asset acquired in financial year 2021/2022 instead of all County Executive fixed assets. In addition, physical inspection revealed that the assets were not tagged for ease of identification and movement.

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

## **287. Payment of Salaries through Manual Payroll**

During the year under review the County Executive maintained both manual and the Integrated Payroll and Personnel Database System (IPPD) payroll. A payment amount of Kshs.14,476,351 was processed through the manual payroll.

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



## **COUNTY EXECUTIVE OF EMBU - NO.14**

### **REPORT ON THE FINANCIAL STATEMENTS**

#### **Basis for Qualified Opinion**

##### **288. Lack of Assets Ownership Documents**

Annex 6 to the financial statements reflects a balance of Kshs.12,188,307,175 in respect of historical cost of assets as at 30 June, 2022 which includes Kshs.3,788,759,530 in respect of historical cost of land owned by the County Executive. However, details of the acreage, location, approximate value of the land and title deeds or allotment letters were not provided for audit. In addition, the summary non-current assets register includes a balance of Kshs.156,567,602 in respect of transport equipment. However, Management did not provide records on all transport equipment owned by the County Executive including logbooks, specific location and condition of the assets.

In the circumstances, the ownership, accuracy and existence of the non-current assets balance of Kshs.12,188,307,175 could not be confirmed.

##### **289. Unsupported Expenditure on Domestic Travel**

The statement of receipts and payments reflects an amount of Kshs.534,989,527 in respect of use of goods and services as disclosed in Note 5 to the financial statements which includes an amount of Kshs.31,322,732 in respect of domestic travel and subsistence. Included in the expenditure is an amount of Kshs.2,646,000 paid as facilitation to County Assembly staff who attended a retreat in Mombasa to finalize on County budget estimates. However, evidence of travel including work tickets, approved requests, bus or train tickets, program of activities and back to office reports were not provided for audit. Further, no explanation was provided for the payment of facilitation to County Assembly staff who have an independent vote.

In the circumstances, the accuracy and validity of the expenditure amount of Kshs.2,646,000 could not be confirmed.

##### **290. Unsupported Legal Costs**

The statement of receipts and payments reflects an amount of Kshs.534,989,527 in respect of use of goods and services as disclosed in Note 5 to the financial statements which includes an amount of Kshs.144,698,673 in respect of other operating expenses. Included in the expenditure is an amount of Kshs.37,586,994 paid as legal fees to various law firms during the year. Review of the payments revealed that they were not supported by user requisition, identification and subsequent engagement of the law firms. In addition, the payments were not supported by itemized fee notes casting doubt on the criteria and authenticity of the fees charged. Further, Management did not provide signed contract agreements between the law firms and the County Executive.

In addition, included in the expenditure is an amount of Kshs.4,355,000 paid by the County Executive to a law firm for a case filed by the County Assembly of Embu against the County Public Service Board for irregular advertisement for positions of the County

Public Service without budgetary provision and approval by the County Assembly. Although the County Executive have a County Attorney and legal officer, it was not clear why they engaged an external law firm.

In the circumstances, the completeness, accuracy and value for money for the expenditure amounting to Kshs.41,941,994 could not be confirmed.

## **Other Matter**

### **291. 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.6,919,114,500 and Kshs.5,793,154,350, respectively resulting in an under-funding of Kshs.1,125,960,150 or 16% of the budget. Similarly, the County Executive spent Kshs.5,515,185,635 against an approved budget of Kshs.6,919,114,500 resulting to an under-expenditure of Kshs.1,403,928,865 or 20% of the budget.

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

### **292. Unresolved Prior Year 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, Management had not resolved the issues or given any explanation for failure to implement the recommendations.

### **293. Accumulated Pending Bills**

According to Note 1 (other important disclosures) to the financial statements, the County Executive had pending accounts payable totalling to Kshs.1,900,544,695 (2021: Kshs.1,706,665,555) as at 30 June, 2022. Management has not explained why the bills were not settled during the year when they occurred. The County Executive is at risk of incurring significant interest costs and penalties with their continued delay in payment.

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 year as they form a first charge.

## **REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

### **Basis of Conclusion**

#### **294. Non-Submission of Financial Statements**

The financial statements submitted for audit reflects that the County Executive operates an Embu Municipality Urban Institutional Grant and Embu Municipality Urban Development Grant accounts. However, to date the Embu Municipal Board has not submitted for audit financial statements for 2018/2019, 2019/2020, 2020/2021 and 2021/2022. This is contrary to Section 180 of the Public Finance Management Act, 2012,

which requires that, at the end of each financial year, the Accounting Officer of the City or Municipality established by Urban Areas and Cities Act, No.13 of 2011 shall prepare financial statements in accordance with the standards and formats prescribed by the Public Sector Accounting Standards Board and the provisions of the Urban Areas and Cities Act, 2011.

Further, the County Executive did not submit financial statements for audit in respect of Receiver of Revenue and County Revenue Fund contrary to Section 165(1) of the Public Finance Management Act, 2012. In addition, Section 2.2.1 of The National Treasury and Planning circular AG.4/16/3/Vol. II(16) dated 6 July, 2022, has issued reporting templates for application by administrators of the County Revenue Fund appointed by the County Executive Member of Finance and for County Receivers of Revenue based on IPSAS Cash accounting adjusted to disclose information required by Section 165 of the Public Finance Management Act, 2012.

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

## **295. Avoidable Expenditure on Rent**

The County Executive entered into a lease agreement on 28 June, 2019 for lease of commercial rental houses in Embu town at a monthly rent of Kshs.214,600. However, the Municipal Board had only ten (10) staff members. Physical inspection of the premises on 24 October, 2022 revealed that most of the rented area was unutilized and unfurnished casting doubt on the value for money achieved in renting the unutilized space instead of only as per the available staff numbers. In addition, included in the pending bills is a balance of Kshs.3,862,800 due to the lessor in accrued pending bills.

In the circumstances, value for money on the rent paid could not be confirmed.

## **296. Unauthorized Bank Accounts**

The County Executive operated fifty-seven (57) bank accounts with a total bank balance of Kshs.307,579,184. However, out of the fifty-seven (57) accounts, forty (40) were held at commercial banks. The forty (40) accounts in commercial banks were opened and operated contrary to the requirements of Regulation 82(1)(b) of the Public Finance Management (County Government) Regulations, 2015 which requires all County's accounts to be operated in Central Bank of Kenya except the imprest bank accounts for petty cash. Further, Regulation 82(2) of the Regulations state that all County Government entities operating bank accounts outside the provisions of paragraph (1), shall comply with the provisions under this Regulation within six (6) months from the date of commencement of these Regulations.

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

## **297. Compensation of Employees**

### **297.1 Non-Compliance with the One Third of Basic Pay Rule**

The statement of receipts and payments and reflects an amount of Kshs.2,887,678,987 as disclosed in Note 4 to the financial statements in respect of compensation of employees. Review of the payroll for the financial year ended 30 June, 2022 revealed

that the County Executive had one hundred and eighty nine (189) employees whose net pay was below a third of their basic pay. In addition, five (5) out of the eighty nine (189) employees, had committed over and above their total earnings leaving them with negative net pay. This is contrary to Section 19(3) of the Employment Act, 2007 which states that the total amount of deductions from the wages of an employee shall not exceed two thirds (2/3) of such wages.

### **297.2 Irregular Payment of Commuter Allowance**

The statement of receipts and payments reflects an amount of Kshs.2,887,678,987 in respect of compensation of employees as disclosed in Note 4 to the financial statements. Review of the payroll data revealed that seven (7) Members of County Public Service Board (CPSB) have been drawing commuter allowance of Kshs.20,000 each per month since 2019. This is contrary to Salaries and Remuneration Commission Circular SRC/TS/CGOVT/3/61 Vol. IV (49) dated 8 December, 2017.

### **297.3 Use of Manual Payroll**

The statement of receipts and payments reflects an amount of Kshs.2,887,678,987 in respect of compensation of employees as disclosed in Note 4 to the financial statements. Analysis of the payroll system reflects that an amount of Kshs.208,709,175 was paid through the manual payroll system. The use of manual system requires manual calculation of deductions, net pay and constant monthly and/or annual updates of the data, which is prone to error or manipulations.

### **297.4 Failure to Remit Payroll Deductions**

The statement of receipts and payments reflects an amount of Kshs.2,887,678,987 in respect of compensation of employees as disclosed in Note 4 to the financial statements. Review of payroll data revealed that the County Executive had overdue payroll remittances totalling to Kshs.500,419,840 deducted from employee salaries and aged more than a year and had not been remitted to the respective entities. These included contributions to various retirement schemes including Local Authorities Provident Fund (LAPFUND), Local Authorities Pension Trust (LAPTRUST), loan repayment to different SACCOs, insurances policy deductions, and the County Pension Fund.

Failure to remit deductions to respective entities is contrary to Section 37(1) of the Income Tax Act, 2012.

### **297.5 Non-Compliance with the Law on Staff Ethnic Composition**

During the year under review, the County Executive of Embu recruited ninety-four (94) employees out of which fifty-six (56) were from the dominant ethnic community. 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.

## **297.6 Non-Compliance with Fiscal Responsibilities Principles on Wage Bill**

The statement of receipts and payments reflects an amount of Kshs.2,887,678,987 in respect of compensation of employees representing 50% of the total revenue totalling to Kshs.5,793,154,350. This is contrary to Regulation 25(1)(b) of the the Public Finance Management (County Governments) Regulations, 2015 which states that in addition to the fiscal responsibility principles set out in Section 107 of the Act, the following fiscal responsibility principles shall apply in the management of public finances, the limit set under paragraph (a) above, shall not exceed thirty five (35) percent of the County Government's total revenue.

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

## **298. Long Outstanding Imprests**

The statement of assets and liabilities reflects outstanding imprest and advances balance of Kshs.2,865,310 as disclosed in Note 15 to the financial statements which was due and ought to have been surrendered. However, as at the time of the audit in the month of October, 2022, the recovery process had not commenced 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 the law.

## **299. Irregular Appointment of County Attorney**

The statement of receipts and payments reflects an amount of Kshs.2,887,678,987 in respect of compensation of employees as disclosed in Note 4 to the financial statements. Included in the expenditure is an amount of Kshs.1,438,653 paid to County Attorney in respect of salary arrears. However, review of the recruitment documents revealed that the County Attorney was not appointed as required by Section 5 of the Office of the County Attorney Act, 2020.

In the circumstances, the validity and regularity of the compensation of employees amounting to Kshs.1,438,653 could not be confirmed.

## **300. Irregular Payments to Council of Governors**

The statement of receipts and payments reflects an amount of Kshs.534,989,527 in respect of use of goods and services as disclosed in Note 5 to the financial statements. During the year under review, the County Executive made payments totalling to Kshs.5,000,000 to the Council of Governors and charged different account votes under use of goods and services. However, the payments to the Council of Governors are irregular and contrary to Section 37 of the Intergovernmental Relations Act, 2012.

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



### **301. Irregular Payment of Emergency Call Allowance**

The statement of receipts and payments reflects an amount of Kshs.2,887,678,987 in respect of compensation of employees as disclosed in Note 3 to the financial statements which includes an amount of Kshs.1,490,947,625 in respect of personal allowances. Included in the expenditure is an amount of Kshs.102,965,032 in respect of emergency call allowance. The emergency call allowance amounted to Kshs.92,816,000 paid to one hundred and ten (110) doctors and medical officers at the rates of Kshs.72,000 and Kshs.66,000, respectively instead of Kshs.30,000 per month as stipulated in Salaries and Remuneration Commission Circular Ref: No: SRC/TS/CGOVT/3/61 Vol.III/(136) dated 14 September, 2015 which stipulates that the allowance should be payable at the rate of Kshs.30,000 per month, irrespective of grades.

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

### **302. Delay in Construction of Governor's Residence**

The statement of receipts and payments reflects an amount of Kshs.942,695,524 in respect of acquisition of assets as disclosed in Note 10 to the financial statements which includes an amount of Kshs.12,079,883 in respect of refurbishment of buildings. The County Executive entered into a contract for construction of the Governor's residence with a company at a contract sum of Kshs.49,703,439 on 8 March, 2021. The contract period was to run for seventy-two (72) weeks with expected completion date of 8 September, 2022. However, as at the time of the audit in October, 2022, work certified amounted to Kshs.27,547,999 (as per valuation certificate No. 3) representing 55.4% of the contract sum. Physical inspection carried out in October, 2022 revealed that the contractor was not on site and the contract period had already lapsed. No evidence was provided to confirm whether the contractor had sought an extension of time, or a default notice had been issued to the contractor by the County Executive.

In the circumstances, value for money on the expenditure totalling to Kshs.27,547,999 incurred so far on the Governor's Residence could not be confirmed.

### **303. Irregular Appointment of Tender Committee Members**

The statement of receipts and payments reflects an amount of Kshs.942,695,524 in respect of acquisition of assets as disclosed in Note 10 to the financial statements which includes an amount of Kshs.200,600,835 in respect of construction of roads. Review of the procurement process of various road construction projects implemented during the year revealed that various officers were appointed members of both the evaluation committee and the inspection and acceptance committee of the same projects. This is contrary to Section 44(2)(h) of the Public Procurements and Assets Disposal Act, 2015.

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

### **304. Lack of an Updated Asset Register**

Annexure 6 to the financial statements reflects summary of non-current asset with a historical cost balance of Kshs.12,188,307,175 as at 30 June, 2022. However, the asset register provided for audit was incomplete and did not contain details such as vehicle engine number, chassis number, year of the purchase, depreciation, and net book value.



This is contrary to The National Treasury Circular No 5/2020 which states that all the Government Entities to prepare comprehensive asset registers using the template provided by The National Treasury.

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

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

### **Basis for Conclusion**

#### **305. Review of Internal Audit Function**

##### **305.1 Failure to Publish Annual Report by the Audit Committee**

The Audit Committee did not publish an annual report on the review of the independence, performance, and competence of the Internal Audit Unit contrary to Regulation 159(2) of the Public Finance Management (County Governments) Regulations, 2015.

##### **305.2 Understaffing of Internal Audit Department**

As previously reported, review of the operations of the Internal Audit Unit revealed that the unit did not have sufficient staffing as it is only manned by one officer and lacked facilitation to ensure that it was able to effectively discharge its mandate.

##### **305.3 Lack of an Annual Work Plan**

The audit department did not have an approved annual audit work plan contrary to Regulation 163(1) of the Public Finance Management (County Governments) Regulations, 2015 which provides that internal audit planning shall be carried out based on risk assessment and shall be set out in a three-year (3) strategic plan, based on which an annual internal audit activity plan shall be developed.

##### **305.4 Failure to Review and Evaluate by the Audit Committee**

Review of internal audit reports revealed that the Audit Committee did not undertake review and evaluation of the budgetary performance, financial management, transparency and accountability mechanisms and processes. This is contrary to Regulation 153(1) of the Public Finance Management (County Governments) Regulations, 2015 which states that internal auditors shall review and evaluate budgetary performance, financial management, transparency and accountability mechanisms and processes in County Government entities, including County Assembly which the internal auditor attributed to lack of human resource capacity in the department and failure by Management to provide for facilitation.

In the circumstances, existence of good governance in the County Executive could not be confirmed.

### **306. Failure to Constitute Board of Survey and Report on Stock-Take**

The County Executive did not provide reports on regular inspection of stores and annual stock inventory. In addition, the County Executive did not confirm whether the board of survey was constituted during the year under review contrary to Section 162(2) of Public Procurement and Asset Disposal Act, 2015 which states that the head of procurement function shall arrange for occasional visits of inspection to the stores, at least quarterly in each calendar year and conduct quarterly and annual inventory and stock taking to ensure compliance with all respective governing laws and submit the report to the Accounting Officer.

In the circumstances, Management was in breach of the law and the effectiveness of stores procedures in safeguarding stocks could not be confirmed.

### **307. Failure to Collect Outstanding Land Rates**

As similarly reported in the previous years, documents provided for audit in respect of property rates reflected uncollected land rates totalling to Kshs.352,449,709. According to revenue data provided for audit, the County Executive collected only Kshs.8,295,090 in respect of land rates and plot rents. No information was provided to confirm whether the outstanding property rates of Kshs.352,449,709 related to the principal sum of rates or penalty chargeable at 1.5% per month on outstanding rates. In addition, the County Assembly of Embu was yet to legislate on regulations to operationalize enforcement measures on rates collection within the County. Further, there were no records or other evidence indicating that Management had initiated any measures including legal action against the defaulters to collect the outstanding amounts as required.

In the circumstances, the accuracy, existence and full recoverability of the outstanding property rates balance of Kshs.352,449,709 could not be confirmed.

### **308. Under-Collection of Land Rates and Rents**

The County Executive had budgeted to collect Kshs.197,960,000 from land rates and rent according to the County Fiscal Strategy Paper for 2021/2022 financial year, but only collected Kshs.8,295,090 as at the time of audit in the month of July 2022 resulting to an under collection of Kshs.189,664,910. Further, the County Executive may have been losing a lot of revenue from land transactions carried out at the Ministry of Lands as the County Revenue Officers do not have access to land registries at Embu Town and Siakago where the transactions are carried out.

However, Management has not explained why it has failed to directly engage the Ministry of Lands to enable it realize revenues collected from land transactions through the implementation of the requirements of Section 38(1) and Section 39(1)(2) of the Land Registration Act, 2012.

### **309. Lack of Real-Time Revenue Collection Information**

Review of own generated revenue streams revealed that the County Executive does not have a server to monitor the revenue collection on a real time basis by the service provider, and must rely on the service provider on any information related to the day-to-day collections. This is contrary to Section 2.1.3 of the contract for revenue management

system between the County Executive and the service provider signed on 6 April, 2018 which states that, the service provider will provide a revenue collection and payment solution to Embu County with the ability to monitor revenue collection from multiple sources on a real time basis. Further, review of the business register for permits show that the County Executive did not collect income amounting to Kshs.5,195,468 in respect of business permits which was outstanding as at 30 June, 2022. No proper reasons were provided for failure to collect the amounts which were due.

In the circumstances, the accuracy, completeness and regularity of the revenue collection information for the various revenue streams could not be confirmed.

### **310. Failure to Insure County Government Buildings**

Annex 6 to the financial statements reflects summary of non-current asset register balance of Kshs.12,188,307,175 which includes Kshs.6,904,843,739 in respect of buildings and structures. It was however noted that the buildings did not have any insurance cover to mitigate against losses in case of disaster contrary to Section 79(2)(c) of the Public Finance Management Act, 2012 which requires a public officer, within his area of responsibility, to ensure that adequate arrangements are made for the proper use, custody, safeguarding and maintenance of public property including application of best efforts to prevent any damage from being done to the financial interests of the County Government.

In the circumstances, the assets of the County are exposed to risks and the County Executive may not recover losses in case of a disaster.

## COUNTY EXECUTIVE OF KITUI - NO.15

### REPORT ON THE FINANCIAL STATEMENTS

#### Basis for Qualified Opinion

#### 311. Inaccuracies in the Financial Statements

##### 311.1 Variances between Financial Statement and the Integrated Financial Management Information System (IFMIS) Balances

Comparison between the financial statements presented for audit and the IFMIS trial balance revealed differences as shown below:

Item	Financial Statements Amount (Kshs)	Trial Balance (IFMIS) Amount (Kshs)	Differences (Kshs)
Compensation of Employees	4,325,180,836	4,645,241,832	(320,060,996)
Use of Goods and Services	1,961,942,463	1,919,696,802	42,245,661
Subsidies	50,000,000	87,647,890	(37,647,890)
Transfers to Other Government Entities	916,548,462	(1,828,449,455)	2,744,997,917
Other Grants and Transfers	672,174,541	476,796,753	195,377,788
Social Security Benefits	0	27,792,786	(27,792,786)
Acquisition of Assets	2,737,376,630	3,205,612,887	(468,236,257)
Fund Balances Brought Forward			0
Bank Balances	331,291,587		331,755,081
Outstanding Imprests and Advances	13,675,717	181,284,508	(167,608,791)
Deposits and Retentions	14,010,147	982,689,521	(968,679,374)
Fund Balance Brought Forward	860,015,254	0	860,015,254
Prior Year Adjustments	(846,247,052)	0	(846,247,052)
Surplus/Deficit for the Year	317,188,955	0	317,188,955
Other Receipts	1,417,959,108	1,090,153,370	327,805,738
Exchequer Releases	9,562,452,779	10,537,116,169	(974,663,390)

In the circumstances, the accuracy of the indicated amounts could not be confirmed.

#### 311.2 Acquisition of Assets

As disclosed in Note 10 to the financial statements, the statement of assets and liabilities reflects an amount of Kshs.2,737,376,630 in respect of acquisition of assets. Included in this amount is Kshs.1,828,000 relating to acquisition of land that was not supported by ownership documents. Further, assets valued at Kshs.450,000 were not supported by

payment vouchers. Additionally, Annex 6 to the financial statements (summary of non-current assets registers) disclose additions in assets amounting to Kshs.2,736,913,137 resulting to an unexplained variance of Kshs.463,493.

In the circumstances, the accuracy and ownership of acquisition of assets amount of Kshs.2,737,376,630 could not be confirmed.

### **311.3 Unsupported Expenditures on Fuel, Oil and Lubricants**

The statement of receipts and payments reflects an amount of Kshs.1,961,942,463 and as disclosed in Note 5 to the financial statements in respect of use of goods and services. Included in this expenditure is an amount of Kshs.94,934,992 relating to fuel, oil and lubricants expenditure out of which an amount of Kshs.4,525,324 was not supported by detailed orders and registration numbers of vehicles.

In the circumstances, the accuracy, completeness and regularity of expenditures of Kshs.4,525,324 could not be confirmed.

### **312. Inaccuracy in Own Generated Revenue**

- (i) Note 3 to the financial statements disclose an amount of Kshs.359,219,242 in respect of county own source revenue. Included in this revenue is an amount of Kshs.188,556,171 relating to revenues collected from public health facilities. However, revenue reports and reconciliation statements for the hospitals were not provided for audit.
- (ii) The revenue collection account bank reconciliation statements as at 30 June, 2022 showed unbanked cash receipts collected through point of sale under ZIZI platform of Kshs.10,488,599. However, Management did not provide explanation why the revenue was not banked intact as required by the law.
- (iii) Review of the electronic revenue collection system, LAIFOMS records for land rates revealed that Management did not collect outstanding property rates totalling to Kshs.620,743,780 owed over the years and no evidence of measures put in place to recover the outstanding amount was provided for review. Further, the outstanding amount was not supported by updated records, hence hindering effective debt management.

In the circumstances, the accuracy and completeness of the county own source revenue amounting to Kshs.359,219,242 could not be confirmed.

### **313. Unsupported Employee Costs**

The statement of receipts and payments reflects an amount of Kshs.4,325,180,836 and as disclosed in Note 4 to the financial statements in respect of compensation of employees. Included in this expenditure is an amount of Kshs.3,854,586,260 relating to basic salaries for permanent employees. However, basic salary supporting payment vouchers provided for audit showed an amount of Kshs.3,354,643,525 resulting to an unexplained variance of Kshs.499,942,735.

In the circumstances, the accuracy of basic salaries of permanent employees amounting to Kshs.499,942,735 could not be confirmed.

## **Other Matter**

### **314. Budgetary Control and Performance**

#### **314.1 Under-Expenditure**

The statement of comparison of budget and actual amounts- recurrent and development combined, reflects final expenditure budget and actual on comparable basis of Kshs.12,468,642,561 and Kshs.10,663,222,931 respectively, resulting into an under-absorption of Kshs.1,805,419,630 or 14% of the budget.

Further, acquisition of assets and compensation of employees accounted for the bulk of the under-absorption of Kshs.1,017,763,217 (or 56%) of the total un-utilized amount.

In addition, total development expenditure amount of Kshs.2,937,582,068 accounted for 27.5% of the total expenditure amount of Kshs.10,663,222,931 which was below the 30% threshold stipulated by Section 25(1)(g) of the Public Finance Management (County Governments) Regulations, 2015.

#### **314.2 Revenue Under collection**

The statement of comparison of budget and actual reflects amounts of Kshs.12,468,642,561 and Kshs.10,980,411,887 in respect to receipts budget and actual amount realized respectively indicating 88% performance level. However, it was noted that Management had budgeted to collect a total of Kshs.800,000,000 from own source revenue but only realized an amount of Kshs.359,219,242 resulting to a Kshs.440,780,758 or 55% shortfall.

Further, a trend analysis for county own generated revenue for the past 3 financial years showed that revenue collections have been on the decline compared to the budget as shown in the table below:

<b>Financial Year</b>	<b>Budgeted Amount (Kshs)</b>	<b>Actual Amount (Kshs)</b>	<b>Variance (Kshs)</b>	<b>%</b>
2018/2019	528,413,076.00	335,127,474.00	193,285,602.00	37%
2019/2020	600,000,000.00	408,285,164.00	191,714,836.00	32%
2020/2021	600,000,000.00	316,000,000.00	284,000,000.00	47%
2021/2022	800,000,000.00	359,219,242	440,780,758.00	55%

No satisfactory explanation was provided for the shortfall and measures put in place to address it.

In the circumstances, under funding and under absorption in expenditure affected the planned activities and may have impacted negatively on service delivery to the public.



### **315. Unresolved Prior Year 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.

### **316. Pending Bills balances**

Annexure 3 and 4 to the financial statements under other important disclosures reflects outstanding pending bills amounting to Kshs.1,810,944,338. These comprised of amounts of Kshs.1,735,281,542 for accounts payable, Kshs.1,195,000 for staff payables and Kshs.74,467,796 for other pending payables. However, analysis of the annexures revealed total pending bills payables of Kshs.1,256,339,140 resulting to an unexplained variance amounting to Kshs.554,605,198. The pending bills comprised of an amount of Kshs.348,098,676 relating to payables dating back to financial year 2015/2016 and an amount of Kshs.908,240,464 relating to payables for the year under review. The long outstanding pending bills did not form first charge in succeeding years and therefore Management was in contravention to Regulation 41(2) and (3) of the Public Finance Management (County Governments) Regulations, 2015. Further, the list of the eligible pending bills and a report of the pending bills resolution committee were not provided for review.

Non-payment of pending bills affects subsequent year budget as it is from first charge.

### **317. Delayed Exchequer Releases**

The statement of receipts and payments and as disclosed in Note 1 reflects exchequer releases amounting to Kshs.9,562,452,779 during the year under review. Analysis of revenue records provided for audit showed that an amount of Kshs.2,650,462,456 was received in the month of June and July, 2022, a month before and after cut-off.

In the circumstances, County programmes and activities were not implemented in due time, and may have impacted negatively on service delivery to the public.

## **REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

### **Basis for Conclusion**

### **318. Bank Reconciliation Reports**

Review of Annex 11 to the financial statements in respect of bank reconciliation (FO 30) reports from Integrated Financial Management Information System (IFMIS) revealed that bank reconciliation for all Central Bank of Kenya (CBK) accounts were not attached as required by the reporting template provided for by the Public Sector Accounting Standards Board for County Governments.

In the circumstances, Management did not comply with the reporting template.

### **319. Non-Compliance with the Law on Staff Ethnic Composition**

Review of compensation of employees' master roll and other staff records revealed that 2,974 employees or 84.7% of the total staff of 3,510 were from the dominant ethnic community in the County 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 circumstance, Management was in breach of the law.

### **320. Unremitted Retirement Benefits Contributions**

Review of Treasury circular No.14/2021 (Ref No IGFR/PB/01/J/ (69) dated 28 October, 2021 on the matter of failure to remit retirement contributions by County Governments indicated that the County Government of Kitui had an outstanding debt of Kshs.22,117,103 relating to retirement contributions for County Governments employees and County affiliated entities. No explanation was provided as to why the debt has not been settled and no evidence was provided to demonstrate County efforts to settle the same. This was contrary to Section 104(1)(e) of the Public Finance Management Act, 2012 that requires County Management to manage and develop a framework of debt control.

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

### **321. Non-Compliance with the Fiscal Responsibility Principles - Wage Bill**

The statement of receipts and payments reflects compensation of employees amount of Kshs.4,325,180,836 and as disclosed in Note 4 to the financial statements. This expenditure is equivalent to 39.4% of the total receipts amount of Kshs.10,980,411,887. The spending exceeded the threshold of 35% prescribed in Section 25(1)(a) and 25(b) of the Public Finance Management (County Governments) Regulations, 2015.

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

### **322. Lack of Approved Staff Establishment**

Review of Human Resource documents revealed that the County Executive does not have an approved staff establishment in place. It was therefore not possible to confirm if the current staffing level is optimal, and appropriate to ensure achievement of the Entity's strategic objectives. This was in contravention to County Public Service Human Resource Manual 2013 section B 6(3) which states that the County Executive should have appropriate organizational structure in each department, optimal staffing level, schemes of service and career progression guidelines.

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

### **323. Stalled Projects**

As previously reported, various projects under the department of health have stalled. Although the related project files were not provided for audit, project information available

indicated that the projects started way back in 2017. Further, a project inspection exercise conducted on 6 July, 2022 revealed that construction projects funded at approximate amount of Kshs.499,555,498 under the department are still incomplete and contractors had abandoned the sites.

In the circumstances, the public were denied benefits that would have accrued from completed projects and no value for money has been realized from the incurred amount.

#### **324. Irregular Recruitment of Employees**

Review of human resource records showed that Management recruited five hundred and twenty-two (522) new staff in various capacities during the year under review. However, relevant documentation such as approval for hire, advertisement for the jobs, interview results, placement details and personal files in support of the recruitment process were not provided for audit. This was contrary to Section 3.4 of Kitui County Human Resource Policies and Procedures Manual for the County Public Service, which stipulates that recruitment be undertaken on the basis of fair competition and merit, representation of Kenya's diverse communities, adequate and equal opportunities to all gender, youth, members of all ethnic groups, persons with disabilities and minorities.

In the circumstances, Management was in breach of law.

#### **325. Irregular Payment of Prime Costs and Provisional Sums**

The statement of receipts and payments reflects an amount of Kshs.2,737,376,630 and as disclosed in Note 10 to the financial statements in respect of acquisition of assets. Included in this expenditure is an amount of Kshs.76,258,146 paid to eleven contractors for construction works for various projects within the County. However, review of the payment records revealed that amounts of Kshs.4,22,2,243 and Kshs.140,000 being provisional sums paid to project managers for documentation and contingencies and to a company respectively were not supported by approvals from the Accounting Officer to justify the payments as required under Section 139(2) of Public Procurement and Asset Disposal Act, 2015.

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

#### **326. Lack of Public Participation**

The statement of receipts and payments and as disclosed in Note 10 to the financial statements reflects an amount of Kshs.2,737,376,630 in respect of acquisition of assets. Included in this expenditure is an amount of Kshs.1,541,289,362 in respect of construction and civil works out of which an amount of Kshs.824,500,000 relates to the County Level Infrastructure Development programmes (CLIDP). However, review of the approved budget under the County Level Infrastructure Development Programme (CLIDP), revealed that the County Executive prepared and submitted the budget estimates for approval by the County Assembly of Kitui before subjecting the same to public participation. Public participation was done after the approval of the budget by the

County Assembly, contrary to Section (2) of the Public Financial Management Act, 2012. No satisfactory explanation was provided for this anomaly.

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

### **327. Irregular Procurement of Insurance**

As disclosed in Note 5 to the financial statements, the statement of receipts and payments reflects an amount of Kshs.1,961,942,463 in respect of use of goods and services. Included in this amount of Kshs.145,348,748 relating to insurance costs out of which an amount of Kshs.25,393,129 was paid to an Insurance firm for provision of comprehensive motor vehicle insurance cover, insurance of Data Centre and the Governor's Administration Block (inclusive of the Annex) for a period of one year effective from 27 January, 2022. However, review of expenditure records revealed that the contract was awarded as an extension of an earlier one year contract that had been awarded to another insurance firm on 3 February, 2021 at a contract sum of Kshs.20,060,605. Management explained that the award of the extension contract to a different firm without following proper procurement procedures was based on the fact that the new insurance company had acquired part ownership of earlier insurance firm.

Review of an internal memo dated 26 January, 2022, revealed that the County Attorney had advised the Office of the Governor through the Director Supply Chain Management to extend the previous contract by a short period to enable Management undertake a fresh procurement instead of awarding an irregular direct contract the new firm. Further, it was observed that the contracted firm submitted the performance bond on 23 March, 2022, two months after the signing of the contract agreement on 27 January, 2022.

This was contrary to Section 103(1) and (2)(a) of Public Procurement and Asset Disposal Act of 2015 that states that a procuring entity may use direct procurement as allowed under sub-section (2) as long as the purpose is not to avoid competition, and on condition that the goods, works or services are available only from a particular supplier or contractor, or a particular supplier or contractor has exclusive rights in respect of the goods, works or services, and no reasonable alternative or substitute exists.

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

### **328. Irregular Extension of Contract Period**

The statement of receipts and payments and as disclosed in Note 8 to the financial statements reflects an amount of Kshs.672,174,541 in respect of other grants and payments. Included in this expenditure is an amount of Kshs.358,935,045 in respect of transfers to Level IV Hospitals out of which an amount of Kshs.30,000,000 relates to a contract awarded for construction of a perimeter wall and chain link fencing at Mwingi Level IV Hospital. The contract was for a period of five (5) months with completion date of 4 June, 2019. However, the project has not been completed, 3 years after the expiry of contract period and no evidence of approval for contract extension was provided for audit. This was contrary to Section 139(2) of Public Procurement and Asset Disposal Act, 2015, which requires approval of among other things, the extension of the contract period

by the Accounting Officer. Documents reviewed also showed that the contractor was paid an amount of Kshs.4,995,000 on 09 June, 2022.

Further, physical inspection on the project carried out on 18 July, 2022 showed that the project was 70% complete thirty-eight (38) months after the completion date and the contractor was not on site. Management did not indicate when the project would be completed.

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

### **329. Anomalies in Use of Procurement Process**

Review of the procurement records showed that Management procured goods and services amounting to Kshs.3,064,963,677 through e-procurement as required under Regulation 49(2) of the Public Procurement and Asset Disposal Regulations, 2020 and the Executive order No. 2 of 2018, Part IV which provide that procuring entities shall undertake all their procurement through the e-procurement module on IFMIS. However, procurement plans, participation of bidders in meetings and digital signatures certificates were not done through e-procurement system as required.

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

### **330. Delayed Project Completion-Muuani Elevated Tank and Pipeline Extension**

The County Executive awarded a contract for construction of Muuani elevated steel water tank and pipeline extension to other areas (water distribution) to a company at a contract sum of Kshs.5,640,230. The contract agreement was signed on 1 January, 2022. However, it was noted that the contract agreement did not have an end date, but the project engineer indicated that the contract was to last for a duration of three (3) months. A certificate of practical completion dated 4 April, 2022 provided for audit showed the project as complete. However, review of the project file and physical inspection of the project conducted on 20 July, 2022 revealed that although the pipeline extension from borehole site to the elevated water tanks and associated pipe works had been done, water distribution works was pending as return line works had not been completed and the contractor had abandoned the site.

Management explained that completion and testing of pipeline was not done as the initial pump designed to pump water to the new elevated tank broke down and was replaced with a smaller pump which could not deliver water to the new site, although plans were in place to replace the pump and test the distribution lines. No satisfactory explanation was given as to why the low capacity non performing pump was procured.

Further, documents reviewed also showed that despite the delay in substantial completion of the project, the contractor had been paid an amount of Kshs.4,809,755 or 85% of the contract sum. The project completion has delayed for more than 6 months and there was no evidence of an extension of the contract period.

In the circumstances, the contractor was in violation of the contract agreement and value for money incurred had not been realized.

### **331. Implementation of Project for Rehabilitation of the Waste Management and Disposal System and Removal of Matter at the Slaughter House**

The statement of receipts and payments and as disclosed in Note 10 to the financial statements reflects an amount of Kshs.2,737,376,630 in respect of acquisition of assets. Included in this expenditure is an amount of Kshs.1,541,289,362 in respect of construction and civil works out of which an amount of Kshs.3,146,800 relates to rehabilitating the waste management and disposal system and removal of matter at the slaughter house. However, the contract agreement provided for audit was not supported by Bills of Quantities (BOQs) and therefore it was not possible to confirm whether works done was in accordance to the scope and specifications.

Further, physical inspection conducted in the month of July, 2022 revealed that waste is disposed at an adjacent parcel next to human dwelling which is hazardous. In addition, drainage from the slaughter house was incomplete and without covers and grills posing risk to animals and the slaughter house attendants, the offloading drainage system had not been done posing flooding risk in case of rains and the contractor had used non-durable weak soft wood to partition the livestock holding paddocks with a faulty weak wooden gate. Management did not offer an explanation as to why the inspection and acceptance committee did not highlighted the defects noted.

In the circumstances, value for money on the expenditure incurred was not realized.

### **332. Delayed Project Completion-Construction of Pump House Equipped with Power**

Note 10 to the financial statements reflects an amount of Kshs.1,541,289,362 in respect of construction and civil works. Included in this expenditure is an amount of Kshs.11,044,423 relating to project for construction of pump house equipped with power at Nzeeu river sump well and pump rehabilitation of Mukameni line and replacement of battery. The contract was awarded to a firm and signed on 1 January, 2022. However, it was noted that the contract agreement did not have a contract end date.

Further, documents provided for audit including certificate of practical completion, inspection and acceptance reports and correspondences between Management and the contractor revealed that the project was at fifty five percent (55%) complete, though no payments had been made to the contractor.

In addition, project physical inspection conducted on 20 July, 2022 revealed that the contractor was not on site and there was no sign of ongoing works. Though the contract did not have expected completion date, the engineer explained that the contract was to last for a duration of three (3) months. It was also observed that the project had been executed for more than 6 months and there were substantial pending works valued at approximately Kshs.5,081,026. The contractor wrote to the County Executive on 5 December, 2022 requesting for extension of the contract period but no evidence was provided for audit to confirm that the same was granted.

In the circumstances, the public was denied benefits that would have accrued from the project.



### **333. Execution of Civil Works Contracts - Kyaoni Water Project**

Note 10 to the financial statements reflects an amount of Kshs.1,541,289,362 in respect of construction and civil works. Included in this expenditure is an amount of Kshs.9,124,161 relating to rehabilitation of Thao Kyaoni water project under the Ministry of Agriculture, Water and Irrigation. A contract agreement was awarded and signed on 6 January, 2022. However, the contract was not supported by documents covering the project execution phase, paid or unpaid payment vouchers, approved interim payment certificates-IPCs, invoices, certificates of project's practical completion, minutes of inspection and acceptance committee for completed projects phases, project progress reports and correspondences with contractors as required by the Public Procurement and Asset Disposal Act, 2015. It was therefore not possible to confirm the project's implementation and payments status as indicated in the project implementation status report provided for audit.

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

### **334. Irregular Award of Contract**

Note 5 to the financial statements reflects an amount of Kshs.1,961,942,463 in respect of use of goods and services. Included in this expenditure is an amount of Kshs.182,901,364 relating to other operating expenses out of which an amount of Kshs.1,999,740 was paid to a consultancy firm for conducting feasibility study on elevation of Mutomo Urban Centre to a town in the department of Lands, Infrastructure, Housing and Urban Development. This amount was paid on 28 September, 2021. However, it was noted that the consultant was registered by the County Executive for supply of certified seeds, tree seedlings, fungicides, insecticides and sprays for the years 2021 to 2022 and not for consultancy services on construction and other infrastructure. The award of the consultancy contract was therefore in contravention of Section 95(3) of Public Procurement and Asset Disposal Act of 2015, that stipulates that a procuring entity shall invite tenders from only the approved persons who have been pre-qualified.

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

### **335. Irregular Funding of Self-Help Projects**

Note 10 to the financial statements reflects an amount of Kshs.13,125,470 in respect of purchase of certified seeds, breeding stock and live animals. However, review of documents relating to funding of several self-help groups under Ministry of Livestock, Apiculture and Fisheries revealed that various groups applied for funding and were funded for bee hives accessories worth Kshs.1,426,580, and others for Galla Bucks, Galla Does, Dairy Bucks and Dairy Does worth Kshs.5,972,660. However, the funding was not supported by any evidence that public participation had been conducted to establish actual preferences of the self-help groups.

Further, no trainings on matters of animal husbandry and maintenance of the goats and bee hives was given to the groups. Physical inspection conducted in the month of July, 2022 revealed that the groups had no capacity of handling the exotic breeds and therefore were not able to achieve their goals and objectives. By failing to train and build

the capacity of the beneficiaries, Management did not comply with Regulation 214(b) of Public Finance Management (County Governments) Regulations, 2015 that states that activities promoted by entities shall be effective in achieving their national objectives and represent value for money for the expenditure of tax payer funds.

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

### **336. Delay in Completion of Market**

Note 10 to the financial statements reflects an amount of Kshs.1,541,289,362 in respect of construction and civil works. Included in this expenditure is an amount of Kshs.87,599,412 relating to a contract. Management signed on 27 May, 2019 with a construction company for the proposed Construction of Kithomboani Modern Market in Kitui Town at a contract sum of Kshs.351,585,555. The project commencement date was 25 June, 2019 for a period of one twenty (120) weeks with an expected completion date of 6 September, 2021. During the year under audit, the County Executive paid the contractor an amount of Kshs.87,599,412 while the total value of work certified and paid for from inception amounted to Kshs.216,251,012 as per interim payment certificate No.13 of 1 February, 2022.

Physical inspection carried out on 15 July, 2022 revealed that works had stalled and the contractor had abandoned the site.

Further, documents reviewed showed that the contract period expired on 7 March, 2022 when the project was approximately 62% complete, and although the contract period extension was granted up to 24 October, 2022, there is a risk that the extension may lead to escalation of costs. The delayed completion of the project has denied public benefits that would have accrued from the project. This was contrary to Section 151(2) of the Public Procurement and Asset Disposal Act, 2015 which requires proper monitoring of the performance of the contractor, to ensure that all delivery or performance obligations are met and the contractor acts in accordance with the provisions of the contract.

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

### **337. Irregular Legal Expenses**

As disclosed in Note 5 to the financial statements, the statement of receipts and payments reflects an amount of Kshs.1,961,942,463 in respect of use of goods and services. Included in this expenditure is an amount of Kshs.182,901,364 relating to other operating expenses out of which an amount of Kshs.36,051,103 relates to legal expenses incurred during the year under review. However, it was noted that the County legal office engaged the services of several consultants without the approval of the County Executive Committee as required under Section 16(1-3) of the County Attorney Act of 2020. Further, the payments were not supported by itemized fee notes and invoices hence making it difficult to determine how the consultants' charges were determined.

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

### **338. Unutilized Road**

Management awarded a contract for Construction of Kwa Ngelu-Mwaani- Kamweu-Thwake Dam Road to a contractor at a contract sum of Kshs.17,400,000 on 12 March, 2021, with contract period of four (4) months and expected completion date of 12 July, 2021. Further, the total payments as at the time of audit for certified works was an amount of Kshs.16,626,804 as per interim certificate No.2 dated 29 June, 2021. Review of the site meeting minutes dated 25 June, 2021 revealed that the project was at 95% complete. However, physical inspection of the project conducted on 14 July, 2022 revealed that, though the project was done to completion but was not in use as, it was blocked halfway denying access to the rest of the road.

In the circumstances, the residents have been denied benefits expected from the investment and therefore, value for money has not been achieved.

### **339. Irregular Funding of National Government Functions**

Note 10 to the financial statements reflects an amount of Kshs.1,541,289,362 in respect of construction and civil works out of which an amount of Kshs.14,432,364 was irregularly incurred on funding projects in primary and secondary schools which are under the National Government functions. This was contrary to the Fourth(4<sup>th</sup>) Schedule of the Constitution of Kenya, 2010, which lists primary and secondary schools as functions of the National Government.

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

### **340. Non-Compliance with the One Third Basic Salary Rule**

Analysis of the payrolls for the months of April, 2022 and July, 2021 respectively showed that a total of twenty-five (25) employees drew net salaries that were below one third of their basic pay 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 the basic pay.

In the circumstances, Management was in breach of law.

### **341. Irregularities in Training Expenses**

Note 5 to the financial statements reflects an amount of Kshs.1,961,942,463 in respect of use of goods and services. Included in this expenditure is an amount of Kshs.295,861,194 relating to training expenses. However, no evidence was provided to confirm that Management established a training committee to continuously consider and review training needs in order to ensure fairness, equity and relevance as required under Section 9.6 of the County Public Service Human Resource Policy and Procedures Manual 2015. In the circumstances, Management was in breach of the law.

### **342. Non-Submission of Account for Receiver of Revenue**

As disclosed in Note 3 to the financial statements, the statement of receipts and payments reflects an amount of Kshs.1,417,959,108 in respect of other receipts. Included in the expenditure is an amount of Kshs.359,219,242 being county own generated revenue for the year under review. However, Management did not prepare and submit accounts for the revenue contrary to the requirement of section 165 of Public Finance Management Act, 2012, which requires receivers of revenue to prepare and submit revenue accounts.

In the circumstances, Management was in breach of law.

## **REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE**

### **Basis for Conclusion**

### **343. Lack of Risk Management Policy and a Disaster Recovery Plan**

Documentary review, and information provided by Management reflects that the County Executive lacks a Risk Management Policy, as required by Section 158(1) of Public Finance Management (County Governments) Regulations, 2015. However, it was noted that a draft policy is undergoing review for purpose of approval and implementation. Further, information provided also indicates that the County Executive does not have in place a disaster recovery and business continuity plans contrary to provisions of Regulation 158(b)(1) of the Public Finance Management (County Governments) Regulations, 2015.

In the circumstances, existence of effective measures to deal with risks recovery and business continuity disaster could not be confirmed.

### **344. Use of Manual Payroll**

Review of records provided for audit showed that the County Executive operated two payroll systems namely; a manual (Excel format) payroll system and the Integrated Personnel and Payroll Database (IPPD) system. Out of the total compensation of employees expenditure of Kshs.4,325,180,836, an amount of Kshs.1,073,358,807 was reported through the manual payroll system. The use of the manual system requires manual calculations of deductions to arrive at net monthly pay, and constant updates of the data, which makes it prone to human error and misuse leading to weak internal controls on management of personnel emoluments.

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

### **345. Management of Revenue Collection system**

Review of revenue records and revenue collection systems revealed following weaknesses:

#### **(i) Unbanked Revenues**

Review of bank reconciliation statements as at 30 June, 2022 reflected unbanked cash receipts collected through point of sale gadgets under ZIZI platform of Kshs.10,488,599. Further, supporting cashier's analysis indicated that an amount of Kshs.400,000 was held by revenue collection officers but no evidence was provided to demonstrate recoveries from the concerned staff.

#### **(ii) Lack of Land and Property Valuation Roll**

Review of records provided in support of own generated revenue showed that the County Executive does not have in place a valuation roll. It was therefore not possible to confirmed whether the land and property rates charged and applied in the year under review were valid and correct, and or whether they reflected the true property prices in the County.

In the absence of such a document, the County Executive may overcharge or undercharge on their services. In case of undercharging, low revenue would be collected leading to loss of own generated revenue.

#### **(iii) Lack of Revenue Collection System**

During the year under review, monthly revenue reports generated from the revenue system were not provided for audit. Management explained that this was due to a shut down by the supplier due to lack of payments for maintenance of the system and the last payment was done in September, 2021. Physical inspection exercise of the revenue collection for several streams such as Cess collection, crusher sales, market fees and parking fees within Kitui County revealed that the County did not have a billing system as at the time of the audit and instead relied on reports submitted by revenue officers within the County. However, the clerks were not adequately supervised since revenue supervisors only paid weekly inspection visits.

#### **(iv) Incomplete Migration of Revenue System**

Data clean up during migration to the County revenue collection system was not done as there were cases of unidentified location for some businesses, incomplete information in some entries such as period for which services have been paid for and contact details for some businesses. The system reports could not therefore provide accurate status of existing clients in the County.

#### **(v) Revenue Collection System not Integrated to Banking Systems of the County**

The revenue collection system was not integrated to banking systems of the County Executive as provided for in Section 31.1.4 of the ZIZI System contract. Further, manual reconciliations were done by the revenue officers. Failure to integrate the revenue system to banking system may allow human intervention which may cause manipulation of records.

#### **(vi) Hospital Revenue Management Systems not Implemented**

The County Executive is yet to implement a Hospital Revenue Management System for the hospitals within the County Executive that is linked to the County Revenue Collection System. The County is therefore not able to centrally oversee the revenue collection and reporting process for public health facilities within the County.

In the circumstances, efficiency and effectiveness of revenue management system could not be confirmed.

#### **346. Lack of Updated Assets Register**

As disclosed in Note 10 to the financial statements, the statement of receipts and payments reflects an amount of Kshs.113,832,659 in respect of acquisition of specialized plant, equipment's and machinery. Included in this amount are assets worth Kshs.8,095,339 and Kshs.54,503,798 procured by the Office of the Governor and the Ministry of Trade, Cooperatives and Investments respectively during the year under review. However, the assets register had not been updated to reflect the new acquisitions. This is contrary to Regulation 136(1) of the Public Financial Management (County Governments) Regulations, 2015, that requires the Accounting Officer to maintain an updated assets register. In absence of an updated assets register, the trail and safe custody of the assets could not be ascertained.

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



## COUNTY EXECUTIVE OF MACHAKOS - NO.16

### REPORT ON THE FINANCIAL STATEMENTS

#### Basis for Qualified Opinion

##### 347. Irregular Use of Public Resources

The statement of receipts and payments reflects use of goods and services amount of Kshs.1,496,724,958 which includes other operating expenses amount of Kshs.161,042,008 as disclosed in Note 5 to the financial statements. Included in other operating expenses are legal fees amounting to Kshs.31,530,139. Further, review of County law office records revealed pending account payable amounting Kshs.607,769,485 in respect of outstanding legal expenses as at 30 June, 2022. However, Management did not explain why they continued engaging private legal firm instead of using staff from the well-established legal department.

In addition, the County Government incurred nugatory expenses on interest and suit cost amounting to Kshs.172,369,177 due to non-settlement of pending bills. The County's Department of Health and Emergency Services also irregularly paid interests, damages and legal costs amounting to Kshs.23,448,317 without budgetary provision.

In the circumstances, the propriety of the legal expenses pending accountable payable amounting to Kshs.607,769,485 could not be confirmed.

##### 348. Inaccuracies in the Financial Statements

Review and comparison of the financial statements and IFMIS trial balance revealed variances in various items listed in the table below:

Item	Financial Statements Balance Kshs.	IFMIS Trial Balance Balance Kshs.	Variance Kshs.
Exchequer Releases	9,580,793,835	8,429,319,897	1,151,473,938
Other Receipts	1,118,461,753	996,333,714	122,128,039
Grants from Development Partners		135,656,077	(135,656,077)
Total Receipts	10,699,255,588	9,561,309,688	1,137,945,900
Compensation of employees	5,903,699,792	4,543,837,459	1,359,862,333
Use of goods and services	1,496,724,958	1,152,096,233	344,628,725
Transfers to Other Government Units	1,853,561,282	411,635,273	1,441,926,009
Social Security Benefits	87,995,117	821,088,307	(733,093,190)

<b>Item</b>	<b>Financial Statements Balance Kshs.</b>	<b>IFMIS Trial Balance Balance Kshs.</b>	<b>Variance Kshs.</b>
Acquisition of assets	987,914,840	821,088,307	166,826,533
Total Payments	10,329,895,989	7,749,745,579	2,580,150,410
Bank Balances	513,555,509	2,001,952,788	(1,488,397,279)
Cash Balances	0	(7,017,926,667)	7,017,926,667
Accounts Receivables	0	500,328,122	(500,328,122)
Deposits and Retention	133,552,775	54,838,115,306	(54,704,562,531)
Fund Balances Brought Forward	1,026,459,268	51,357,510,978	(50,331,051,710)

The Management did not reconcile the variances or provide notes for the adjustments of the trial balance amounts and balances.

In the circumstances, the accuracy and completeness of the financial statements balances could not be confirmed.

### **349. Un-confirmed Assets Balance**

Annex 5 to the financial statements reflects summary of the fixed assets balance of Kshs.14,699,333,764. The balance however, excludes value of assets inherited from defunct local authorities. The County Government did not have title deeds for land and motor vehicle logbooks for the inherited assets.

Further, the department of Kenya Urban Support Programme purchased various transport and waste management equipment valued at Kshs.26,228,730 but whose logbooks were also not provided for audit including; two (2) Agricultural Tractors 4\*4 - 80HP for Mavoko Municipality and Kangundo - Tala Municipality, wheeled backhoe loader medium duty new CAT model 426F3 for Kangundo - Tala Municipality and Large Tipper (Dump truck) Sino Truck Howo zz325m for Mavoko Municipality from Simba Corporation Ltd, Mantrack Kenya Ltd and Prescott Engineering Solutions valued at Kshs.6,000,000, Kshs.11,412,730 and Kshs.8,816,000 respectively.

In the circumstances, the accuracy and completeness of the fixed assets balance of Kshs.14,699,333,764 could not be confirmed.

### **350. Misstatement of Receipts and Payments**

The statement of assets and liabilities reflects bank balance of Kshs.513,555,509. However, review of bank reconciliation statements and cashbooks revealed that receipts and payments amounting to Kshs.908,635,489 and Kshs.2,283,355,741 being transaction for the month of July, 2022 respectively were erroneously captured as transaction for year under review.

In the circumstances, the accuracy and completeness of the statement of receipts and payments could not be confirmed.

### **351. Inaccuracies in Bank Balances**

The statement of assets and liabilities reflects bank balance of Kshs.513,555,509. Included in the balance is the County Revenue Fund account balance of Kshs.169,182,423. However, the cashbook and the bank certificate for the Fund, reflects a balance of Kshs.169,317,265 resulting to an unexplained and unreconciled variance of Kshs.134,842. Further, the balance includes SBM bank account balance of Kshs.10,643,135 which is held by the County in a Bank under receivership.

In the circumstances, the accuracy and completeness of the bank balance of Kshs.513,555,509 could not be confirmed.

### **352. Failure to Transfer Revenue to County Revenue Fund**

The statement of receipts and payments reflects other receipts amounting to Kshs.1,118,461,753. The amount excludes Machakos Internal Revenue account amount of Kshs.20,608,766, being revenue deposited in the account during the year under review. The amount was however not transferred to County Revenue Fund at the end of the financial year contrary to Section 81 (2) of the Public Finance Management (County Government) Regulations, 2015.

In the circumstances, the accuracy of the other receipts amount of Kshs.1,118,461,753 could not be confirmed.

### **353. Unaccounted Own Generated Revenue**

The statement of receipts and payments and as disclosed in Note 3 to the financial statement reflects an amount of Kshs.147,655,443 in respect of building plan approval. Review of records maintained by the lands department revealed total revenue from property approvals for Machakos and Mavoko sub-counties of Kshs.11,845,740 and Kshs.107,640,680 respectively all totalling to Kshs.119,486,420. The revenue system however, reported revenue of Kshs.14,217,576 and Kshs.163,108,945 respectively for the two sub-counties all totalling to Kshs.177,326,521, resulting in unaccounted for revenue of Kshs.57,840,101.

In the circumstances, the accuracy and completeness of the County Government receipts from building amount of Kshs.147,655,443 could not be confirmed.

### **354. Misclassification of Expenditure**

#### **354.1 Transfer to Other Government Entities**

The statement receipts and payments reflect transfers to other government units amount of Kshs.1,853,561,282. The amount includes other current transfers, grants and subsidies and other capital grants and transfers—recurrent amounts of Kshs.121,847,814 and Kshs.131,734,695 respectively as disclosed in Note 7 to the financial statements. Review

of schedules provided in support of the expenditure revealed that payments totalling to Kshs.16,593,784 were erroneously charged to other current transfers, grants and subsidies instead of use of goods and services item. Further, payments totalling to Kshs.115,296,666 and Kshs.1,953,000 were erroneously charged to other capital grants and transfers–recurrent instead of compensation of employees and non-pharms items respectively.

Further, the Note discloses capital grants and transfers-development amount of Kshs.261,009,547 which includes an expenditure of Kshs.16,238,797 which was not in the approved budget.

### **354.2 Use of Goods and Services**

The statement of receipts and payments reflect use of goods and services amount of Kshs.1,496,724,958 which includes utilities, supplies and services amount of Kshs.56,113,967 as disclosed in Note 5 to the financial statements. The Department of Water paid electricity bills totalling to Kshs.7,650,000 being electricity subsidies to various Water Companies and the Department of Health and Emergency Services made payments totalling to Kshs.3,000,000 to an oil Company for fuel supply. However, these payments were wrongly charged to utilities, supplies and services and contractual employees' costs respectively instead of other current transfers, grants and subsidies.

In the circumstances, the accuracy and completeness of the other current transfers, grants and subsidies, other capital grants, utilities, and transfer-recurrent supplies and services amounts of Kshs.121,847,814, Kshs.131,734,695 and Kshs.56,113,967 respectively could not be confirmed.

### **355. Unsupported Prior Year Adjustments**

The statement of assets and liabilities reflects negative prior year adjustment balance of Kshs.1,015,816,133, which relates to correction of errors in the various bank accounts as disclosed in Note 18 to the financial statements. The details of the errors corrected were however, not provided for audit.

In circumstances, the completeness and accuracy of the adjustment amount of Kshs.1,015,816,133 could not be confirmed.

### **356. Unreconciled Outstanding Land Rates Balances**

The statement of receipts and payments and as disclosed in Note 3 to the financial statements is land rates and ground rent amounting to Kshs.169,415,389. Review of land rates IFMIS records for Machakos Sub-county revealed outstanding land rates balance of Kshs.1,036,931,216 being an increase of Kshs.287,980,834 from the previous year balance of Kshs.748,950,382. Further, review of land rates records for Mavoko Sub-county revealed outstanding land rates balance of Kshs.26,327,156,095 as at 30 June, 2022 being an increase of Kshs.16,124,523,966 from the previous year balance of Kshs.10,202,632,129. The revenue system revealed that only Kshs.36,947,350 and Kshs.5,450,814 was invoiced during the year for Machakos and Mavoko Sub-counties respectively, thus leaving an unexplained increase in land rates of Kshs.251,033,484 and Kshs.16,119,073,152 for Machakos and Mavoko sub counties respectively.

Review of land rates records for Machakos revealed that an outstanding balance for 10 plots of Kshs.4,001,798 as at 30 June, 2021 was written off during the year under review leaving Nil balance. The write off was however not supported by payments made or any authorized waiver. In addition, the Mavoko Sub-county had 56,996 land rate accounts out of which 2,841 land rates accounts had outstanding balances irregularly reduced by Kshs.70,372,124 during the year under review. The reduction was not supported by payments made or authorized waivers.

In the circumstances, the accuracy and completeness of the land rates balance of Kshs.169,415,389 reflected in the financial statements could not be confirmed.

### **357. Failure to Disclose Imprests**

The statement of assets and liabilities as disclosed in Note 15 to the financial statements reflects a Nil balance in respect of outstanding imprests and advances. Review of the imprest register and payment details however, revealed that the Department of Finance and Office of the Governor had un-surrendered and unaccounted for imprests amounting to Kshs.67,994,086 and Kshs.50,432,466 respectively all totalling to Kshs.118,426,551. The imprests has been outstanding for a long time contrary to Regulation 91(3) of the Public Finance Management (County Governments) Regulations, 2015 which requires the amount due to be accounted for or be surrendered within seven working days after returning to duty station.

In the circumstances, the accuracy of the Nil balance for outstanding imprests and advances as reflected in the financial statements could not be confirmed.

### **Other Matter**

### **358. Budgetary Control and Performance**

The statement of comparison of budget and actual amounts reflects final budget and actual receipts on comparable basis of Kshs.13,089,716,879 and Kshs.10,699,255,588 respectively resulting to an under-funding of Kshs.2,390,461,291 or 18% of the budget. Similarly, the County Executive spent Kshs.10,329,895,989 against an approved budget of Kshs.13,089,716,879 resulting to an under-expenditure of Kshs.2,759,820,890 or 21% of the budget.

The County's own generated revenue declined by Kshs.177,902,915 from the previous years' collection of Kshs.1,296,364,668 to Kshs.1,118,461,753.

Further, the statement of receipts and payments reflects amount of Kshs.10,329,895,989 which includes development expenditure of Kshs.1,616,098,773 representing 16% of the total expenditure. The development vote therefore received funding which is less than 30% threshold prescribed by Section 15 (2) (a) of the Public Finance Management Act, 2012.

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

### **359. 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, the Management has not resolved the issues nor given any explanation for failure to adhere to the provisions of the Public Sector Accounting Standards Board templates and The National Treasury's Circular.

### **360. Failure to Settle Pending Bills**

According to Note 1,2 and 3 under other important disclosures, the County had pending bills totalling to Kshs.3,097,209,015 (Kshs.2,790,830,660 in 2021) as at 30 June, 2022. Management has not explained why the bills were not settled during the year when they occurred. The County is at risk of incurring significant nugatory costs inform interest and penalties changed due to delayed payment. Further, the pending bills amount of Kshs.3,097,209,015, includes legal fees and other related costs amount of Kshs.1,148,765,727 or 37% of the total bills for several on-going court cases but the Management did not provide details for the same.

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

## **REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

### **Basis for Conclusion**

### **361. Non-Compliance with the Fiscal Responsibilities Principles – Wage Bill**

The statement of comparison of budget and actual amounts reflects compensation of employees' budget amount of Kshs.5,905,795,352 which is 45% County Executive total receipts budget of Kshs.13,089,716,879. Further, the statement reflects actual expenditure on compensation of employees amount of Kshs.5,903,699,792 which is 55% of County Executive total receipts amount of Kshs.10,699,255,588. The expenditure on compensation of employees exceeded the threshold of 35 % prescribed by the Section 107 (2) (c) of the Public Finance Management Act, 2012 and Section 25(1) (b) of the Public Finance Management (County Government) Regulations, 2015.

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

### **362. Non-Compliance with Human Resource Regulations**

#### **362.1 Probation Terms of Service**

Review of the Integrated Personnel Payroll Database (IPPD) records revealed that, the County Government had a total of 6,399 employees as at 30 June, 2022 out of which sixty-nine (69) were serving on probation terms. It was however noted that the employees had worked for periods ranging from twenty-one (21) months to thirty-four (34) months



contrary to the provisions of Part II Section B of the Human Resource Policies and Procedures Manual for the Public Service, 2016 on appointment of staff on probation and pensionable terms

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

### **362.2 Non-Compliance with the Law on Staff Ethnic Composition**

Review of IPPD records revealed that the County Executive had a total of 6,399 employees out of which 5,393 or 84% were from the local dominant community. In addition, the County Government recruited thirteen (13) employees during the year under review and all were from the local dominant ethnic community implying that the Management is not making enough effort to bridge the existing ethnicity gap. This was in contravention to Section 65(1)(e) of the County Government Act, 2012, which provides that at least thirty percent of the vacant posts at entry level should be filled by candidates who are not from the dominant ethnic community in the County.

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

### **363. Failure to Remit Statutory Deductions**

Annex 3 to the financial statements on pending staff payables reflects CPF Financial Services, Lap Fund and National Health Insurance Fund balances of Kshs.258,731,462, Kshs.12,007,458 and Kshs.22,990,280 respectively all totalling to Kshs.293,729,198 and not remitted to the respective organizations.

In the circumstances, the County Executive breached the law on remittances of statutory and pension deductions and is exposed to penalties and interests for non-compliance.

### **364. Failure to Fund Dispensaries and Health Centers**

The County Executive had 164 gazetted level 3 and level 2 Health facilities which provided primary public health care services at the lowest level to the residents of the County. The main sources of funding to these facilities included user fee foregone, donations from DANIDA and remittances from County Treasury. Review of records revealed that these facilities did not receive funding from County Treasury during the financial year under review.

In the circumstances, this impacts negatively on the service delivery to the local community.

### **365. Hire of Horticultural Crops Directorate Office Block**

The County Executive signed a lease agreement with Horticultural Crops Directorate on 5 July, 2013 for office space for the Governor. The rent payable was Kshs.100,000 per month with 10% annual increase. The outstanding balance as at May, 2022 was Kshs.27,222,648. The Governor's Office was constructed in the year 2020 and is currently in use. However, Management did not explain why they continued occupation of the rented premise.

In the circumstances, the regularity of the expenditure of Kshs.27,222,648 on rent could not be confirmed.

### **366. Irregular Procurement of Projects**

#### **366.1 Upgrading of Matuu Equity Lane Road and Installation of Paving Block and Kerbs**

Tender no. GMC/KRB/025/2019-2020 for the project was advertised on the County website and three (3) bids were received and subjected to preliminary, technical and financial evaluation. The tender was awarded to the lowest bidder at a contract sum of Kshs.2,739,485. The tender was however, cancelled and three (3) new bidders were subsequently evaluated for the tender. There was however, no evidence of re-advertisement of the tender. The contract was subsequently awarded at a contract sum of Kshs.8,125,551, an amount that was 66% higher than the initial contract sum. No satisfactory explanation was given why the initial contract was cancelled and with such a huge variation.

Further, a tender for the Installation of Paving Block and Kerbs on the road was advertised on the County website and three (3) bids were received and evaluated. The tender was awarded at a contract sum of Kshs.9,750,915 to a firm that did not attain the minimum technical evaluation threshold of seventy percent (70%).

#### **366.2 Routine Maintenance Mbusyani Kawethei Road Contract**

Tender number GMC/TR&PW/RFQ/002/2021-2022 for the project was advertised and three (3) bids were received and subjected to preliminary, technical and financial evaluation. The technical evaluation report did not indicate the scores for two (2) bidders but the tender was awarded to a contractor at a contract sum of Kshs.4,607,056.

#### **366.3 Irregular Use of Framework Contracting**

The Department of Water entered into framework agreements with various suppliers and contractors for the supply of goods, works and services and incurred expenditure totalling to Kshs.60,635,708. The criteria to have a minimum of seven (7) alternative suppliers or contractors for framework agreements was not met and the head of procurement unit advised on the non –compliance as per the professional opinion. The Accounting Officer however, approved the irregular award of framework agreements as recommended by the evaluation committee ignoring the profession opinion.

#### **366.4 Irregular Expenditure on Design of the Proposed Machakos Airport**

The County Executive awarded tender for the provision of consultancy services for design of the proposed Machakos Airport on 14 December, 2020 at a contract sum of Kshs.26,727,576. The construction of airport is however, not a devolved function as it falls under Civil Aviation and Space Travel, which are National Government functions. The implementing department of Transport, Roads, Public Works and Housing lacks public officers competent with matters on aviation. The Management did not provide any evidence of agreement between the County Executive and the National Government or its Agencies.

### **366.5 Design for the Proposed Machakos-Kyumvi Dual Carriage**

The County Executive advertised and awarded a tender for provision of consultancy services for the 16 Km Proposed Machakos-Kyumvi Dual Carriage road at a contract sum of Kshs.25,167,920. The construction of dual carriage road from Mombasa Road (Kyumvi) to Machakos Town is however not a devolved function. The road falls under National Trunk Roads which is a National Government function. The County did not have an approved Memorandum of Understanding as provided for in Article 187 of the Constitution of Kenya to undertake the project.

A letter from Director General KeNHA dated 16 March, 2021, indicated that the County Executive should address the issue of MOU between itself and the National Government before undertaking the project.

### **366.6 Irregular Payment for Incomplete Project**

- i) The County Executive entered into a contract for upgrading Local Authority Finance and Operational Management System (LAIFOM) at a contract sum of Kshs.8,000,000 and a monthly support fee of 1.5% of total collections and Kshs.5,000 per month for cloud data hosting. The contract was signed on 6 May, 2020 and the project was to be rolled out by July, 2020. The supplier had been paid Kshs.5,777,697 (or 72%) of the contract price. However, the upgraded system was found to be in operation but several irregularities were noted in its implementation.
  - a) The scope of the LAIFOMS upgrade entailed conversion of the system to the County Integrated Finance and Operational Management System (CIFOM) for all the seven (7) sub-counties. Out of the seven (7) sub counties, only Machakos and Mavoko sub counties have been connected to the system.
  - b) The module for building plan processing was to be developed and rolled out but the module is inactive in the two sub-counties where the system is in use.
  - c) The use of SMS broadcast feature, a mass SMS campaign engine, in the CIFOM that will provide alerts to citizens for bills and payment status had not been activated in the system.
  - d) The receipt books management System is not operational and has no backup in the event of system failure, or if the vendor terminates its operation.
  - e) The quarry fee, the highest revenue stream, has not been integrated in the system (CIFOM).
- ii) The County Executive through the Department of Finance and Economic Planning contracted a firm for supply, installation, commissioning and training on monitoring and evaluation system at a contract sum of Kshs.11,530,602 on 21 August, 2020. The project was to be completed by 20 May, 2021. The system was to strengthen and make improvements in project monitoring and evaluation in order to realize timely and accurate project data across the County. The system is web-based and responsive to all devices including a mobile application supporting all mobile operating systems.

The system is however not operational despite the department having paid an amount of Kshs.8,564,449.

- iii) The County Executive through the Department of Finance and Economic Planning contracted a service provider for provision of bulk SMS services at a contract amount of Kshs.1,456,300. The service was to operationalize and enhance efficiency of the County payment platforms of County Paybill 1616160, USSD code \*377# and Machapay platform and enable sending bulky SMSs. The tender was awarded on 1 December, 2021 and was to be completed by 13 December, 2021. Review of the project during the month of August, 2022 disclosed that the system is however not in use and the USSD code is not active. Further, professional opinion was not signed by the head of procurement contrary to Section 84(1) of the Public Procurement and Asset Disposal Act, 2015.

In the circumstances, Management was in breach of the laws as highlighted above. Further, the County Government has not realized the benefits envisioned on procurement of the above seven (7) contracts and value for money on the contracts awarded irregularly could not be confirmed.

## **367. Stalled Projects**

### **367.1 Designing and Building of Mavoko Stadium**

The County Executive through the Department of Tourism and Sports entered into a contract for designing and building of Mavoko stadium at a contract sum of Kshs.49,906,656 in the financial year 2018/2019. The stadium was to be completed in three (3) years by 2020/2021. The contractor failed to complete the project and the contract was terminated. An amount of Kshs.4,873,680 (or 10%) of the contract sum was certified as at the time of the contract termination on 27 August, 2019. A new contract no. GMC/MTYSC/01/2019-2020 was signed for the completion of the stadium at a contract sum of Kshs.44,717,696. Procurement records indicates that an amount of Kshs.8,781,147.80 (20%) of a contract sum was certified at 21 April, 2021 but had not been paid. The contractor has since issued notice of termination of contract dated 11 March, 2022. Management did not provide documentary evidence to demonstrate any further action to complete the project.

### **367.2 Designing and Building of Masii Stadium**

The County Executive through the Department of Tourism and Sports entered into a contract for designing and building of Masii Stadium at a contract sum of Kshs.49,045,478 in the financial year 2018/2019. The initial contract period was three (3) years. However, the contractor failed to complete the project and the contract was terminated. An amount of Kshs.4,705,280 (or 10%) of the contract sum was certified as works done.

The Management did not provide evidence to demonstrate any further action taken to complete the project.

### **367.3 Designing and Building of Kinyui Stadium**

The County Executive through the Department of Tourism and Sports entered into a contract for the designing and building of Kinyui Stadium at a contract price of Kshs.49,906,656 in the financial year 2018/2019. The initial contract period was three (3) years which has since expired. The completion level was at 74% as in July, 2022 but the contractor had abandoned the site. The Management did not provide evidence to demonstrate any further action to complete the project.

### **367.4 Designing and Building of Ikombe Stadium**

The County Executive through the Department of Tourism and Sports entered into a contract for the designing and building of Ikombe Stadium at a contract price of Kshs.49,740,000 in the financial year 2018/2019. The initial contract period was three (3) years which has since expired. The completion level was at 78% in July, 2022. Physical inspection on 2 August, 2022 revealed that the contractor was still on site despite the lapse of contract period and no evidence of contract extension was provided for audit.

### **367.5 Construction of Mumbuni Earth Dam**

The Department of Water and Irrigation entered into a contract for the proposed construction of Mumbuni Earth Dam in Ikalaasa, Kibauni Ward on 24 September, 2018 with a completion date of 30 September, 2019. The contract price was Kshs.75,156,480 and the contractor had been paid an amount of Kshs.68,414,880 for certified works representing 91% completion level. However, the contractor failed to complete the project and the same was re-awarded at an amount of Kshs.5,072,460 through tender number GMC/WIECC&NR/03/2021-2022. The contractor later declined the offer vide a letter dated 30 March, 2022 citing outstanding pending bills on previous works. The project has remained incomplete despite the County Executive incurring an expenditure of Kshs.68,414,880.

### **367.6 Construction of 11 Storey Thin and Tall Building**

The project was awarded to a contractor in March 2018 at a contract sum of Kshs.394,999,999 and was to be completed in 58 weeks. Physical inspection in the month of October, 2022 revealed that the building was constructed up to the 7<sup>th</sup> floor before the contractor abandoned the site with the level of completion estimated at 52% as per project progress status report. The contractor had been paid a total amount of Kshs.176,375,021. The Management did not demonstrate efforts being made to complete the project.

### **367.7 Proposed Construction of Commercial Development Centre**

A contract was awarded to a contractor at a contract sum of Kshs.55,495,944 on 1 March, 2018 for construction of commercial (mixed use) development centre. The project commenced on 4 May, 2018 and was to be completed by 30 September, 2018. However, physical inspection in the month of October, 2022 revealed that the project was still at the foundation level and no activities had been undertaken since 2019 when the last certificate was issued. Further, review of payment records indicated that (10%) advance payment of Kshs.5,549,594 was paid on 19 April, 2018 and IPC No.1 of Kshs.2,975,379 was paid on 21 November, 2018. Further, another payment amounting



to Kshs.2,398,931 for Certificate No.2 for construction of commercial (mixed use) development centre was made on 10 April, 2019 resulting to total payments of Kshs.10,923,904.

### **367.8 Construction of Community Recreation Centre**

The project was for construction of passage/walkways, public toilets and restaurant. The contract was awarded on 1 March, 2018 at a contract sum of Kshs.55,435,741. The project commenced on 4 May, 2018 and was due for completion on 30 September, 2018. However, physical inspection in the month of October, 2022 revealed that the project was at the foundation stage and the contractor had abandoned the project with level of completion estimated at 15%. Further, review of payment records revealed that, the contractor was paid advance amount of Kshs.5,543,574 (or 10%) and an additional amount of Kshs.3,582,385 for value of work done as per certificate Number 1 paid on 17 February, 2020.

### **367.9 Construction of Public Area Facility**

The contract comprised of construction of a swimming pool, a public beach, amphitheatre, changing and washrooms and was awarded at a contract sum of Kshs.37,585,666 in March, 2018. The project was to be completed in 26 weeks from the commencement date. However, the contract period was extended to 11 March, 2020 and then to 30 September, 2021 after the contractor made another extension request which had not been approved. Physical inspection of the project in the month of October, 2022 revealed that the contractor had abandoned the site and the level of completion as per project progress status report was at 70%.

### **367.10 Construction of Staff Houses in Matuu Sub-county**

The contract was awarded on 27 June, 2019 at a contract sum of Kshs.12,545,783 and for a contract period of 26 weeks. The contractor submitted the first payment request vide IPC No.1 amounting to Kshs.7,521,202 on 16 December, 2019. However, the contract period had lapsed but the level of completion as per project progress status report was at 60% and there was no evidence of extension of contract period.

### **367.11 Construction of Executive Washrooms at Matuu County Office**

The contract was awarded on 27 June, 2019 at a contract price of Kshs.2,877,150. The project was to be completed in 26 weeks. Physical inspection of the project carried out in October, 2022 revealed that the contractor had abandoned the site and project completion level was at 40% as per the project status report. Further, there was no evidence provided on the contract period extension.

### **367.12 Construction of 12 Storey Thin and Tall Building**

The contract was awarded in 2018 at a contact sum of Kshs.399,999,999 and was to be completed in 58 weeks. Physical inspection in the month of October, 2022 revealed that the project was terminated at foundation level for non-performance. The estimated completion stage is 10%. The contractor had been paid a total amount of



Kshs.80,551,782 being advance payment of Kshs.39,144,144 and IPC No 1 amount of Kshs.41,407,638 respectively.

In the circumstances, the County Executive did not obtain value for money on the amount spent on all the abandoned projects and the public did not accrue the envisioned benefits due to failure to complete the projects and there is possibility of loss of funds for the undelivered projects.

### **368. Non-Submission of Accounts for Receiver of Revenue**

The statement of receipts and payments reflects other receipts amount of Kshs.1,118,461,753, being County own generated revenue for the year under review. However, the Management did not prepare and submit accounts for the revenue contrary to the requirement of section 165 of Public Finance Management Act, 2012, which requires receiver of revenue to prepare and submit revenue accounts for audit. The revenue collected may not be appropriately accounted for and revenue could be misappropriated.

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

## **REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE**

### **Basis for Conclusion**

### **369. Lack of Risk Management Policy and Strategy**

The Management had not put in place risk management policy, strategies, and risk register to mitigate against risk. It was therefore, not clear how the Management manages risk exposures. This is in contravention of Regulation 158 (1)(a) and (b) of the Public Finance Management (County Governments) Regulations, 2015 which requires the Accounting Officer to ensure that the County Government entity develops risk management strategies, which include fraud prevention mechanism; and the county government entity develops a system of risk management and internal control that builds robust business operations.

In the circumstances, controls in place to identify risks and ability to mitigate against risks could not be confirmed.

### **370. Operation of Multiple Revenue Bank Accounts and Paybills**

Review of the revenue records and systems revealed that the county operated seventeen (17) revenue bank accounts and two hundred and eleven (211) mobile money paybills. The paybills include nine (9) which are inactive and it was not clear how the revenue through these paybills was collected. Management did not explain the essence of operating multiple bank accounts and Mpesa paybills.

In the circumstances, controls in place for collection, accounting and reconciliation of revenue and accounting for the same could not be confirmed.

## COUNTY EXECUTIVE OF MAKUENI - NO.17

### REPORT ON THE FINANCIAL STATEMENTS

#### Basis for Qualified Opinion

#### 371. Variances Between Financial Statement Balances and Integrated Financial Management Information System (IFMIS)

The statement of receipts and payments reflects amount of Kshs.8,607,340,674. However, review of the financial statements presented for audit by the County Executive against the IFMIS payment details showed discrepancies in compensation of employees, use of goods, other grants and payments and acquisition of assets as detailed below:

Payment Type	Financial Statements (Kshs.)	IFMIS Payment Details Total (Kshs.)	Variance (Kshs.)
Compensation of Employees	3,405,879,803	3,376,928,294	28,951,509
Use of Goods and Services	2,810,706,142	2,243,302,163	560,746,424
Other Grants and Transfers	148,284,036	150,981,256	2,697,220
Acquisition of Assets	1,496,536,507	1,532,817,733	36,281,226

In the circumstances, the accuracy and completeness of the total amounting to Kshs.8,607,340,674 reflected in the financial statements could not be confirmed.

#### 372. Unsupported County Own Generated Receipts

The financial statements reflects county own generated revenue of Kshs.369,187,633 and as disclosed under Note 2 to the financial statements. However, supporting ledgers were not provided for audit.

In the circumstances, the accuracy and completeness of the total own generated receipts of Kshs.369,187,633 could not be confirmed.

#### 373. Receipts and Payments Outside the Reporting Period

The statement of receipts and payments reflects amounts of Kshs.8,777,873,656 and Kshs.8,607,340,674 in respect of receipts and payments respectively resulting to a net surplus of Kshs.170,532,982. However, review of the cashbooks presented for audit revealed that, receipts and payments of Kshs.1,034,625,9002 and Kshs.1,226,696,551 respectively related to July, 2022 and were therefore outside the reporting period contrary to Section 97(1) of the Public Finance Management (County Government) Regulations 2015.

In the circumstances, the accuracy and completeness of the total expenditure and total receipts amounting to Kshs.8,607,340,674 and Kshs.8,777,873,656 respectively could not be confirmed.

### **374. Unconfirmed Validity and Regularity of Legal Fees/Dues**

The statement of receipts and payments reflects use of goods and services amount of Kshs.2,810,706,142 as disclosed in Note 5 to the financial statements which includes legal fees paid to various consultants hired for legal representations as per the sampled payment vouchers totalling to Kshs.23,544,816. However, review of supporting documents provided for audit revealed the following anomalies:

- i) County legal office engaged the services of several consultants to render legal services without the approval of the Attorney-General or the County Executive Committee in contravention of the Office of Attorney General Act of 2012 and The County Attorney Act of 2020.
- ii) Records maintained by the County Executive excludes engagement letters with the consultants to show how they were identified and the terms and conditions of the contract.
- iii) The files did not include itemized fee notes and invoices to clearly outline how the Consultants came up with the charges that the County executive had incurred.
- iv) Amounts involved appeared to be high and un sustainable. The County Executive did not demonstrate measures put in place to control legal expenditure.
- v) The hiring of the legal consultants was not competitively sourced since they were merely picked from a list of consultants.

In the circumstances, the regularity, accuracy and completeness of the legal fees paid could not be confirmed.

### **375. Variances in Transfer of Refugee Assistance**

As disclosed in Note 7 to the financial statements, the statement of receipts and payments reflects other grants and transfers expenditure amounting to Kshs.148,284,036. Included in this amount is emergency relief and refugee assistance amounting to Kshs.35,041,025. Records provided in support of this amount reflects disbursements from County Executive to Emergency Relief and Refugee Assistance totalling to Kshs.36,400,000 while the supporting IFMIS payment schedule reflects an amount of Kshs.37,738,245. The variance between the three (3) amounts was not reconciled or explained.

In the circumstances, the accuracy and completeness of the other grants and transfers amounting to Kshs.148,284,036 could not be confirmed.

### **Other Matter**

### **376. Budgetary Control and Performance**

The statement of comparative budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.11,544,836,718 and Kshs.8,777,873,656 respectively, resulting to an under-funding of Kshs.2,766,963,062 or 24% of the budget. Similarly, the County Executive spent Kshs.8,607,340,676 against an approved budget of

Kshs.11,544,836,718 resulting to an under-expenditure of Kshs.2,937,496,042 (or 25%) of the budget.

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

### **377. Pending Bills**

Note 15(1) to the financial statements under other important disclosures reflects Kshs.675,912,955 in respect to pending accounts payables. Included in the amount is pending bills from prior years for supply of goods and services totalling to Kshs.116,417,666. Additions for the year amounted to Kshs.603,102,050 while pending accounts payables paid during year amounted to Kshs.43,606,761. However, review of Annex 2 to the financial statements showed that pending accounts payables amounting to Kshs.105,804,669 relating to LAP- Fund were payables for prior years. The bills did not form the first charge as required and no explanation was provided for failure to comply with the Law and the various Circulars from the Controller of Budget and the National Treasury. The propriety of pending bills totalling to Kshs.675,912,955 reflected in the financial statements could not be confirmed.

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

## **REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

### **Basis for Conclusion**

#### **378. Failure to Provide Monthly Financial and Non-financial Budgetary Reports**

Review of budget records revealed that monthly financial and non-financial budgetary reports were not provided for audit and were not maintained at the County Executive as required by the PFM County Government Regulation 54.

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

#### **379. Anomalies in the Implementation of e-procurement System**

Review of the procurement processes of the County Executive revealed that e-procurement system (Oracle) was in place but was not fully implemented during the year under review contrary to Regulation 52 of the of Public Procurement and Asset Disposal Regulations 2020. Further, manual procurement processes were performed without the necessary approval. Included in the sampled payments is Kshs.30,160,000 paid to a firm for the supply, implementation and commissioning of a Revenue Management and Administration System vide contract No.GMC/F/T/006/2016/2017 dated 19 January, 2017. The procurement process used to award the tender to the supplier was purely manual.

In addition, a sample of selected payments totalling to Kshs.44,156,472 made under the Office of the Governor procured via e-procurement revealed the following anomalies.

- i. The procurement plan was not prepared through the e-procurement system.

- ii. The participating bidders were not invited for tender opening as the system did not allow bidders to participate in opening tenders.
- iii. The system combines both the tender opening and tender evaluation processes and the accounting officer appoints only one committee to handle both functions.
- iv. The Management did not have digital signature certificates for accounting officer, head of procurement and opening and evaluation committee members.

In the circumstances, Management was in breach of the provisions of Public Procurement and Disposal Act, 2015 and Public Procurement and Public Disposal Regulations, 2020.

### **380. Identification, Collection, and Accounting for Own Generated Revenue**

During the year under review, management of own generated revenue of the County Executive revealed that there were delays in sweeping of the revenue collection accounts to the County Revenue Fund account. In the month of June 2022, two (2) transfers were done on 2 June, 2022 amounting to Kshs.27,477,415 and on 6 June, 2022 amounting to Kshs.2,743,176 from a collection account at Wote to an account at Central Bank of Kenya. The next transfer of Kshs.16,129,149 was done on 17 June, 2022, eleven (11) days after the 6 June, 2022 transfer. The last transfer for the month, of Kshs.6,765,818 was done on 27 June, 2022 ten (10) days after the 17 June, 2022 transfer. Revenue collected was not swept within 5 days contrary to Section 81(2) of the Public Finance Management County Government Regulations 2015.

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

### **381. Non-Compliance with the Fiscal Responsibilities Principles – Wage Bill**

The statement of receipts and payments reflects that the County Executive collected revenue totalling to Kshs.8,777,873,656 while expenditure relating to wages and benefits for the County Public Staff amounted to Kshs.3,405,879,803 which is approximately 39% of the total revenue collected and exceeded the recommended ratio of 35% stipulated in Section 25 (1) of the Public Finance Management (County Governments) Regulations 2015.

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

### **382. Violation of a Third Basic Pay Rule**

Review of payroll records provided for audit revealed that during the month of June, 2022 a total of eighty-six (86) employees of the County Executive earned net pay below a third of their basic pay contrary to Section 19(3) of the Employment Act 2007.

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

### **383. Non-Compliance with the Law on Staff Ethnic Composition**

Review of human resource records revealed that the County Executive had a total of 3,502 employees out of which 3224 representing 92% of the total workforce were from

the local dominant community. This is contrary to Section 7(1) and (2) of the National Cohesion & Integration Act, 2008 on ethnic composition thresholds requirement.

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

#### **384. Anomalies Project Implementation Report**

Physical inspection carried out in construction of a chain link fence, proposed external works, apiary shed and proposed facelift works at ATC Kwa Kathoka revealed that apiary shed was complete but not in use, landscaping works lacked proper maintenance hence 'Kikuyu grass' had dried up and the projects did not have sign posts therefore it was not possible to confirm whether the projects were actually done by the County Executive.

In the circumstances, the public may not have derived value for money on the project.

#### **385. Salaries Processed through Manual Payroll**

Review of the payroll documents provided for audit reviewed that the County Executive processed salaries totalling to Kshs.212,599,439 for all the twelve (12) months through a manual payroll. Manual payroll system requires use of manual calculations for deductions to ascertain the monthly pay and constant updates of data which makes it prone to human error and misuse leading to weak internal controls on the management of personnel emoluments.

In the circumstances, the accuracy and completeness of the salaries amounting to Kshs.212,599,439 paid via manual payroll could not be confirmed.

#### **386. Delayed Project Completion**

Note 8 to the financial statements reflects construction of buildings expenditure amounting to Kshs.41,575,406. Included in this amount is Kshs.10,860,183 paid to a construction company on 6 April, 2020 for the construction of document warehouse and County Treasury at a contract sum of Kshs.40,146,166 and for a project duration of 40 weeks with expected completion date of 20 March, 2021.

Physical inspection conducted on 27 October, 2022 revealed that even after one hundred and four days (104) days project extension, the project was 95% complete though in use. However, the following works were still outstanding:

- i. Kitchen cabinets - low level and high level and toilet accessories, mirrors, toilet roll holders, towel rails and urinal basins were yet to be fitted.
- ii. Drainage works and spreading of sand blinding and placing of cabro paving were incomplete.
- iii. Erection of masonry fence for security purposes and persons with disability accessibility was still outstanding.

In the circumstances, the public did not obtain value for money spent on the construction of the building.



### **387. Irregular Payment of Security Services without a Valid contract**

Review of supporting documents for security services in respect of a security services firm revealed that a two (2) year service contract commenced on 1 September, 2018 and upon expiry, a one-year contract renewal was approved commencing 1 August, 2020 and ending on 2 September, 2021. However, despite expiry of the contract, the firm continued to provide security services to the County Executive up to the end of April, 2022 without a valid contract.

In the circumstances, the regularity of the payments for security services made without a valid contract could not be confirmed.

## **REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE**

### **Conclusion**

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

## COUNTY EXECUTIVE OF NYANDARUA - NO.18

### REPORT ON THE FINANCIAL STATEMENTS

#### Basis for Qualified Opinion

#### 389. Inaccuracies in the Financial Statements

##### 389.1 Variances Between the Comparative Balances and Prior Year Audited Financial Statements

Comparison between the 2020/2021 audited financial statements and comparative balance of the financial statements presented for audit revealed variances as indicated below.

<b>Component</b>	<b>Balance as Per Audited 2020/2021 Financial Statements (Kshs.)</b>	<b>Comparative Balance as Per 2021/2022 Financial Statements (Kshs.)</b>	<b>Variance (Kshs.)</b>
Total Receipts	6,628,018,650	5,968,448,668	659,569,982
Total Payments	6,160,740,618	5,441,258,705	719,481,913
County Own Generated Receipts	408,718,260	-	408,718,260
Transfers to Other Government Units	719,481,913	-	719,481,913

In the circumstances, the accuracy and completeness of the statement of receipts and payments balances for the year under review could not be confirmed.

##### 389.2 Variances Between Financial Statements Balances and Integrated Financial Management Information System (IFMIS) Report

The financial statements reflects account balances that are at variance with the corresponding account balances generated from IFMIS report as summarized below.

<b>Component</b>	<b>Financial Statements Balances (Kshs.)</b>	<b>IFMIS Financial Statements Balances (Kshs.)</b>	<b>Variance (Kshs.)</b>
Compensation of Employees	2,150,125,588	2,053,042,275	97,083,313
Use of Goods and Services	832,259,152	1,024,797,507	(192,538,355)
Subsidies	-	10,376,546	(10,376,546)
Transfers to Other Government Entities	-	675,656,540	(675,656,540)
Other Grants and Transfers	921,996,901	177,300,000	744,696,901

<b>Component</b>	<b>Financial Statements Balances (Kshs.)</b>	<b>IFMIS Financial Statements Balances (Kshs.)</b>	<b>Variance (Kshs.)</b>
Social Security Benefits	-	94,999,361	(94,999,361)
Acquisition of Assets	1,063,817,121	1,259,433,177	(195,616,056)
Other Payments	-	99,107,589	(99,107,589)
Bank Balances	692,424,553	693,937,599	(1,513,046)
Outstanding Imprests and Advances	3,322,900	21,870,347	(18,547,447)
Deposits and Retentions	88,357,507	89,870,560	(1,513,053)
Prior Year Adjustments	(458,141,894)	(13,080,222)	(445,061,672)
Surplus/Deficit for the year	204,686,552	(221,827,679)	426,514,231

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

### **389.3 Unreconciled Variances in the Financial Statements**

The statement of receipts and payments and as disclosed in Note 3 to the financial statements reflects Nil balance in respect of other receipts. However, the statement of comparison of budget and actual amounts reflects actual receipt balance of Kshs.479,999,000 resulting to an unreconciled and unexplained variance of Kshs.479,999,000. The balance was also not analysed or supported with detailed schedules. Further, Note 8 to the financial statements reflects an amount of Kshs.921,996,901 in respect of other grants and payments out of which Kshs.48,000,000 is in respect of emergency relief and refugee assistance balance. However, the amount is at variance with the Emergency Funds financial statements balance of Kshs.46,500,000 by Kshs.1,500,000. In addition, the statement of receipts and payments and as disclosed in Note 10 to the financial statements reflects acquisition of assets totalling to Kshs.1,063,817,121 while Annex 5 to the financial statements reflects additions in the year amount of Kshs.1,047,120,185 resulting to an unreconciled variance of Kshs.16,696,936.

In the circumstances, the accuracy of the respective balances reflected in the financial statements could not be confirmed.

## **390. Unsupported Use of Goods and Services**

### **390.1 Specialized Materials and Services**

The statement of receipts and payments and as disclosed in Note 5 to the financial statements reflects an amount of Kshs.832,259,152 in respect of use of goods and services which includes an amount of Kshs.256,240,544 in respect of specialized materials and services out of which an amount of Kshs.139,284,460 was incurred on purchase of assorted specialized equipment distributed to various beneficiaries and groups. However, the expenditure was not supported by way of user requisitions, policy document, criteria for identifying beneficiaries, approved list of beneficiaries, distribution

list, certificates of registration for groups, acknowledgement letters of receipt by the beneficiaries and public participation minutes.

### **390.2 Airtime Payment Made Without Authorized List of Beneficiaries**

The statement of receipts and payments and as disclosed in Note 5 to the financial statements reflects use of goods and services balance of Kshs.832,259,152 which includes an amount of Kshs.19,497,018 in respect of communication, supplies and services expenditure. However, included this balance is airtime payments totalling to Kshs.19,236,810 made to staff members which were not supported with signed receipt acknowledgement schedules, applicable rates or approved list of beneficiaries.

In the circumstances, the accuracy and completeness of the respective balances reflected in the statement of receipts and payments could not be confirmed.

### **391. Lack of Expenditure Returns for Other Current Transfers (Hospital Transfers)**

The statement of receipts and payments and as disclosed in Note 8 to the financial statements reflects a balance of Kshs.921,996,901 in respect of other grants and transfers, out of which an amount of Kshs.290,302,658 is in respect of other current transfers (hospital transfers). However, although a detailed listing of transfers was provided for audit, the transfers were not supported with approved expenditure schedules and returns.

In the circumstances, the accuracy and completeness of other transfer of Kshs.290,304,658 reflected in the financial statements could not be confirmed.

### **392. Acquisition of Assets**

The statement of receipts and payments and as disclosed under Note 10 to the financial statements reflects a balance of Kshs.1,063,817,121 in respect of acquisition of assets, which includes an amount of Kshs.21,472,706 in respect of purchase of specialized plant, equipment and machinery out of which an amount of Kshs.17,696,935 is in respect of equipment supplied to various youth groups. However, there was no documentary evidence to confirm that the equipment was delivered to the intended beneficiaries. Further, there was no evidence of a clear identification criteria for the targeted groups and if the items were either required or requested for. The said items were also included in the asset register yet they had already been issued out and were not in possession of the County Executive.

In the circumstances, the accuracy and completeness of the expenditure of Kshs.17,696,935 for equipment supplied to various youth groups for the year ended 30 June, 2022 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 comparable basis totalling to Kshs.8,032,514,327 and Kshs.5,652,884,314 respectively, resulting to an under-funding amounting to Kshs.2,379,630,013 or 30% of

the budget. Similarly, the statement reflects final expenditure budget and actual on comparable basis totalling to Kshs.8,032,514,327 and Kshs.4,968,198,762 respectively, resulting to an under-performance amounting to Kshs.3,064,315,565 or 38% of the budget.

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

### **394. Assets Inherited from the Defunct Local Authority**

As reported in the previous period, the County Executive inherited assets and liabilities including land and buildings from the defunct County Council of Nyandarua. However, the assets are yet to be incorporated into the County Executive fixed assets register, as they were not formally handed over by the defunct Transition Authority and do not have their respective values attached.

In the circumstances, the completeness of the statement of assets and liabilities as presented as at 30 June, 2022 could not be confirmed.

### **395. Unresolved Prior Year 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 has not resolved the issues or given any explanation for failure to adhere to the provisions of the Public Sector Accounting Standards Board templates.

### **396. Pending Bills**

The financial statements other importance disclosures under Note 1 reflects pending account payables balance of Kshs.1,236,503,162 as at 30 June, 2022 inclusive of additional pending accounts payables amounts of Kshs.478,854,768 in the year. However, no amount was paid in the financial year 2021/2022.

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**

### **397. Non-Compliance with the One Third of the Basic Salary Rule**

Analysis of sampled staff from the payroll revealed that nine hundred and seventy-seven (977) employees earned less than one-third of their basic salaries in different months of the financial year. This is contrary to Section 19(3) of the Employment Act, 2007 which stipulates 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

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.

### **398. Non-Compliance with the Law on Staff Ethnic Composition**

Review of payroll records maintained by Management revealed that the County Executive had two thousand five hundred and fifty-four (2,554) employees as at 30 June, 2022. It was however noted that two thousand four hundred and nineteen (2,419) members of staff or 94.7 % were from one dominant ethnic Community. This was contrary to Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 which stipulates that all public establishments shall seek to represent the diversity of the people of Kenya in the employment of staff, and 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.

### **399. Compensation of Employees**

The statement of receipts and payments and as disclosed under Note 4 to the financial statements reflects compensation of employees' payments totalling to Kshs.2,150,125,588. However, the following unsatisfactory matters were noted.

#### **399.1 Staff Salary Payment Outside Integrated Personnel and Payroll Database (IPPD)**

Records on the compensation of employees' expenditures revealed that contracted staff payments totalling to Kshs.185,327,997 were made to two thousand five hundred and fifty-four (2554) staff. The payments were designated as salary and were paid manually outside the Integrated Personnel and Payroll Database system between 1 July, 2021 to 30 June, 2022. Although Management explained that the salary was approved by the County Public Service Board, the payments were made contrary to The National Treasury Circular No.13/2019 which requires personnel emoluments payments to be processed through Integrated Personnel Payroll Data (IPPD) system.

#### **399.2 High Wage Bill Above Allowed Threshold**

The statement of receipts and payments reflects revenue totalling to Kshs.5,172,885,314 and compensation of employees' payments totalling to Kshs.2,150,125,588. The compensation of employee's costs constituted forty-two (42%) of the total receipts of the County Executive for the year under review contrary to Regulation 25(1)(b) of the Public Finance Management (County Governments) Regulations 2015 which provides that the costs should not exceed 35% of the County Executive total revenue.

#### **399.3 Continued Retention of Public Officers after the Retirement Age of 60 Years**

Review of sampled personnel files for staff revealed that the County Executive) had sixteen (16) officers who had attained the mandatory retirement age of sixty (60) years but were still in the staff payroll and were not registered as persons living with a disability on local contract terms. This is contrary to Section D.21 of the Human Resource Policies



and Procedures Manual for the Public Service, 2016 which states that all officers shall retire from the Service on attaining the mandatory retirement age of 60 years, 65 years for persons with disabilities, and/or as may be prescribed by the Government from time to time.

#### **399.4 Irregular Payment of Special Salary**

Analysis of the payroll data for the year ended 30 June, 2022 revealed that the County Executive had eleven (11) State officers, who earned a consolidated special salary of Kshs.8,66,7702 during the year. This is contrary to Kenya Gazette Notice no.2885 Vol CXN- No.33 of 1 March, 2013 which states that all other allowances and benefits not specified in this Gazette Notice cease to be payable.

#### **399.5 Irregular Hire of Casuals**

Review of records established that the County Executive engaged an average of twenty (20) casual employees on a monthly basis with an annual wage bill of Kshs.2,130,000 who worked continuously for a period of ten (10) months without their employment terms being converted to service contracts contrary to the Employment Act, 2007 Section 37(1)(b) which requires that casual employees should not be engaged to work continuously for a period not exceeding three months or be converted to a contract of service if in excess of three months.

Further, it was also noted that the Department of Agriculture hired casuals and incurred an expenditure of Kshs.4,944,279 paid as casual wages. It was not clear why the casual workers were hired and paid by the Department as this should fall under the Human Resources Department in line with the law.

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

#### **400. Wasteful Payments**

Review of records and documents relating to legal claims revealed that the County's Attorney Department incurred an expenditure of Kshs.33,152,719 being penalties and interests imposed for failure to clear or pay court claims when awarded or due. The County Executive attributed the delay in settling court awards and claims to lack of adequate funds, although such claims should be provided for and paid promptly. Paying the penalties and interests would impair the cash flows over a long time-frame and may result in inability to meet its financial obligations.

In the circumstances, Management did not obtain value for money on the penalties and interest payments on legal claims.

#### **401. Excess Transfer to the County Assembly**

The County Executive transferred an amount of Kshs.777,947,825 to the Nyandarua County Assembly. This was in excess of the stipulated seven percent (7%) of total County revenue for the year under review by Kshs.415,845,853 contrary to Regulation 25(1)(f) of the Public Finance Management (County Governments) Regulations, 2015 which provides that the approved expenditures of a County Assembly shall not exceed

seven percent of the total revenues of the County Government or twice the personnel emoluments of that County Assembly, whichever is lower.

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

#### **402. Irregular Payments to the Council of Governors**

During the year under review, the County Executive of Nyandarua made payments of Kshs. 3,190,000 to the Council of Governors towards support of the 7 Annual Devolution Conference and Legal Fund. However, the payments were contrary to Section 37(b) of the Intergovernmental Relations Act, 2012 which provides that the operational expenses in respect of the Council of Governors should 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.

#### **403. Procurement of Goods and Services**

The statement of receipts and payments and as disclosed under Note 5 to the financial statements reflects use of goods and services payments totalling to Kshs.832,259,152. The following unsatisfactory matters were noted.

##### **403.1 Irregular Contracts for Supply of Goods and Services**

Procurement records provided for audit indicated that expenditure commitments/contracts totalling to Kshs.208,515,302 were made after 31 May, 2022 without the written approval of the Accounting Officer contrary to Regulation 50(1) of the Public Finance Management (County Governments) Regulations, 2015 that requires all commitments for supply of goods or services to be done not later than the 31 May, each year, except with the express approval of the Accounting Officer in writing.

##### **403.2 Direct Procurement of Specialized Materials and Services**

The statement of receipts and payments and as disclosed under Note 5 to the financial statements reflects use of goods and services payments totalling to Kshs.832,259,152. The payments includes an amount of Kshs.256,240,544 in respect of specialized materials and supplies, out of which a balance of Kshs.29,790,785 was incurred on purchase of non-pharmaceuticals, radiology and dental consumables that were procured directly contrary to the Public Procurement and Asset Disposal Act, 2015 Section 91(1) which states that open tendering shall be the preferred procurement method for procurement of goods, works and services and (2) The procuring entity may use an alternative procurement procedure only if that procedure is allowed and satisfies the conditions under this Act for use of that method.

##### **403.3 Irregular Procurement of Drugs and Medical Supplies**

The statement of receipts and payments and as disclosed under Note 5 to the financial statements reflects Kshs.832,259,152 in respect of use of goods and services out of which an amount of Kshs.256,240,544 is in respect of specialized materials and services which includes an amount of Kshs.31,986,785 incurred on purchase of non-pharmaceuticals, radiology and dental consumables from Mission for Essential Drugs and

Supplies (MEDS). However, there was no non-supplies notification from Kenya Medical Supplies Authority (KEMSA) confirming that they were out of stock for medicals and drugs supplies contrary to the Kenya Medical Supplies Authority Act, 2013 which states that the Authority shall procure, warehouse and distribute drugs and medical supplies for prescribed public health programmes, the national strategic stock reserve, prescribed essential health packages, national referral hospitals and support County Governments to establish and maintain appropriate supply chain systems for drugs and medical supplies.

#### **403.4 Irregular Procurement of Road Improvement**

A contractor was paid an amount of Kshs.4,933,098 for a contract for road improvement awarded on 12 January, 2022 and accepted on the same date, but whose agreement with the County Executive was entered on 17 January, 2022 with the contract starting on the same date 17 January, 2022, meaning that the contract started five (5) days before the award and acceptance of the contract contrary to Section 135(3) of the Public Procurement and Asset Disposal Act, 2015 which states that the written contract shall be entered into within the period specified in the notification but not before fourteen days have elapsed following the giving of that notification provided that a contract shall be signed within the tender validity period.

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

#### **404. Irregular Transfer of Emergency Funds**

The Department of Agriculture paid an amount of Kshs.14,300,000 being emergency funds issued to the department towards a supplementary budget approval for the tissue culture laboratory which is a donor-funded project. The amount was the County Executive's contributions towards the laboratory completion. It was therefore not clear why no provisions had been made for the project as this was not an unexpected event warranting emergency funds. This may have led to a reduction of funds on previously budgeted items.

In the circumstances, value for money may not have been realised on the emergency payment of Kshs.14,300,000.

#### **405. Projects Implementation and Completion Status**

Review of sampled projects records, status reports and physical inspection revealed the following;

##### **405.1 Unutilized Projects Assets**

The County Executive purchased a boat for use by local community conservation groups at Lake Ol borsat at a cost of Kshs.750,000. The boat was supplied and delivered on 21 June, 2022. However, the boat is lying idle at the Department of Water, Environment, Tourism and Natural Resources and has not been handed over to the beneficiaries.

In the circumstances, value for money on the idle boat costing Kshs.750,000 could not be confirmed.

## 405.2 Stalled Projects

### 405.2.1 Incomplete Project - Gituamba Road, Kaimbaga Ward

Records indicated that a contractor was to open, grade and gravel Gituamba road in Kaimbaga ward at a cost of Kshs.3,999,937. According to the implementation status, the project is complete and a certificate of completion was issued on 20 June, 2022. However, physical inspection conducted in the month of July, 2022 indicated that the road was not complete as a section of the proposed road was not opened to join a major road as initially intended.

In the circumstances, value for money may not have been realised on the Kshs.3,999,937 amount spent on road.

### 405.2.2 Delay in Early Childhood Development Education (ECDE) Projects Completion

During the year under review, the approved development budget was Kshs.90,399,716 against an absorption of Kshs.38,968,936. Physical inspection of sampled projects with a total contract sum of Kshs.9,192,096 revealed the following anomalies.

<b>Project Description</b>	<b>Contract Amount (Kshs.)</b>	<b>Audit Observation</b>
1. Ngorika Mwireri ECDE and Toilet	1,799,829	Contractor received 80% of the contract sum against 40% of the work done. There was no signpost at the building as stipulated in the Bill of quantities
2. Makara ECDE Classroom	1,259,893	Contractor was not on site but had received 90% of the contract sum against 40% of the work done. There was no signpost to verify if the building was under County Government or other government agency
3. Kiambaa ECDE and Toilet Construction	1,810,812	Contractor had received 90% of the contract sum against 75% of the work done. There was no sign post at the site, as stipulated in the Bill of Quantities
4. Raitha ECDE Classroom	1,260,711	91% work in progress. There was no sign post on site to authenticate the validity of the project
5. Grace ECDE Classroom	1,259,901	Contractor was on site, but had received 89% of the contract sum against 65% of the work done. There was no sign post on site
6. Holy Oak ECDE and Toilet Construction	1,800,950	There was no signpost at the site to verify the authenticity of the project. Contractor was paid 90% contract sum, estimated at 90% complete.
<b>Total</b>	<b>9,192,096</b>	

In the circumstances, failure to implement the approved projects on a timely basis hindered improved service delivery to the public and may lead to cost escalation.

#### **406. Lack of Managed Equipment Service Lease Contract**

As reported previously, the County Executive and the Ministry of Health of the National Government signed a Memorandum of Understanding (MOU) for the provision of medical equipment and related services, otherwise referred to as the Managed Equipment Services (MES) on 10 February, 2015. The medical equipment was to be provided in two (2) hospitals in the County, namely, J. M. Kariuki (OI Kalou) Hospital, which is a Level 4 hospital and Engineer SDH, a Level 3 facility, on a 7-year lease arrangement.

According to the annual County Allocation of Revenue Act (CARA), in the five (5) years that the MES programme has been in operation, the County has paid lease rentals amounting to Kshs.619,148,937. However, it was noted that the lease rental is reflected in the CARA as a conditional grant for leasing of medical equipment. However, the amount is not remitted to the County Executive, but is retained at the Ministry of Health.

Review of records revealed that the basis of the amounts of annual lease rentals could not be determined and the County Executive does not have a register for recording the delivered MES assets.

Further, Lots 3 and 4 of the MES equipment had not been supplied despite the fact that the County Executive had constructed two laboratories for the items while the Intensive Care Unit, ICU equipment which are under Lot 6, reserved for level 5 hospitals had not been provided since the County Executive did not have such a facility.

In the circumstances, it was not possible to confirm whether the public have received value for money from the expenditure on Managed Equipment Services (MES) programme.

#### **407. Improper Management of Travel Expenses**

The statement of receipts and payments and as disclosed under Note 5 to the financial statements reflects an amount of Kshs.832,259,152 in respect of use of goods and services out of which an amount of Kshs.239,210,908 is in respect of domestic travel and subsistence. However, review of the expenditure revealed that the surrender documents provided for audit amounting to Kshs.90,572,660 were not supported by way of financial order form 22 (FO22). This was contrary to Section 6.5.2 of The National Treasury Accounting and Financial Reporting Manual for County Governments that requires the staff to use an imprest surrender form (FO22) for travel and accommodation which shall form the basis of posting the specific expenditure category to the general ledger.

Further, imprests totalling to Kshs.68,275,051 was still outstanding as at 30 June, 2022 contrary to the Public Finance Management Regulations, 2015 Regulation 93(5) which states that a holder of a temporary imprest shall account or surrender the imprest within 7 working days after returning to duty station and while all journeys should be approved by the Officer-In Charge prior to the occurrence of the activity, various activities amounting to Kshs.7,923,009 were undertaken throughout the financial year without prior

approvals. In addition, review of the Imprest registers from various departments revealed that sixty-six (66) officers took multiple imprest amounting to Kshs.139,013,402 during the year under review and the imprests overlapped contrary to Section 93(4)(b) of the Public Finance Management Regulations, 2015 which states that before issuing temporary imprest under paragraph (2), the Accounting Officer shall ensure that the applicant has no outstanding imprests.

Further, imprests totalling to Kshs.48,882,801 were used to purchase goods and services which could have been abused or used to circumvent procurement laws. However, the payments/receipts or invoices were not supported by ETR receipts casting doubts on their authenticity. The list of approved standing imprest holders and their approved floats was not provided for audit while imprests amounting to Kshs.16,247,982 were irregularly issued to officers to perform their ordinary duties.

In the circumstances, the propriety of domestic travel and subsistence expenditure amount of Kshs.239,210,908 could not be confirmed.

#### **408. Expenditures Incurred After the End of Financial Year**

Note 5 to the financial statements reflects an amount of Kshs.832,259,152 in respect of use of goods and services, out of which an amount of Kshs.481,387,395 was incurred after 30 June, 2022. This was contrary to the requirements of the International Public Sector Accounting Standards (Cash Basis) reporting framework and Regulation 97(1) of the Public Finance Management (County Governments) Regulations, 2015 which states that the accounts of the County Government entities shall record transactions which take place during a financial year running from the 1 July to 30 June.

Further Regulation 97(4), requires that an actual cash transaction taking place after the 30 June, shall not, however, be treated as pertaining to the previous financial year even though the accounts for that year may be open for the purposes referred to in paragraphs (2) and (3) of this regulation.

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

### **REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE**

#### **Basis for Conclusion**

#### **409. Lack of Capacity of the Internal Audit Department**

As reported in the previous year, according to the staff establishment list for the year ended 30 June, 2022, the Internal Audit Department had only ten (10) officers against an authorized establishment of twenty-five (25) officers. The Department does not have access to the Integrated Financial Management Information System (IFMIS) and the Integrated Personnel and Payroll Database (IPPD) systems.

Further, the Audit Committee constituted by the County Executive did not convene or hold regular meetings during the year as required under Section 155(5) of the Public Finance Management Act, 2012 which states that a County Government entity shall establish an



internal auditing committee whose composition and functions are to be prescribed by the regulations.

In the circumstances, the existence of an effective internal audit function to review the financial and non-financial performance management systems of the County Executive for the year under review could not be confirmed.

#### **410. Lack of Key Policy Manuals**

The County Executive did not provide approved key policy manuals for Accounting and Finance, ICT policy and the Human Resource Policy Manual which play a very important role in guiding operations and acting as a reference guide.

In the circumstances, the lack of policy manuals and standard operating procedures is an indication of weak internal controls.

#### **411. Understaffing at the County Executive**

The County Executive had a staff establishment of eight thousand four hundred and twelve (8,412). However, as reported in the previous period, two thousand five hundred and fifty-four (2,554) officers were in post resulting in a shortage of five thousand eight hundred and fifty-eight (5,858) staff members.

In the circumstances, the understaffing hampers effective discharge of the mandate of the County Executive.

#### **412. Training Undertaken Without Needs Assessments**

The statement of receipts and payments reflects an amount of Kshs.832,259,152 in respect of use of goods and services and as disclosed in Note 5 to the financial statements, which includes an amount of Kshs.11,181,620 incurred on training expenses, out of which an amount of Kshs.4,903,164 was for training staff members. However, the County Executive did not have a comprehensive training needs assessment contrary to Section 33 of the Public Service Recruitment and Training Policy that requires that all trainings be based on comprehensive training needs assessment that should be carried out on annual basis.

In the circumstances, without a comprehensive training needs assessment, the training may not have been effective in the enhancement of service delivery to the public.

#### **413. Anomalies in Land and Buildings**

Information provided indicated that the County Executive has several buildings, some as work in progress and parcels of land at its Headquarters and other places within the County. However, details and documentation regarding the land size, values and ownership documents were not provided for audit. Further, there was no evidence that the assets were valued and fixed assets had been tagged, acquisition date indicated and valuation.

#### **414. Unvalued Motor Vehicles**

As previously reported, Annex 5 to the financial statements on the summary of fixed assets register includes forty-eight (48) grounded motor vehicles whose value could not be confirmed. One of the vehicles, which was to be repaired at a cost of Kshs.80,000, has been held in a garage for the last ten (10) years and has accrued storage charges of Kshs.515,000. The continued cost accruing from holding grounded vehicle should be evaluated against the disposal of the vehicle.

In the circumstances, the effectiveness of the County Executive's asset management system in place and its ability to safeguard its assets could not be confirmed.

#### **415. Land Ownership Row at Agricultural Mechanization Services**

As reported in the previous period, the assets register maintained by the Department of Agriculture, Livestock and Fisheries indicated that the Agricultural Mechanization Services (AMS) Department had two (2) parcels of land measuring 5.51 and 7.23 acres in Nyahururu Municipality Blocks 8 and 6 respectively. The two (2) parcels of land are not registered under the Department and some private companies and individuals have irregularly taken possession of approximately 2.5 acres of the land. An approximate 0.919 hectares consisting of 8 blocks of land each measuring approximately 0.0465 hectares had been hived off from block 8 and certificate of leases issued.

Further, an approximated 1.5 acres on parcel land from block 6 has been encroached on and illegally fenced off by private developers. Copies of certificates of official search provided for audit revealed details of six (6) private developers as encroachers while the rest were unknown. One of the private developers has since given a notice of intention to enter into legal suit against the Department vide letter referenced CGC/JGGM/3955/1 dated 20 August, 2018. Through a notification letter dated 31 January, 2018, the Manager AMS communicated to the Chief Officer and copied the Chief Executive Committee Member, Department of Agriculture, Livestock and Fisheries on the encroachment. The Chief Officer in turn notified the Nyandarua County Coordinator in charge of National Lands Commission through a letter referenced MOA/NYA/ADM/Vol.2/167. However, as at the time of the audit in the month of October, 2022, no response had been received or action taken by the Commission.

In addition, the two (2) parcels of land do not have complete perimeter fences while large sections have been left idle with no development and the County Government has not obtained ownership documents for the parcels.

In the circumstances, strong and effective internal controls systems to safeguard and secure the land held in trust for the public could not be confirmed.

## **COUNTY EXECUTIVE OF NYERI - NO.19**

### **REPORT ON THE FINANCIAL STATEMENTS**

#### **Basis for Qualified Opinion**

##### **416. Overstated Local Revenue**

As disclosed in Note 3 to the financial statements, the statement of receipts and payments reflects others receipts amount of Kshs.663,794,673. The amount includes other receipts (local revenue) of Kshs.642,371,032 out of which an amount of Kshs.36,436,287 was received in July, 2022 after the financial year end. This is contrary to the International Public Sector Accounting Standards (Cash Basis) reporting framework and Regulation 97(1) of the Public Finance Management (County Governments) Regulations, 2015 which states that the accounts of the County Government entities shall record transactions which take place during a financial year running from the 1 July to 30 June.

In the circumstances, the cut-off, presentation and disclosure of other receipts from local sources of Kshs.36,436,287 could not be confirmed.

##### **417. Unsupported Fuel Expenditure**

As disclosed in Note 5 to the financial statements, the statement of receipts and payments reflects use of goods and services amount of Kshs.1,164,577,308 which includes payment in respect of fuel, oil and lubricants amounting to Kshs.38,503,325 out of which an amount of Kshs.9,861,316 was paid to various firms for supply of fuel. However, the fuel consumption could not be traced to the fuel statements, fuel registers and motor vehicle work tickets. Further, the motor vehicle work tickets lacked key details such as receipts and detail order numbers for the supplied fuel.

In the circumstances, the accuracy and propriety of the expenditure of Kshs.9,861,316 in respect of fuel, oil and lubricants could not be confirmed.

##### **418. Irregular Payment of Field Allowances**

The statement of receipts and payments reflects an amount of Kshs.1,164,577,308 in respect of use of goods and services which, as disclosed in Note 5 to the financial statements, includes domestic travel and subsistence amount of Kshs.120,579,495 out of which a balance of Kshs.4,249,600 was paid to various officers as field allowances. However, there was no evidence provided for audit that the Management had approval from Salaries and Remuneration Commission (SRC) or any other policy for payment of field allowance.

In the circumstances, the regularity of the expenditure of Kshs.4,249,600 could not be confirmed.

#### **419. Unsupported Expenditure**

During the year under review, the County Executive paid allowances amounting to Kshs.20,459,624 to forty-four (44) MCA's and five (5) County Assembly staff for attending ESAMI training in Arusha, Tanzania. However, the Management did not provide evidence as to why the MCAs and County Assembly staff were facilitated by the County Executive despite the County Assembly having its own budget and resources for such activities.

In the circumstances, the regularity of the expenditure of Kshs.20,459,624 could not be confirmed.

#### **420. Non- Remittance of Monthly Pension Deductions**

Review of payroll deductions and records provided for audit revealed that a total of Kshs.26,922,280 for staff pension contributions consisting of Kshs.10,018,313 and Kshs.16,903,967 in respect of principal amount and interest respectively for the period April, 2013 to 31 December, 2021 had not been remitted to the respective Pension Fund. Although the County Executive paid the principal amount of Ksh.10,018,313 on 22 March, 2022, accrued interest totalling to Kshs.16,903,967 had not been paid as at 30 June, 2022. The County Executive is likely to incur further interests and penalties on non-remittance of pension contributions.

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

#### **Other Matter**

#### **421. Budgetary Control and Performance**

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.8,733,268,481 and Kshs.6,691,539,002 respectively resulting to an under-funding of Kshs.2,041,729,479 or 23% of the budget. Similarly, the County Executive spent Kshs.7,359,778,039 against an approved budget of Kshs.8,733,268,481 resulting to an under-expenditure amounting to Kshs.1,373,490,442 or 16% of the budget.

Further, the statement of comparison of budget and actual amounts reflects a budgeted other receipts amount of Kshs.1,000,000,000 against actual amount of Kshs.642,371,032 representing 64% of projected local revenue, resulting in a revenue shortfall of Kshs.357,628,968 or 36 %. Further, a comparison of performance against the previous year revealed a decline of Kshs.244,569,798 or 28% from the previous year collection of Kshs.886,940,830. Failure to achieve revenue targets and decline in revenue collection is an indication of inadequate revenue collection internal control systems and possible revenue leakages.

The under-funding and under-expenditure of approved budget affected the planned activities and may have impacted negatively on service delivery to the public.

#### **422. Unresolved Prior Year 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**

#### **423. Non-Compliance with the Law on Fiscal Responsibility - Wage Bill**

As disclosed in Note 4 to the financial statements, the statement of receipts and payments reflects an amount of Kshs.3,601,050,748 in respect of compensation of employees. As previously reported, this amount is equivalent to 54% of the County's total revenue of Kshs.6,691,539,003 contravening Regulation 25(1)(b) of the Public Finance Management (County Governments) Regulations, 2015 which sets the limit of compensation of employees at 35% of the total revenue.

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

#### **424. Non-Compliance with the Law on Staff Ethnic Composition**

Review of the personnel records revealed that the County Executive had 92% of its workforce from the dominant community. 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.

#### **425. Failure to Adhere to a Third Rule on Basic Salary**

During the year ended 30 June, 2022, two hundred and eight four (284) 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. The Management did not give any explanation for failure to comply with the Policy and Section 19(3) of the Employment Act, 2007.

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

#### **426. Non-Adherence to Imprest Controls and Regulations**

As disclosed in Note 15 to the financial statements, the statement of assets and liabilities reflects outstanding imprests balance of Kshs.8,533,328 an increase of Kshs.879,128 from the previous year balance of Kshs.7,654,200. However, review of the recurrent account bank statements and other records revealed that a total of Kshs.1,010,426 was

issued to seven (7) officers as temporary imprest without recording in the imprest register. Further, analysis of the County Executive bank statements and recurrent cashbook revealed that standing imprest amounting to Kshs.23,713,068 were issued to various departments instead of the officers in their names. In addition, the departments operated official bank accounts with various commercial banks where they held the standing imprest disbursements and re-imbursements instead of a separate or personal bank account operated by the imprest holder or in the form of cash under safe.

This was contrary to the provisions of Regulation 93(4), (5) and 12 of the Public Finance Management (County Governments) Regulations, 2015 which requires Accounting Officer to ensure that the applicant has been recorded in the imprest register and a holder of a temporary imprest to account or surrender imprest within seven (7) working days after returning to duty station and standing imprest to be issued to an officer's name.

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

#### **426.1 Failure to Adhere to Vote Control Procedures for Imprest**

The statement of receipts and payments reflects an amount of Kshs.1,164,577,308 in respect of use of goods and services as disclosed in Note 5 to the financial statements which includes domestic travel and subsistence expenditure of Kshs.120,579,495, out of which Kshs.88,637,010 was paid as reimbursements. However, applications for imprests were not provided for audit to confirm the vote control procedures. This is contrary to Regulations 51(1) and 93(1) of the Public Finance Management (County Governments) Regulations, 2015 that provides that, no public officer shall spend or commit funds until he or she has been properly authorized by means of an Authority to Incur Expenditure and an imprest shall be issued for a specific purpose, and any payments made from it, shall be only for the purposes specified in the imprest warrant.

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

#### **427. Payment of Staff Outside IPPD Payroll**

The County Executive has an automated Integrated Payroll and Personnel Database (IPPD) system in place. However, review of the monthly payrolls provided for audit revealed that staff salaries totalling to Kshs.145,093,924 was paid outside the IPPD payroll contrary to The National Treasury Circular No. 9/2017 that requires Personnel emolument to be supported by IPPD.

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

#### **428. Delay in Implementation and operationalization of Development Projects**

Analysis of projects implementation status report provided for audit revealed that fifteen (15) projects with a budget amount of Kshs.82,719,904 had not started. This is an indication of inappropriate project implementation mechanism hence denying the residents the likely benefits and service delivery.

Further, the County Executive entered into a contract for the construction of Nyeri Municipal Bus terminus at a contract sum of Kshs.575,688,291 on 27 May, 2019.



However, physical inspection carried out in the month of July, 2022, revealed that, although the market works had been completed, the contractor had not handed over the project and the market had not been operationalized.

In the circumstances, the citizens did not obtain the expected value for money from Kshs.82,719,904 and Kshs.575,688,299 from the non-started and non-operationalized projects, respectively.

#### **429. Excess Budgetary Allocation to the County Assembly**

Review of the County Executive budget revealed that Kshs.746,500,292 was allocated to Nyeri County Assembly. The allocation was equivalent to 8.5% of the total County Revenue budget for the year of Kshs.8,733,268,481 contrary to the required threshold of 7% required in Regulations 25(1)(f) of the Public Finance Management (County Governments) Regulations, 2015, which provides that the approved expenditures of a County Assembly shall not exceed 7% (seven percent) of the total revenues of the County Government or twice the personnel emoluments of that County Assembly, whichever is lower. The excess budgetary provisions led to less allocation to the development vote hence denying the residents the benefit that would have accrued if the money was allocated to development projects.

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

### **REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE**

#### **Conclusion**

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

## **COUNTY EXECUTIVE OF KIRINYAGA - NO.20**

### **REPORT ON THE FINANCIAL STATEMENTS**

#### **Basis for Qualified Opinion**

##### **431. Unsupported Payments**

The statement of receipts and payments reflects total payments amount of Kshs.5,998,014,575, which includes payments totalling to Kshs.4,151,350 whose payment vouchers and supporting documents were not provided for audit.

In the circumstances, the accuracy and completeness payments amounting to Kshs.4,151,350 could not be confirmed.

##### **432. Unsupported Motor Vehicle Insurance Expenditure**

The statement of receipts and payments reflects use of goods and services amount of Kshs.1,019,731,932 and as disclosed in Note 5 to the financial statements. Included in this amount is insurance costs amounting to Kshs.95,805,079 out of which an amount of Kshs.16,983,858 was in respect of insurance of motor vehicles. However, supporting documents, including valuation reports and insurance certificates were not provided for audit.

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

#### **Other Matter**

##### **433. Budgetary Control and Performance**

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.7,705,332,107 and Kshs.6,647,954,292 respectively resulting to an under-funding of Kshs.1,057,377,815 or 14% of the budget. Similarly, the County Executive spent Kshs.5,998,014,575 against an approved budget of Kshs.7,705,332,107 resulting to an under-expenditure amounting to Kshs.1,707,317,532 or 22% of the budget.

The under-funding and under-expenditure of approved budget affected the planned activities and may have impacted negatively, service delivery to the public.

##### **434. Unsupported Pending Accounts Payables**

Annex 2 to the financial statements reflects pending accounts payable balance of Kshs.795,379,502. Review of supporting documents revealed that only pending bills amounting to Kshs.573,920,199 were supported. The balance of Kshs.221,459,303 was not supported by contract documents, local purchase/service orders, and invoices/certificates detailing names of the contractors/suppliers, purchase/service order numbers, invoice/certificate numbers and description of goods supplied, services provided or works done.

Further, the Note 2 on other important disclosures reflects a Nil pending staff payables balance. However, as previously reported records available indicate that the County Government owes Local Authorities Provident Fund (LAP Fund) a total of Kshs.36,983,665 being principal debt of Kshs.3,809,834 and accrued interest of Kshs.33,173,831 for the period April, 2013 to 15 May, 2021. The amount has not been disclosed as pending staff payables.

Failure to disclose the pending staff payables balance of Kshs.36,983,665 owed to LAP Fund under Note 2 to the financial statements understates the liabilities of the County Executive of Kirinyaga.

#### **435. Unresolved Prior Year 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 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**

#### **436. High Wage Bill**

As disclosed in Note 4 to the financial statements, the statement of receipts and payments reflects payments of Kshs.2,369,825,302 in respect of compensation of employees. However, the expenditure on compensation of employees represents 40% of the County's total revenue of Kshs.5,888,624,528 and therefore exceeds the ceiling set in Regulation 25(1)(b) of the Public Finance Management (County Governments) Regulations, 2015 of 35% of the total county revenue.

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

#### **437. Non-Compliance with the Law on Staff Ethnic Composition**

The County Executive recruited one hundred and ninety-eight (198) members of staff in the year under review, out of whom one hundred and eighty-four (184) representing 93% were from the dominant ethnic community, This is contrary to the provisions of the Section 65(1)(e) of the County Governments Act, 2012 which provides that when selecting candidates for appointment, the County Public Service Board shall consider the need to ensure that at least thirty percent of the vacant posts at entry level are filled by candidates who are not from the dominant ethnic community. Further, review of the personnel records provided for audit revealed that the County Government had 92% of its workforce from the dominant community, contrary to Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 on ethnic composition thresholds requirements

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

#### **438. Irregularities in Repair of Motor Vehicles**

The statement of receipts and payments reflects use of goods and services balance of Kshs.1,019,731,932 and as disclosed under Note 5 to the financial statements, which includes routine maintenance for vehicles and other transport equipment balance of Kshs.13,598,932. However, the County Executive had a garage, but the Management opted to use private garages whose justification was not provided. Field inspection to various private garages revealed that eighteen (18) vehicles were being held at the private garages due to non-payment of an approximate amount of Kshs.13,412,000 whose accuracy and validity could not be confirmed due to lack of records. Further, it was observed that some vehicles had been held in the private garages since the year 2017. No framework contract agreements between the private garages and the County Executive for works and services were provided for audit.

This was contrary to Section 91 of the Public Procurement and Asset Disposal Act, 2015 which provides that open tendering shall be the preferred procurement method for procurement of goods, works and services and the procuring entity may use an alternative procurement procedure only if that procedure is allowed and satisfies the conditions under this Act for use of that method.

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

#### **439. Projects Verification**

During the year under review, twelve (12) projects with a contract sum of Kshs.1,941,302,167 were visited for physical inspection in the month of July, 2022. However, eleven (11) projects with a contract sum of Kshs.790,730,980 had not been satisfactorily executed and had overall completion levels ranging between 35 % and 67 %. There is risk of significant number of works not being completed within the contract period which may result in cost escalations. Additionally, delay in projects completion continues to deny the key stakeholders including the public the benefits that were to arise accrue the projects.

In the circumstance, value for money or service delivery on funds used in the implementation of these projects could not be confirmed.

#### **440. Development Projects not Implemented**

Review of the 2021/2022 annual budget revealed that sixty-nine (69) projects estimated to cost Kshs.799,830,737 were not implemented during the year under review.

In the circumstances, the residents were denied the benefits associated with the projects.

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

### **Basis for Conclusion**

#### **441. Lack of Audit Committee**

Review of County Public Service Board minutes dated 29 November, 2018 revealed that Audit Committee Members were appointed on a three-year term ending 27 November, 2021. However, there was no evidence provided for audit on appointment of the audit committee after the term of the previous committee lapsed.

In the circumstances, in the absence of an Audit Committee, oversight and follow up on the recommendations of the internal auditors could not be confirmed.

#### **442. Lack of Risk Management Policy**

The Management did not provide supporting documents, for audit review, as evidence of existence of a Risk Management Policy to guide its risk assessment and formulation of risk mitigation strategies to develop risk management strategies which include fraud prevention mechanism and internal controls that builds robust business operations.

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 during the year under review.

#### **443. Lack of Training Needs Assessment**

During the year under review, the County Executive did not have training plans and training needs assessment to guide the training committees in nominating officers for training as directed by the Human Resource Manual in place. Further, the County Executive did not have departmental training committees. This is contrary to paragraph 6.6 of the Human Resource Policies and Procedures Manual on Training and Development which states that all training in Kirinyaga County Public Service will be based on comprehensive training needs assessments to be conducted every three (3) years or as need arises.

In the circumstances, the existence of controls on Management of the training services could not be confirmed.

#### **444. Long Outstanding Arrears of Revenue**

Review of rental records revealed total rent arrears amounting to Kshs.4,093,332, which includes Kshs.3,062,600 that has been outstanding for between one (1) and six (6) years. Further, revenue records provided for audit revealed that Kirinyaga County Executive had land rates and plot rents arrears amounting to Kshs.383,397,313 as at 30 June, 2022. However, no clear indication has been given of efforts being made by Management to recover the amounts.

In the circumstances, in the absence of a clear actionable plan for collection of the arrears, the collection of rent arrears could not be confirmed.

#### **445. Poor Maintenance of the Non-Current Assets Register**

Annex 6 (summary of non-current asset register) to the financial statements reflects non-current assets balance of Kshs.4,335,497,160 as at 30 June, 2022. However, review of the non-current asset register provided for audit revealed that the balance includes land valued at Kshs.29,500,000. However, this balance did not include land inherited from the defunct Local Authorities.

Further, review of the non-current asset register revealed that forty-eight (48) parcels of land had been disclosed. However, ownership documents in respect of thirty-nine (39) parcels of the land were not provided for audit. Further, the land records in the assets register did not disclose other vital information on all the parcels including historical costs and carrying values, dates acquired, nature and use the land.

In addition, one hundred and three (103) motor vehicles and equipment were recorded in the asset register. However, ownership documents in respect of thirty-eight (38) motor vehicles were not provided for audit. Further, key information which includes year of manufacture, date acquired, the value and the department assigned to the motor vehicle were not disclosed.

In the circumstances, the ownership status and the existence of the non-current assets balance of Kshs.4,335,497,160 could not be confirmed.

#### **446. Un-Insured Assets**

Annex 6 (summary of non-current asset register) to the financial statements reflects non-current assets balance of Kshs.4,335,497,160, which includes buildings and structures balance of Kshs.587,367,978. However, the buildings and structures were not insured against theft, security threats, fire and other insurable risks contrary to Section 77(3) of the General Guidelines on asset and liability management which states that the Accounting Officer shall arrange for timely acquisition of insurance cover and renewal of all insurance policies to ensure that they are budgeted for and that the public sector entity's assets are adequately protected.

In the circumstances, the existence of an effective mechanism to protect against possible losses in case of an insurable incident could not be confirmed.



## COUNTY EXECUTIVE OF MURANG'A - NO.21

### REPORT ON THE FINANCIAL STATEMENTS

#### **Basis for Qualified Opinion**

##### **447. Late Exchequer Releases**

The statement of receipts and payments reflects exchequer releases amount of Kshs.7,268,749,501. Included in the amount is late exchequer release amounting to Kshs.60,000,000 received on 12 July, 2022 and backdated to 30 June, 2022 in the records of the County Executive. This is contrary to the International Public Sector Accounting Standards (IPSAS) - Cash Basis reporting framework and Regulation 97(1) of the Public Finance Management (County Governments) Regulations, 2015 which states that the accounts of the County Executive entities shall record transactions which take place during a financial year running from the 1 July to 30 June.

In addition, Regulation 97(4) of the Public Finance Management (County Governments) Regulations, 2015, requires that an actual cash transaction taking place after the 30 June, shall not, however, be treated as pertaining to the previous financial year even though the accounts for that year may be open for the purposes referred to in paragraphs (2) and (3) of this Regulation.

In the circumstances, the cut-off, presentation and disclosure of the exchequer releases amounting to Kshs.60,000,000 could not be confirmed. In addition, the Management was in breach of the law.

##### **448. Variances Between the Compensation to Employees Amount and the Payroll**

The statement of receipts and payments reflects an amount of Kshs.3,986,752,071 in respect of compensation of employees as disclosed in Note 4 to the financial statements. However, the payroll reflects a total amount of Kshs.3,584,190,190 resulting to an unexplained and unreconciled variance of Kshs.402,561,881.

In the circumstances, the accuracy and completeness of compensation of employees amounting to Kshs.3,986,752,071 could not be confirmed.

##### **449. Unsupported Other Grants and Transfers**

The statement of receipts and payments reflects an amount of Kshs.416,893,861 in respect of other grants and transfers as disclosed in Note 8 to the financial statements, which includes an amount of Kshs.116,429,456 in respect of capital grants to Government agencies. Included in the transfers is an amount of Kshs.106,995,737 made to National Agricultural and Rural Inclusive Growth Project (NARIGP). However, the Management did not provide for audit the expenditure returns and payment details to support the expenditure.

In the circumstances, the occurrence, completeness and accuracy of NARIGP expenditure amounting to Kshs.106,995,737 could not be confirmed.

#### **450. Misclassification on Finance Cost**

The statement of receipts and payments reflects an amount of Kshs.310,104,066 in respect of finance costs, including loan interest as disclosed in Note 11 to the financial statements, which includes other creditors' amounting to Kshs.306,869,231. However, review of the supporting schedules reflects that the payments were for supply of goods and services which should not have been charged under the finance costs. No explanation was provided for the anomaly.

In the circumstances, the completeness, accuracy, presentation and disclosure of finance costs amounting to Kshs.310,104,066 could not be confirmed.

#### **451. Unsupported Pending Bills**

Note 1 of other important disclosures to the financial statements reflects pending bills balance of Kshs.2,458,413,565, consisting of construction of building, construction of civil works, supply of goods and supply of services amounts of Kshs.7,423,871, Kshs.521,536,547, Kshs.1,257,449,093 and Kshs.672,004,054, respectively. However, recast of analysis of pending accounts payables disclosed under Annex 2 reflects a balance of Kshs.2,464,026,459, resulting to an unexplained and unreconciled variance of Kshs.5,612,894. Further, as reported in the previous period, the Management did not provide for audit documentary evidence in form of payment vouchers, Local Purchase Orders (LPOs)/Local Service Orders (LSOs), contracts, invoices, contract documents, certificate of completion, or inspection and acceptance certificates to support the balance.

In the circumstances, the existence, completeness, accuracy and disclosure of pending bills balance of Kshs.2,458,413,565 could not be confirmed.

#### **452. Over Expenditure on Other Payments**

The statement of receipts and payments reflects other payments amount of Kshs.709,970,474. However, the budget allocation was Kshs.8,500,000 resulting in a over-expenditure of Kshs.701,470,474 or 8253% of the budget.

In the circumstances, the regularity of the other payments amount of Kshs.701,470,474 could not be confirmed.

#### **Other Matter**

#### **453. 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, the Management had not resolved the issues nor given any explanation for the failure to implement the recommendations.

#### **454. Budgetary Control and Performance**

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.9,697,257,256 and Kshs.7,268,880,932, respectively resulting to an under-funding of Kshs.2,428,376,324 or 25% of the budget. Similarly, the County Executive spent Kshs.7,343,397,458 against an approved budget of Kshs.9,697,257,256 resulting in under-expenditure of Kshs.2,353,859,798 or 24% of the budget.

The under-funding and under-performance 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**

#### **455. Compensation of Employees**

##### **455.1 Non-Compliance with the Law on Fiscal Responsibility Principles - Wage Bill**

The statements of receipts and payments reflects an amount of Kshs.3,986,752,071 on compensation of employees representing 55% of the total receipts of Kshs.7,268,749,501. This is contrary to the provisions of Regulation 25(b) of the Public Finance Management (County Governments) Regulations, 2015 which provides that the County Executive's expenditure wages and benefits shall not exceed 35% of total County Executive revenue for the year.

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

##### **455.2 Non- Remittance of Pension Deduction**

Pension deductions due to GOK- Public Service Superannuation Scheme, Local Authority Pension Fund, National Social Security Fund and Local Authority Pension Trust deductions amounting to Kshs.238,497,065 have remained outstanding for a long time and have not been remitted to various receiving institutions contrary to Section 19(4) of the Employment Act, 2007 which states that; An employer who deducts an amount from an employee's remuneration in accordance with Sub-section (1)(a),(f),(g) and (h) shall pay the amount so deducted in accordance with the time period and other requirements specified in the law, agreement court order or arbitration as the case may be.

##### **455.2.1 Non- Remittance of Non-Statutory Deductions**

The County Executive deducted an amount of Kshs.57,927,708 in respect of insurance, Savings and Credit Co-operative Society (Sacco), welfare, mortgage, house rent, hire purchase, commissions and union dues. However, the amounts were not remitted as required by the receiving institutions contrary to Regulation 22(2) of the Public Finance Management (County Governments) Regulations, 2015, which provides that in addition to the responsibilities of Accounting Officers provided in the Act, an Accounting Officer

designated under the Act or any other Act, shall - (a) comply with any tax, levy, duty, pension, commitments as may be provided for by legislation. The non-remittance of pending staff payables deductions amounting to Kshs.296,424,773 may attract penalties and interest from the receiving institutions and deny the staff of Murang'a County respective services and benefits.

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

#### **455.3 Non-Compliance with the Law on Staff Ethnic Composition**

Review of staff recruited during the year revealed that one hundred and ninety-five (195) staff out of the total number of two hundred and nineteen (219) or 89% recruited were from the dominant ethnic community. This was contrary to Section 65(1)(e) of the County Governments Act, 2012 which require that in selecting candidates for appointment, the County Public Service Board shall consider the need to ensure that at least thirty percent of the vacant posts at entry level are filled by candidates who are not from the dominant ethnic community in the County.

#### **455.4 Failure to Maintain Proper Records for Casual Staff**

The statement of receipts and payments reflects an amount of Kshs.3,986,752,071 in respect of compensation of employees as disclosed in Note 4 to the financial statements. Included in the expenditure is an amount of Kshs.108,662,679 paid as wages of temporary employees. However, the County Executive did not maintain individual staff files for casual workers engaged including engagement letters, posting letters, copies of NSSF Cards, NHIF cards, KRA PIN certificates and ID cards contrary to Section 68 of County Governments Act, 2012 which require that subject to the relevant legislation, the County Public Service Board shall, for a specified period, maintain a record of all applications received in response to advertisements inviting applications and such record may be inspected by any person.

In the circumstances, value for money on payment of casual workers amounting to Kshs.108,662,679 may not have been realized. In addition, Management was in breach of the law.

#### **455.5 Staff Emoluments Paid Outside IPPD Payroll System**

Included in the compensation for employees amount is Kshs.261,929,942 in respect of salaries paid to two hundred and twenty-two (222) staff through the manual payroll. However, as reported in the previous period, the Management explained that the staff were not in the database and had no personal numbers hence had their salaries paid outside the Integrated Personnel Payroll Data (IPPD) system contrary to The National Treasury Circular No.16/2020 which require that the allocation to personnel emoluments must be supported by Integrated Personnel Payroll Data (IPPD).

In the circumstances, Management was in breach of The National Treasury Circular.

#### **455.6 Non-Compliance with the One Third of Basic Salary Rule**

Review of June, 2022 payroll reflects that sixty-four (64) members of staff were paid net salaries below a third of their basic pay contrary to Section 19(3) of the Employment Act, 2007 which stipulates 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 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.

#### **455.7 Staff in Service after Attaining Mandatory Retirement Age**

Review of the payroll revealed that thirty-eight (38) officers aged sixty (60) years and above with emoluments totalling to Kshs.29,686,421 were still in service contrary to Section D.21 Human Resource Policies and Procedures Manual for the Public Service, 2016 which requires that all officers shall retire from the Service on attaining the mandatory retirement age of 60 years, 65 years for persons with disabilities and/or as may be prescribed by the Government from time to time.

In the circumstances, Management was in breach of Section D.21 of the Public Service Commission Human Resource Policies, 2016.

#### **455.8 Excess Payment of House Allowances**

Review of monthly payrolls reflects house allowance totalling to Kshs.279,184,112 was paid to employees out of which Kshs.36,066,551 was paid to three hundred and ten (310) officers above the rates provided by the Salaries and Remuneration Commission. This is contrary to SRC circular Ref. No: SRC/TS/MDP/3/1/2(2) dated 11 August, 2015 which provides for the rates upon which house allowances are paid to various officers depending on their cadre.

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

#### **456. Unconfirmed Water Tank at Kihiumwiri Community Borehole**

Included in the expenditure for utility, supplies and services is an amount of Kshs.3,207,177 paid to a firm for the extension of water pipes at Kihiumwiri Community Borehole and rehabilitation of elevated tank. However, review of the Bill of Quantities revealed that a 24,000 litres water tank was provided at a cost of Kshs.1,500,000 which was above the market price of Kshs.300,000 (as per the consumer price index). This is contrary to Section 106(4) of the Public Procurement and Asset Disposal Act, 2015 which requires that where the lowest price is above the prevailing market rates, the request for quotations shall be cancelled or terminated in accordance with the cancellation and termination procedures set out in this Act. Further physical inspection carried out in the month of July, 2022 revealed that the 24,000 litres tank was not at site.

In the circumstances, value for money on the expenditure amount of Kshs.1,500,000 on the purchase of water tank could not be confirmed.

#### **456.1 Irregularities in Procurement of Pipe Replacement Works**

An amount of Kshs.14,701,840 was paid to three (3) firms for replacement of water pipes from Mjini to Kabuta area through Mumbi. However, the procurement of works was split in to smaller lots to circumvent open tender procurement method. This is contrary to Section 54(1) of the Public Procurement and Asset Disposal Act, 2015 which require that no procuring entity may structure procurement as two or more procurements for the purpose of avoiding the use of a procurement procedure except where prescribed.

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

#### **456.2 Over-Payment of Rent for Governor's Residence**

Rent amounting to Kshs.3,338,148 was paid for the official residential house of the Governor for the period between July, 2021 to August, 2022. However, an amount of Kshs.1,938,148 was paid above the Kshs.100,000 maximum monthly rent limit set by the Salaries and Remuneration Commission (SRC) as stipulated in letter Ref No. SRC/TS/CGOVT/3/61 dated 24 October, 2016. Further, house rent totalling to Kshs.483,153 (Kshs.241,576.5 for each month) relating to July and August, 2022 was paid for the official Governor's residence against the SRC advice vide letter Ref No: SRC/ADM/11 of 27 June, 2022 that stated the last date the Counties were authorized to pay rent for the official residence of the Governor was on 30 June, 2022.

In the circumstances, the County Executive of Murang'a may have lost money amounting to Kshs.2,179,724 that would have been utilized to other uses for the benefit of its residents.

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

#### **456.3 Irregular Procurement of Legal Services**

An amount of Kshs.46,224,228 was paid to various firms in respect of legal fees. However, the law firms were procured directly, contrary to Section 91 of the Public Procurement and Asset Disposal Act, 2015 which provides that open tendering shall be the preferred procurement method for procurement of goods, works, and services, and the procuring entity may use an alternative procurement procedure only if that procedure is allowed and satisfies the conditions under this Act for use of that method. No justification was given for the use of direct procurement method.

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

### **457. Acquisition of Goods and Services**

#### **457.1 Un-accounted for ICU Equipment**

Included in the expenditure of purchase of specialized plant, equipment and machinery is an amount of Kshs.26,600,000 paid for supply and delivery of forty (40) syringe pumps and sixteen (16) feeding pumps. The items were delivered and issued to ICU as per store ledger cards records. Physical inspection carried out at ICU in the month of July, 2022, revealed that twenty (20) syringe pumps and one feeding pump costing Kshs.9,975,000



were not recorded in the ICU unit inventory contrary to Section 162.(1)(4) of Public Procurement and Asset Disposal Act, 2015 which requires an accounting officer to ensure that all inventory, stores, and assets purchased are received, not used until taken on charge in the stores so that they are properly accounted for and used as intended.

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

#### **457.2 Stalled Construction of Cancer Centre**

A contract for supply of construction material for the construction of a cancer center in the financial year 2021/2022 was entered into through a labour contract at an estimated cost of Kshs.469,599,470 as per Bills of Quantities. During the year under review, a payment of Kshs.5,026,000 was made towards the construction. However, labour contracts, project files, store records, site minutes, and inspection certificates in respect of the materials received were not provided for audit. In addition, physical inspection carried out at the site in the month of July, 2022, seven (7) months after the materials were paid for revealed that no construction was ongoing at the site and that the project had stalled at foundation slab level with metal columns surrounded with overgrown bushes.

In the circumstances, value for money on the expenditure of Kshs.5,026,000 on the cancer centre could not be confirmed and the stalled project has denied the public the intended benefits.

#### **457.3 Project Completed but Not in Use**

Note 10 to the financial statements reflects acquisition of assets amount of Kshs.115,186,954, which includes construction and civil works expenditure of Kshs.52,939,216. The amount includes Kshs.3,451,579 paid to a firm for the construction of Kibutha Dispensary. Physical inspection of the site in the month of July, 2022, nine (9) months after the works were paid for, revealed that the construction was complete but the hospital was not equipped and not in use.

In the circumstances, the public may have been denied benefits that could have accrued from usage of the dispensary.

#### **458. Irregular Payments to Murang'a Cooperative Creameries (MCC)**

Review of payment vouchers and related supporting documents revealed that the County Executive made payments totalling to Kshs.63,171,596 to Murang'a Cooperative Creameries in respect of the creameries motor vehicle insurance, hospitality, water tanks, electricity expenses, supply of building materials, milk support, and cash transfers. However, the County Executive did not provide for audit, the enabling legislation establishing the Murang'a Cooperative Creameries as a County Executive entity. This is contrary to Section 196(1) of the Public Finance Management Act, 2012 that requires that a Public Officer not to spend public money otherwise than authorized by the Constitution, an Act of, Parliament or County legislation.

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

#### **459. Misapplication of County Funds to a National Government Function**

Review of payment vouchers revealed that the County Executive paid an amount of Kshs.2,717,750 to a firm for the construction of two classrooms at Kaganda Secondary School in Kahuro Sub-County at a contract price of Kshs.2,717,750. In addition, Kshs.1,746,106 was paid to a firm in relation to the supply of success cards within the County. However, it was noted that Primary and Secondary Education Institutions are National Government functions contrary to Article 187(2)(b) of the Constitution of Kenya, 2010 which requires that constitutional responsibility for the performance of the function or exercise of the power shall remain with the Government to which it is assigned by the Fourth Schedule.

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

#### **460. Irregular Payments to Council of Governors**

The County Executive paid an amount of Kshs.1,780,000 to the Council of Governors. This is contrary to Section 37(b) of the Intergovernmental Relations Act, 2012 which provides that the operational expenses in respect of the Council of Governors should 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.

#### **461. Irregular Payments to County Public Service Board**

During the year under review, payments totalling to Kshs.600,000 were made to the County Public Service Board National Consultative Forum. However, the enabling legislation establishing the consultative forum or policies and other guidelines for such payments were not provided for audit.

In the circumstances, the value for money on the expenditure of Kshs.600,000 could not be confirmed.

#### **462. Irregular Expenditure on Legal Services**

Note 5 to the financial statements reflects use of goods and services amount of Kshs.1,752,873,170, which includes other operating expenses of Kshs.119,245,888. Included in the expenditure is an amount of Kshs.25,292,295 paid to two (2) firms in respect of legal fees. However, the expenditure was charged on vote head classified as cash which the Management indicated as relating to overcharged payments on the budgeted votes for legal fees.

This is contrary to Regulation 53(1) of the Public Financial Management (County Governments) Regulations, 2015 which provides that, except as provided for in the Act and these Regulations, an Accounting Officer of an entity may not authorize payment to be made out of funds earmarked for specific activities for purposes other than those activities.

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

#### **463. Excessive Budgetary Allocation to the County Assembly**

Review of the County Executive's budget revealed that Kshs.971,307,014 was allocated to Murang'a County Assembly. This allocation was equivalent to 10% of the total County Revenue budget for the year amounting to Kshs.9,697,257,256. However, the ratio was in excess of the set threshold of 7% contrary to Regulation 25(1)(f) of the Public Finance Management (County Governments) Regulations, 2015; which provides that the approved expenditures of a County Assembly shall not exceed seven percent (7%) of the total revenues of the County Executive or twice the personnel emoluments of that County Assembly, whichever is lower.

The excess budgetary provisions led to less allocation to the development vote hence denying the public, the benefit would have accrued if the money was allocated to projects.

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

### **REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE**

#### **Basis for Conclusion**

#### **464. Inadequate Documentation on Fuel Consumption**

Review of documents for fuel, oil and lubricants revealed that a payment of Kshs.15,183,367 was made for bulk purchase of fuel by the County Executive. However, the Management did not provide for audit the fuel register, work tickets detailed orders, receipts, and invoices to confirm how the bulk fuel purchases were utilized.

In the circumstances, the effectiveness of the internal control mechanisms by the County Executive in the utilization of bulk fuel purchases could not be confirmed.

#### **465. Summary of Non-Current Assets Register**

Annex 6 to the financial statements, reflects a summary of noncurrent assets with historical cost balance of Kshs.5,255,022,972 as at 30 June, 2022. However, as previously reported the County Executive Management did not provide for audit, an updated non-current asset register. In addition, these assets were not tagged and properly recorded in both manual and automated registers and were therefore prone to misplacement and loss.

In the circumstances, the effectiveness of the assets management by the County Executive could not be confirmed.

## COUNTY EXECUTIVE OF KIAMBU - NO.22

### REPORT ON THE FINANCIAL STATEMENTS

#### Basis for Adverse Opinion

#### 466. Inaccuracies in the Financial Statements

Review of the financial statements submitted for audit revealed various inaccuracies, as detailed in the paragraphs below;

#### 466.1 Variance Between the Financial Statements and Ledger

Review of the financial statements revealed balances which vary with corresponding balances in the supporting ledgers, as detailed in the table below:

Item	Financial Statements Amount Kshs.	Ledger Balance Kshs.	Variance Kshs.
Communication, Supplies and Services	48,200,316	48,138,316	62,000
<b>Bank Balances</b>			
CBK County Development	642,211	3,636	638,575
CBK County RMLF	879,657	302,320,927	301,441,270
Cooperative Bank County Revenue Account	-	155,095	155,095

#### 466.2 Unexplained Variance between the Financial Statements and IFMIS Report

Review of the financial statements and the corresponding balances in the supporting IFMIS trial balance revealed an unexplained variance between the two sets of records, as detailed in the table below;

Item	IFMIS Trial Balance Kshs.	Financial Statements Kshs.	Variance Kshs.
Outstanding Imprest	37,640,772	1,026,620	36,614,152
General Suspense	22,916,539	0	22,916,539
System Required Liabilities	654,589,996	0	654,589,996
Cash Clearing Account	205,828,163	0	205,828,163
Exchequer Release/Provisioning	96,595,390,459	0	96,595,390,459
Remittances to Exchequer	134,443,804	0	134,443,804
Development Bank Account	98,398,256	1,521,869	96,876,387
County KUSP	2,399,964,966	1	2,399,964,965
Deposit Bank Account	157,651,012	144,337,720	13,313,292
Cash in Transit	2,409,881,144	0	2,409,881,144
<b>Total</b>	<b>102,716,705,111</b>	<b>146,886,210</b>	<b>102,569,818,901</b>

Further, the statement of receipts and payments indicates total payments during the year under review of Kshs.13,353,497,519. However, the Integrated Financial Management Information System (IFMIS) report indicates payments totalling to Kshs.13,652,192,604 during the year, resulting to an unexplained variance of Kshs.298,695,085.

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

#### **467. Outstanding Imprest and Variances**

The statement of financial assets and liabilities reflects outstanding imprests and advances totalling to Kshs.1,026,620 as disclosed in Note 15 to the financial statements, due from fifteen (15) members of staff. However, the balance differs from the balance of Kshs.6,012,566 reflected in the imprest ledger, resulting to an unexplained variance of Kshs.4,785,746.

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

#### **468. Unsupported Prior Year Adjustments**

The statement of assets and liabilities reflects prior year adjustments debit balance of Kshs.31,154,409 which, according to Management consists of a reduction to closing bank balances transferred to the County Revenue Fund (CRF) accounts of Kshs.24,801,189 and a reduction of receivables balance of Kshs.6,353,220, for prior years. However, the supporting records for these balances were not provided for audit.

In the circumstances, the propriety and completeness of the adjustments could not be confirmed.

#### **469. Anomalies in Cash and Cash Equivalents**

The statement of assets and liabilities and as disclosed in Note 14 to the financial statements reflects a balance of Kshs.182,199,073 in respect of cash and cash equivalents. The balance is in relation to bank balances held in eleven (11) bank accounts. However, review of bank reconciliation statements, cash books and certificates of bank balances revealed various anomalies, as detailed in the paragraphs below:

##### **469.1 Recurrent Bank Account**

The bank reconciliation statement for the recurrent bank account maintained at CBK reflects payments in the cash book not recorded in the bank statement (unpresented cheques) totalling to Kshs.388,971,232, whose dates of payment were not provided. Similarly, the dates of receipts in the cash book were not recorded in the bank and all other reconciling items were not indicated. Further, payments to various individuals totalling to Kshs.19,952,290 were made. However, corresponding outstanding imprests reflect a balance of Kshs.1,026,620, resulting in an unexplained variance of Kshs.18,925,670. Further, payments totalling to Kshs.9,360,922 described as payments to Kiambu County Government operations account were made. However, the balances

were not reflected as outstanding. In addition, the bank reconciliation statement reflected an amount of Kshs.5,360,000 as an outstanding payment to Kiambu County Alcoholic Drinks Controls Fund. However, the amount was not reflected as receivable in the Fund's financial statements.

#### **469.2 Revenue Account**

The bank reconciliation statement for the revenue account maintained at a local bank reflected payments in the cash book not yet recorded in the bank statement (unpresented cheques) totalling to Kshs.18,839,487 and receipts in cash book not in the bank statement totalling to Kshs.3,788,008. However, the bank reconciliation was not supported by the listing of outstanding reconciling items.

#### **469.3 Operations Account**

The bank reconciliation statement for the operations account maintained at a local bank reflected a nil balance for payments in the cash book not recorded in the bank statement (unpresented cheques) and an amount of Kshs.17,959,995 for receipts in the bank statement not yet recorded in the cash book. However, the breakdown attached in support of the bank reconciliation reflects a balance of Kshs.200,000 being payments in the cashbook not recorded in the bank statement, which differs from the nil balance reflected in the reconciliation statement. In addition, the listing attached in support of the receipts in bank not in cashbook does not include details such as the date of receipts and payee.

Further, review of payments in the cashbook not recorded in the bank statement amounting to Kshs.17,959,995 revealed amounts paid to individuals totalling to Kshs.11,542,480 paid on the last day of the financial year whose nature and purpose could not be determined. The payments were not reflected as outstanding imprest as at 30 June, 2022. In addition, payments described as Kiambu County transfers of Kshs.2,064,265 were outstanding as at 30 June, 2022. However, their nature and purpose could not be determined. Another payment of Kshs.1,957,524 was made for the purchase of stationery whose supporting documents were not provided for audit verification. Receipts in the cashbook not reflected in the bank statement amounted to Kshs.10,970,478. Although the transactions were described as Kiambu County transfers in the cashbook, the details of the receipts were not disclosed in the listing supporting the bank reconciliation statement.

In the circumstances, the accuracy of cash and cash equivalents balance as at 30 June, 2022 could not be confirmed.

#### **470. Inaccuracies in Acquisition of Assets**

The statement of receipts and payments and as disclosed in Note 10 to the financial statements reflects an amount of Kshs.2,907,615,030 spent on the acquisition of assets. Included in this expenditure is an amount of Kshs.75,433,298 in respect of the purchase of certified Seeds, breeding stock and live animals. However, IFMIS records indicated that an amount of Kshs.90,863,298 was paid to Kenya National Trading Corporation through the general suspense account, resulting to an unexplained variance of Kshs.15,430,000. Review of pending bills also revealed that the County owes the Corporation a balance of Kshs.30,000,000.



Further, the balance includes an amount of Kshs.1,300,860,338 referred to as payables in respect of pending bills. However, other important disclosures in the notes to the financial statements indicate that a total of Kshs.778,835,190 was paid during the year under review in respect of pending accounts payables, pending staff payables and other pending payables, resulting to an unexplained variance of Kshs.522,025,148.

In the circumstances, the accuracy of acquisition of assets amounting to Kshs.2,907,615,030 could not be confirmed.

#### **471. Unsupported Legal Fees**

The statement of receipts and payments and as disclosed in Note 5 to the financial statements reflects a total of Kshs.1,812,278,460 in respect of use of goods and services. Included in this payment is an amount of Kshs.14,136,006 paid to a local firm in respect of interest incurred on late payments for the supply of sports equipment invoiced in 2018 on the orders of a Court Decree. However, the Court Decree was not certified.

Further, Management did not provide approvals from the County Attorney for the engagement and procurement of legal service providers to represent the County in litigation of interest and penalties. In addition, evidence of court sessions attendance or representation on the matter to mitigate the interest awarded and paid in the interest of the County Executive were not provided for audit.

In addition, an amount of Kshs.160,449,996 relating to utilities, supplies and services expenditure includes a payment of Kshs.1,718,865 to a local firm of advocates in a case that the County is listed as an interested party. The basis of the payment of this legal fee was not explained. The original order, case file for the matter and ownership documents for the land in question, evidence of court sessions attendance or representation on the matter were not provided for audit.

In the circumstances, the propriety and completeness of the legal fees expenditure of Kshs.14,136,006 could not be confirmed.

#### **472. Unaccounted for Procurement of Maize, Bean, Sunflower and Canola Seeds and Fertilizer**

The statement of receipts and payments and Note 10 to the financial statements indicates that Kshs.2,907,615,030 was paid in respect of acquisition of assets. Included in this amount is Kshs.75,433,298 in respect of purchase of certified seeds, breeding stock and live animals. A payment of Kshs.33,271,802 was made to a National Government Parastatal on 21 February, 2022 for the supply and delivery of maize and beans seeds. A further payment of Kshs.30,391,496 was made to the same Parastatal on 31 March, 2022 for the supply and delivery of maize seeds, sunflower seeds and canola seeds. The payments were supported by proforma invoices which could not be authenticated while delivery notes, counter receipt vouchers and inspection and acceptance committee reports on delivery of goods were not provided for audit verification. Further payments of Kshs.30,000,000 and Kshs.12,200,000 were made to the Parastatal on 30 May, 2022 and 22 February, 2022 respectively for supply and delivery of NPK fertilizer. However, the identification of beneficiaries and distribution lists for the supply and delivery of maize, beans, sunflower and canola seeds and NBK

fertilizer was not provided. Further, procurement records were not provided for audit review.

In the circumstances, the propriety and accuracy on the payment of Kshs.75,433,298 could not be confirmed.

#### **473. Unsupported and Irregular Use of Imprest**

Review of imprest records revealed that a total of Kshs.133,979,375 was issued to various members of staff as temporary imprests during the year under review. However, imprest amounting to Kshs.1,008,990 was spent on the hire of taxi services despite the departments having motor vehicles and fuel allocation. In addition, review of sampled payment vouchers amounting to Kshs.10,167,390 revealed that various payments were in the form of facilitation allowances for activities considered routine for which employees draw a monthly salary.

This was contrary to provisions of Circular No.MSPS.2/1A.VOL.XLVIII/(119) in relation to the formation of task forces which require that the accounting officer can constitute a task force on the conviction that the task can only be accomplished through a taskforce, personally approve payment of the taskforce allowance, make mid-year returns on the number of task forces and expenditure on the payments of task force allowances to the Head, Directorate of Public Service Management with a copy to the Principal Secretary, National Treasury and ensure that overtime allowances and retreat allowances are not paid in form of task force allowances.

In addition, a total of Kshs.19,736,630 was issued for office operations to various departments as standing imprests. However, Management did not explain the process of establishing the level of float required by each office while the memorandum cash book for each holder of standing imprest was not provided for audit. The reimbursement of the imprests were not adequately supported with Electronic Tax Register (ETR) receipts while imprests totalling to Kshs.818,816 was used to purchase common user items including tonners, printing papers and computer accessories, which should have been procured through the normal procurement process. Further, the items were procured at different prices without proper justification.

In the circumstances, the accuracy, occurrence and regularity of expenditure totalling to Kshs.30,722,836 could not be confirmed.

#### **474. Irregular Reallocation of Funds**

Review of payments and other supporting records revealed several unsatisfactory issues that breached fiscal responsibility principles due to irregular reallocation of funds, as detailed in the paragraphs below;

##### **474.1 Transfer to Other Government Entities**

During the year under review the County Executive transferred an amount of Kshs.536,601,619 relating to other current transfers, grants and subsidies; and Kshs.423,164,641 to other capital grants and transfers as disclosed in Note 7 of the financial statements. However, review of the ledger for other current transfers revealed

that an amount of Kshs.196,366,188 was incorrectly charged to this account code instead of the correct account codes as the payments related to routine maintenance, allowances, legal fees, payment for cleaning services, construction and rehabilitation works, and utilities supplies and services.

In addition, the other capital grants and transfers amount of Kshs.423,164,641 included payments for the supply of pharmaceuticals totalling to Kshs.30,000,000 which should have been charged to specialized materials and supplies. Further, an amount of Kshs.37,272,265 was paid to eight (8) companies for the supply of goods, works and services but was charged to other capital grants and transfers while payments relating to financial assistance/donations of Kshs.2,755,171 paid to the Kiambu County operations account were incorrectly charged to this account.

#### **474.2 Irregular Payment of Non-Wage Expenditure from Wage Account**

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects payments totalling to Kshs.7,465,056,009 in respect of compensation of employees. Review of records revealed that an amount of Kshs.142,093,236 relating to non-wage expenditure was charged to wage expenditure out of which an amount of Kshs.50,527,880 was paid to various companies for the supply of goods, works and services while the balance of Kshs.91,565,356 was paid to Kiambu County operations account for unspecified activities. The expenditure was charged to compensation of employees under basic salaries and wages.

#### **474.3 Other Grants and Payments**

The statement of receipts and payments indicates that payments in respect of other grants and payments amounted to Kshs.180,000,000 as disclosed in Note 8 to the financial statements. This amount related to funds transferred to the Kiambu County Education Bursary Fund, which is a self-reporting entity, and therefore the transfers should have been charged to transfers to other Government entities. Further, the request by the accounting officer for this reallocation was not provided for audit.

#### **474.4 Expenditure Charged to Incorrect Account Codes**

The statement of receipts and payments and as disclosed in Note 5 to the financial statements reflects payments totalling to Kshs.1,812,278,460 in respect of use of goods and services. Review of the supporting schedules and payment vouchers charged under the various categories of items revealed that various items charged to account codes that were not in line with the chart of accounts approved by the National Treasury, as detailed in the table below;

<b>Item</b>	<b>Financial Statements Kshs.</b>	<b>Charged to Incorrect Code Kshs.</b>	<b>Related Pending Bills Kshs.</b>
Utilities, Supplies and Services	160,449,996	5,207,115	2,048,865
Communication, Supplies and Services	48,200,316	33,603,999	12,000,000
Domestic Travel and Subsistence	134,689,007	350,000	-
Printing, Advertising and Information Supplies & Services	73,178,657	31,609,037	-
Training Expenses	69,502,034	22,306,528	-
Hospitality Supplies and Services	61,167,322	21,747,194	-
Insurance Costs	104,469,346	14,166,606	-
Specialized Materials and Services	486,328,401	227,704,112	131,023,967
Office and General Supplies and Services	46,801,110	17,293,270	-
Fuel, Oil and Lubricants	198,971,286	59,488,291	-
Other Operating Expenses	181,423,956	75,658,103	-
Routine Maintenance – Vehicles and other Transport Equipment	84,478,534	28,058,120	10,701,590
Routine Maintenance – Other Assets	91,354,171	2,150,000	-
<b>Total</b>	<b>1,741,014,136</b>	<b>530,426,807</b>	<b>155,774,422</b>

Further, the statement of receipts and payments and as disclosed in Note 10 to the financial statements reflects payments amounting to Kshs.2,907,615,030 in respect of the acquisition of assets. Review of the supporting schedules and payment vouchers charged under various categories of items revealed various expenditures were charged to unrelated account codes as detailed in the table below;

<b>Item</b>	<b>Financial Statements Kshs.</b>	<b>Charged to Incorrect Code Kshs.</b>	<b>Related Pending Bills Kshs.</b>
Construction of buildings	567,295,581	631,800	22,626,192
Construction and civil works	314,944,006	0	109,989,095
Purchase of specialized plant equipment and machinery	144,350,094	3,920,000	3,920,000
Purchase of certified seed, breeding stock and live animals	75,433,298	0	12,200,000
Rehabilitation and civil works	18,504,400	0	7,488,080
Purchase of office furniture and general equipment	4,641,080	2,350,615	-
Purchase of household furniture and other institutional equipment	1,987,500	1,987,500	-
Payables	1,300,860,338	131,479,812	-
<b>Total</b>	<b>2,421,387,717</b>	<b>136,521,112</b>	<b>156,223,367</b>

In the circumstances, the accuracy, completion and regularity of the above expenditure could not be confirmed.

## **Other Matter**

### **475. Prior Year Audit Issues**

In the audit report of the previous year, several matters were raised under the Report on Financial Statements and Report on Lawfulness and Effectiveness in Use of Public Resources. Note 18 to the financial statements in relation to progress on follow up of prior year auditors' recommendations indicates that most of the issues raised therein have been resolved. However, Management did not provide evidence on how the issues were resolved.

### **476. Inaccurate Pending Bills Balance**

Other important disclosures and Annexes 2, 3 and 4 disclose pending bills totalling to Kshs.5,656,558,464. Included in this balance is Kshs.3,618,234,912, Kshs.37,757,601 and Kshs.2,000,565,951 in respect of pending accounts payables, pending staff payables and other pending payables respectively. Review of a pending payment to a software service provider for supply and installation of a software administrative cost for revenue at the rate of 5%, revealed that the amount owed was Kshs.3,264,586. However, outstanding payments to the software service provider relating to quarters 3 and 4 of 2019 amounting to Kshs.32,611,775 were not listed as pending payables as at 30 June, 2021. Failure to settle bills in the year to which they relate adversely affects the subsequent year's budget to which they have to be charged.

## **REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

### **Basis for Conclusion**

#### **477. Non-Compliance with Public Finance Management (County Governments) Regulations, 2015**

The statement of comparison of budget and actual amounts- recurrent and development indicates that the budgeted receipts and payments amounted to Kshs.16,008,845,088 which comprise of an amount of Kshs.4,779,657,585 in respect of development and an amount of Kshs.11,229,187,503 in respect of recurrent expenditure. However, the County Treasury warrant was not provided for audit while the Governor's warrant for the supplementary budget was not dated. This was contrary to Regulation 20 of the Public Finance Management (County Governments) Regulations, 2015 which requires that once the annual County Appropriation Bill or County Supplementary Bill (s) have been assented to, the County Executive Committee Member shall obtain Governor's warrants authorizing issues from the County Revenue Fund in accordance with respective County Appropriation Legislation. Further Regulation 21 requires that on receipt of the Governor's warrants, the County Executive Committee Member shall issue Treasury warrants granting authority to accounting officer to incur expenditure for the year in respect of their votes.

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

#### **478. Irregular Payments to Members of County Assembly and Staff**

Review of payment records revealed that an amount of Kshs.2,941,000 was paid to an Officer in respect of allowances to Members of the County Assembly (MCAs) and staff attending the Jiinue Fund regulation workshop held at a local hotel. Out of the total payment, an amount of Kshs.1,498,000 was made to MCAs whose payments should have been charged to the County Assembly vote. A total of Kshs.44,000 was paid as transport allowance for the twenty-two (22) MCAs to attend the workshop at the hotel which is approximately seven (7) kilometers from the County Assembly offices. The expenditure also included payment to officers designated as the Lead Clerk and Principal Clerk, whose role in the workshop was not clear. In addition, the payment voucher was not examined and authorized.

In the circumstances, the propriety and value for money of the payment could not be confirmed.

#### **479. Non-Compliance with Fiscal Responsibility Principles on Wage Bill**

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects payments totalling to Kshs.7,465,056,009 in respect of compensation of employees. The amount represents approximately 56% of the total revenue of Kshs.13,348,588,811, which was 21% percentage points over and above the allowed ceiling of 35%. This was contrary to Regulation 25 (1) (a) and (b) on fiscal responsibility principles which require 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 according to Section 107(2) of the Act and the limit set shall not exceed thirty-five (35) percent of the county government's total revenue.

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

#### **480. Irregularities in Establishment of Subsidiaries**

##### **480.1 Irregular Operation of Water Companies**

Review of records indicated that pursuant to the enactment of the Kiambu Water and Sanitation Services (Amendment) Act, 2018, the County Government of Kiambu established the Kiambu County Water and Sewerage Company Limited as a successor to all the water companies owned by the County Government of Kiambu.

Towards this end, an Interim Board for this Company was established to oversee the implementation and completion of the merger process. A Chairman and Members of the interim board of directors were appointed on 12 April, 2018 for one (1) year. The term of the interim board of directors was extended for a further two (2) years through a letter dated 26 March, 2019. On 29 June, 2020, a caretaker Board of the water utilities was appointed after the County Executive Committee resolved to extend the mandate of the interim board to serve as a caretaker Board for all water utilities within the County. The appointment of the interim/caretaker Board was extended for a period not exceeding one (1) year on 20 April, 2021.



However, a case was lodged in Court challenging the merger of the water companies, resulting to Kiambu County Water and Sanitation Services Amendment Act, 2018 being declared unconstitutional for lack of public participation. Information available indicates that the Water Services Regulatory Board (WASREB) through a public notice, contended that legislation such as the Companies Act, 2015 and Insolvency Act, 2015 were yet to be finalized on areas including commercial viability, loan and liability repayments, assets transfer, human resource management and pension issues, ongoing infrastructure projects and, funding proposals which were at an advanced stage of the project cycle based on financial modelling of the existing companies. WASREB thereby directed that the licensed Water Companies within the County continue to be as they were before the failed merger process as no winding up orders had been communicated.

In the circumstances, the legality of the operations of the seven (7) water companies could not be confirmed.

#### **480.2 Lack of Municipalities' Financial Statements**

Review of records indicated that the Governor granted special municipality status to six (6) Urban Areas on 27 June, 2018. However, three (3) years after the establishment of the Municipalities, Municipality Boards have not prepared budget estimates to the County Treasury for consideration and submission to the County Assembly for approval. Further, financial statements, books and records of accounts for the financial years 2018/2019, 2019/2020, 2020/2021 and 2021/2022 have not been submitted for audit. This was contrary to the provisions of Section 46 (1) and (2) of the Urban Areas and Cities Act, 2011 which states that the board or town committee shall cause to be kept all proper books and records of account of its income, expenditure, assets and liabilities and that within three (3) months after the end of each financial year, the board or town committee shall submit to the County Executive Committee its accounts for that year for transmission to the Auditor-General together with a statement of the income and expenditure of a Board for that year and a statement of the assets and liabilities of a board on the last day of that financial year.

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

#### **481. Non-Compliance with the Framework for the Approved Establishment and Complement Controls (Human Resource Management)**

The statement of receipts and payments indicates that the County paid a total of Kshs.7,465,056,009 in respect of compensation of employees. Several unsatisfactory issues emerged from the audit as indicated below:

##### **481.1 Lack of Staff Establishment**

Review of payroll reports for the year under review revealed that at the start of the financial year, the County had a workforce of 5000 employees in the Integrated Personnel and Payroll Database (IPPD) earning salaries of Kshs.465,501,707 per month which increased to 6042 earning salaries amounting to Kshs.512,975,947 in June, 2022 representing an increase of 1042 members of staff. However, as reported over the years since the inception of the devolved units, the approved staff establishment was not provided for audit.

#### 481.2 Non-Compliance with the Law on Staff Ethnic Composition

Review of IPPD revealed that the County Executive had 6230 members of staff as at 30 June, 2022. The staff register for June, 2022 indicated that 5,294 representing 85% of the total staff establishment were from the dominant community. Further, eighty (80) new employees were recruited during the financial year out of which fifty-five or 55 or 69% were from the dominant community. This was contrary to Section 7(1) of the National Cohesion and Integration Act, 2008, which requires that all public establishments shall seek to represent the diversity of the people of Kenya in the employment of staff.

#### 481.3 Non-Compliance with the one Third of Basic Salary Rule

Review of payroll data revealed that two thousand two hundred and forty-eight (2248) employees were paid a net salary that is less than a third (1/3) of their basic pay during the year contrary to Part C.1 (3) of the Human Resource Policies and Procedures Manual for the Public Service, 2016 which stipulates that public officers shall not over-commit their salaries beyond two thirds (2/3) of their basic salaries and Heads of Human Resource Units should ensure compliance

#### 481.4 Unreconciled Employment Information

Review of payroll records revealed that a total of one thousand seven hundred and thirty-five (1735) employees were included in the IPPD system during the financial year under review. The entries include members of staff who had not been allocated personal numbers from earlier years and staff on contract. Out of the total new entries, three hundred and eighty-five (385) employees on contract and whose term contracts ended during the year under review had their contracts renewed resulting to double capture and unexplained new entries in the payroll of two hundred and seventeen (217) employees as analysed below:

<b>Description</b>	<b>Number of Employees</b>	<b>Entries</b>
Total New Entries	-	1735
Adjust for Double Entry (Contract Staff)	-	(383)
<b>Total New Entries</b>	-	<b>1352</b>
Translated from Manual to IPPD	737	-
Renewed Contracts	385	-
Inward Inter County Transfer	13	(1135)
<b>Unexplained Increase</b>	-	<b>217</b>

Further, review of the payroll data revealed the following anomalies:

- a) Forty-three (43) members of staff shared bank accounts;
- b) Thirty-five (35) of the total new staff members recruited on permanent and pensionable terms were aged over fifty (50) years; and
- c) Two (2) members of staff on consolidated salary were irregularly paid other allowances

#### **481.5 Irregular Recruitment of Members of Staff**

During the year under review, eighty (80) new employees were recruited to fill various vacant positions. However, review of the personnel files revealed the following anomalies:

- a) Twenty-seven (27) newly recruited members of staff did not apply for the positions appointed as indicated in their files;
- b) Application letters filed in the personal files for eleven (11) newly recruited members of staff were undated; and
- c) Appointment letters for thirty-one (31) members of staff sampled for audit were issued on dates ahead of application for the positions

#### **481.6 Unsupported Conversion of Employees from Contract to Permanent and Pensionable Terms**

During the year under review, one thousand and seventy (1070) employees who were initially on contract terms had their terms of service converted to permanent and pensionable. Review of sampled personal files revealed instances where the terms of service for eighty-eight (88) employees who were initially on contract terms were appointed on permanent and pensionable terms during the year under review. However, evidence of the procedure used to effect the changes was not supported by relevant documentation such as establishment of vacancies, advertisements, a list of applicants, shortlisting, interviews and approvals by the County Public Service Board. In addition, one (1) member of staff whose contract expired on 6 October, 2021 and was not renewed was nonetheless appointed in February, 2022 on permanent and pensionable terms. However, evidence of how the terms were translated was not provided for audit.

#### **481.7 Irregular Payment of Uniform Allowances**

Included in the compensation of employees' is an amount of Kshs.65,865,846 paid to two thousand five hundred and seventy-nine (2579) members of staff as uniform allowance during the financial year. The allowances paid out ranged between Kshs.6,000 and Kshs.100,000 per annum. However, the designation of the members of staff paid and the rates payable were not provided for audit. The basis of payment of this allowance has also not been supported by the Human Resource Manual.

#### **481.8 Failure to Authenticate Academic and Professional Certificates**

Review of payroll reports for the year under review revealed that at the start of the financial year, the County had a workforce of five thousand (5000) employees in the Integrated Personnel and Payroll Database (IPPD) which increased to six thousand and forty-two (6042) at the close of the year under review. However, review of human resource records revealed that the County had not submitted the academic and professional certificates of members of staff to Kenya National Qualification Authority (KNQA) for validation and authentication. This is contrary to the Kiambu County Government Human Resource Manual that all staff recruited to serve in the County to

possess valid and authentic academic and professional certificates as required in the positions/ grades they are recruited.

In the circumstances, the regularity and value for money on the expenditure of Kshs.7,465,056,009 on the compensation of employees could not be confirmed.

#### **482. Non-Compliance with the Public Procurement and Asset Disposal Act**

The statement of receipts and payments and as disclosed in Note 10 to the financial statements reflects acquisition of assets amounting to Kshs.2,907,615,030, out of which an amount of Kshs.707,201,771 was spent on various projects initiated during the year and payment of pending bills brought forward from the previous years. However, scrutiny of procurement records and other supporting documents revealed several irregularities and non-compliance with the Public Procurement and Asset Disposal Act, 2015.

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

#### **483. Irregular and Uncontrolled Operations of Dump Site**

A field visit was undertaken at Kangóki Dump Site, Kamenu Ward on 29 August, 2022. The site covers an area of approximately two hundred (200) acres and handles all solid waste generated in Kiambu County. The dump site is not fenced exposing the land to possibility of encroachment. It was further noted and corroborated by the officer in charge of the site that a section of the land had been encroached on by private developers. The site office at the dump site was vandalized and in a deplorable state with broken doors, windows and the building was run down. Further, out of the three (3) machines at the dump site, the two (2) donated by the Republic of Japan had no identification number plates and were not recorded in the assets register. One (1) machine was unserviceable and not in use. The Kiambu County Finance Act, 2021 indicates that the County charges various dumping rates ranging from Kshs.200 for a pickup of up to two (2) tons to Kshs.1,400 per ton for a truck carrying over fourteen (14 tons). However, there are no visible controls or weighbridge station to weigh the garbage being dumped, no evidence of movement registers for motor vehicles moving in and out of the dump site, no County enforcement officers at the dump site and no organized entrance and exit gates for control purposes.

In the circumstances, the revenue collected from the site could not be confirmed.

#### **484. Irregular Variation of Contract on Construction Works**

Review of procurement records revealed that a contract of an amount of Kshs.220,283,842 was awarded to a local contractor through an open tender on 1 July, 2015 for the construction of a four (4) storied medical block at Wangige Sub-county Hospital. However, the contract implementation team recommended contract variation without a comprehensive bill of quantities prepared to support the variation and the technical department providing general prices for additional works. This is contrary to Section 139(2) of the Public Procurement and Assets Disposal Act, 2015 which states that the accounting officer on the recommendation of an evaluation committee, may approve the request and shall be accompanied by a certificate from the tenderer making justifications for such cost.

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

#### **485. Irregular Award of Contract for Ambulance Services**

Review of procurement records revealed that payments totalling to Kshs.46,067,891 were paid to the Kenya Red Cross Society for the provision of ambulance services to the County Government of Kiambu. The contract attached in support of the payment is an extension of the contract entered in October, 2020 for one (1) year. However, the Tender Opening Committee performed the functions of the Tender Evaluation Committee contravening segregation of duties contrary to Section 44 (2) (h) of the Public Procurement and Asset Disposal Act, 2015 which requires the accounting officer to ensure that the procurement processes are handled by different professional offices respect of procurements, initiation, processing and receipt of goods, works and services.

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

#### **486. Irregular Procurement of Construction Works for Ablution Block**

Review of payment records revealed that a payment of Kshs.2,431,400 was made to a local firm for the construction of an ablution block at Kamuchege Dispensary. However, Management did not adhere to the procurement process by appointing ad hoc committees for tender opening evaluation and award of the tender. Further, no evidence was provided to show that the head supply chain management issued a Professional Opinion and that the same was approved by the accounting officer as required before the award. The certificate of practical completion attached was dated 30 May, 2018 an indication that the works were completed in the financial year 2017/2018. However, no explanation was provided for the payment remaining unpaid and yet the accounting officer approved the requisition and award contrary to Section 53(8) Public Procurement and Asset Disposal Act, 2015 which states that the accounting officer shall not commence any procurement proceeding until satisfied that sufficient funds to meet the obligations of the resulting contract are reflected in its budget estimates.

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

#### **487. Irregular Procurement for Supply and Installation of LED Streetlights**

Review of the payment records revealed that a payment of Kshs.3,999,187 was made for the supply and installation of streetlights. The works were procured through a request for quotation method and the local service order was issued to a local company on 8 August, 2018 as the lowest evaluated bidder. However, evidence of the Professional Opinion of the head of the supply chain approved by the accounting officer was not provided for audit. In addition, the appointment of an ad-hoc committee was not done and the Management delayed in inspection works by eighteen (18) months thus negating the time requirements for inspection and acceptance.

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



#### **488. Irregular Procurement for Supply and Delivery of Electrical Materials**

Review of the payment records revealed that an amount of Kshs.1,201,876 was made to a local firm for the supply and delivery of electrical materials for Limuru/Lari Lot 5. A further amount of Kshs.1,334,000 was made for the purchase of electrical materials for Lari Lot 6. The procurement was through the request for quotations where an LSO was issued on 10 May, 2018. However, evidence of a Professional Opinion by the head of the supply chain approved by the accounting officer was not attached contrary to Section 84 of the Public Procurement and Asset Disposal Act, 2015 which requires the head of the supply chain department to issue a professional opinion to the accounting officer for approval and award. In addition, the appointment of an ad-hoc committee was not done, while notification of the award and acceptance of the award by the winning bidder and was not provided for audit.

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

#### **489. Irregular Award of Contract for Rehabilitation of Road**

Review of procurement records revealed that a local firm was awarded a contract for rehabilitation of Kware Road 4th Avenue in Kahawa Sukari Ward at a contract price of Kshs.2,491,000. However, the quotations and minutes of the Tender Opening and Evaluation Committee were not signed contrary to Section 78(11) of the Public Procurement and Asset Disposal Act, 2015 on requirements for acknowledging tender committee meetings as true reflection of proceedings. The quotations were also not dated by the bidders or the tender opening committee and hence it was not possible to determine the dates they were issued or opened. The local company awarded the contract was incorporated on 24 April, 2018 and registered with National Construction Authority (NCA) on 23 November, 2018 while the quotations were issued in the financial year 2017/2018.

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

#### **490. Irregular Procurement of Consultancy Services**

Review of payment and procurement records revealed that three (3) service providers were paid a total of Kshs.10,551,035 for consultancy services in respect of research studies, project preparation design and supervision during the financial year under review towards the development of a shared services strategy for Kiambu County Growers Association. However, all professional opinions from the Head of the Supply Chain Management for the three (3) payments indicated that the recommendation for award to the lowest evaluated bidder was not appropriate and had some shortcomings but the accounting officer approved the award as recommended by the evaluation committee without taking into consideration observations of the Head of the Procurement Unit. This is contrary to the provisions of Section 84(3) of the Public Procurement and Asset Disposal Act, 2015 which requires that the accounting officer in deciding to award the tender, shall take into account the views of the head of procurement in the signed professional opinion. The tender evaluation committee minutes dated 15 March, 2021 recommended one of the firms as the best evaluated bidder to develop a shared strategy.



However, no evidence has been attached to show that Management issued Request for Proposal (RFP) or the selection procedure for the procurement as required.

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

#### **491. Management of Transport and Machinery Equipment**

Annex 6 on the summary of non-current assets reflects total assets balance of Kshs.12,173,897,198. Included in this balance are amounts of Kshs.301,198,078 and Kshs.1,398,715,773 in respect of transport equipment and machinery respectively. However, several unsatisfactory issues were observed from the audit as indicated below:

##### **491.1 Irregular Expenditure on Fuel, Oil and Lubricants**

The statement of receipts and payments and as disclosed in Note 5 to the financial statement reflects use of goods and services payments totalling to Kshs.1,812,278,460 were made during the year under review. Included in this amount are payments of Kshs.198,971,286 in respect of fuel, oil and lubricants. However, fuel worth Kshs.23,055,464 was indicated as having been consumed by motor vehicles which have been grounded for more than one (1) year, held at various garages or have been bonded for disposal. In addition, the fuel card report from the supplier indicates that fuel worth Kshs.4,170,953 was drawn and charged to the fuel cards without corresponding entries in the work tickets. Some fuel card records indicated that fuel was being drawn even after the work tickets had been closed some as late as midnight while fuel consumed and recorded in the work tickets did not have corresponding entries in the detailed consumption statement. Further, fuel worth Kshs.24,956,149 is recorded as having been drawn by motor vehicles whose speedometers and fuel gauges were faulty making it difficult to confirm whether the fuel consumption by the vehicles and distance covered were economical.

##### **491.2 Unaccounted for Motor Vehicles**

Review of payment and procurement records revealed that a contract of Kshs.77,172,000 was entered into with a vehicle dealer for delivery of fifteen (15) MDT-994-045-20 Double CAB 4\*4 LWB 2000CC Diesel pick-ups. A payment voucher of Kshs.40,000,000 was prepared on 24 August, 2021 as part payment which was however stamped as having been paid on 14 October, 2021 for Kshs.25,000,000, thereby resulting in an unpaid balance of Kshs.52,172,000. However, the delivery notes, pre-inspection reports and evidence that the vehicles were received and taken on charge were not provided for audit. In addition, copies of logbooks were not provided for audit. The inconsistency in the payment amount and what is stamped as having been paid was not explained. Further, an amount of Kshs.33,560,000 was paid to a motor vehicle dealer for the delivery of four (4) Toyota Fortuner GUN 155RSNTLXN-1R diesel 2.4L 4\*4 Diesel motor vehicles through a payment voucher dated 13 October, 2021. However, the payment voucher was not supported by a delivery note, pre-inspection report and evidence that the assets were received and taken on charge as required. Similarly, there were no copies of logbooks as confirmation of registration and ownership of the vehicles in the name of the County Executive.

### **491.3 Irregular Procurement of Routine Maintenance - Motor Vehicles**

Included in the payments for the use of goods and services are payments amounting to Kshs.84,478,534 in respect of routine maintenance - motor vehicles. Out of the expenditure are total payments of Kshs.10,037,656. Review of records revealed the following irregularities:

- a) The tender opening minutes and a tender register were not provided for review and therefore it was not possible to confirm when the quotations were opened and the bidders who responded contrary to Section 78 (10) of the Public Procurement and Asset Disposal Act, 2015 which requires that, the tender opening committee shall prepare tender opening minutes which shall set out a record of the procedure followed in opening the tenders and the particulars of those persons submitting tenders, or their representatives, who attended the opening of the tenders.
- b) From sample inspection and acceptance committee certificates provided, evidence indicating that Management appointed the committees in writing as required in Section 48 of the Public Procurement and Asset Disposal Act, 2015. Further, the Section requires that the inspection and acceptance committee shall be composed of a chairman and at least two other members appointed by the accounting officer or the head of the procuring entity on the recommendation of the procuring unit.
- c) Evidence of requisition by the user department was not provided for audit verification contrary to Regulation 71 of the Public Procurement and Asset Disposal Regulations, 2020 which requires that (1) Pursuant to Section 73 of the Act, the head of the user department shall initiate the procurement process through a requisition initiation of procurement as per the approved procurement plan.
- d) There was no evidence that the Head, Supply Chain Management wrote a professional opinion or recommendation to the accounting officer for approval in accordance with Section 84 of the Public Procurement and Asset Disposal Act, 2015 which requires that (1) The head of procurement function of a procuring entity shall, alongside the report to the evaluation committee as secretariat comments, review the tender evaluation report and provide a signed professional opinion to the accounting officer on the procurement or asset disposal proceedings.
- e) Evidence that the successful bidders accepted the award in writing as required by Section 87 (2) of the Public Procurement and Asset Disposal Act, 2015 was not provided for audit verification to show that the successful bidder submitted written acceptance of the award within the time frame specified in the notification of award.
- f) Membership to the tender opening and tender evaluation committees were the same.
- g) The request for quotation documents did not indicate when and to who they were issued to contrary Section 106(2)(a) of the Public Procurement and Asset Disposal Act, 2015 which requires that the accounting officer of a procuring entity shall give the request to such persons as are registered by the procuring entity.

In the circumstances, the propriety and value for money for the expenditure of Kshs.10,037,656 could not be confirmed.

#### **492. Irregular Payments Made to Members of the County Assembly**

The statement of receipts and payments and Note 5 to the financial statement indicates that use of goods and services payments totalling to Kshs.1,812,278,460 were made during the year under review. Included in this amount are payments totalling to Kshs.181,423,956 relating to other operating expenses which further includes allowances of Kshs.36,857,700 paid to Members of the County Assembly of Kiambu while attending capacity building workshops. These allowances should have been paid through the County Assembly's budget.

In the circumstances, the propriety and value for money for the amount of Kshs.36,857,700 paid in respect of other operating expenses could not be confirmed.

#### **493. Irregular Payment of Delegation Fees to Council of Governors**

Included in the payments on use of goods and services is an amount of Kshs.160,449,996 in respect to utilities supplies and services as disclosed in Note 5 to the financial statements out of which Kshs.1,560,000 was paid to the Council of Governors as delegation fees for members attending the annual devolution conference at Makueni County whose legal basis of payment was not explained.

In the circumstances, the propriety and value for money for the payment of Kshs.1,560,000 could not be confirmed.

#### **494. Irregular Procurement of Pharmaceuticals and Non-Pharmaceuticals**

Review of procurement and payment records on procurement of pharmaceutical and non-pharmaceutical products from a National Government entity and a faith based not for profit organization worth Kshs.131,587,780. Included in the balance is a payment of Kshs.19,972,212 made on 31 March, 2022 was not supported by delivery or counter receipt vouchers from various health facilities acknowledging receipt of the pharmaceuticals and non-pharmaceuticals. The corresponding LPO No.3350567 dated 9 June, 2021 relates to a proforma invoice amounting to Kshs.19,980,826 and requisitions, delivery notes and inspection and acceptance reports were not provided for audit.

Further, two (2) payments of totalling to Kshs.73,246,985 were made on 22 October, 2021 relating to a pending bill for the financial year 2020/2021. The LPO attached was a copy and could not be authenticated while the invoice attached amounted to Kshs.51,587,767 resulting to an unexplained over payment of Kshs.21,659,218. The user requisitions, delivery notes and inspection and acceptance reports were not provided for audit verification. Counter receipt vouchers from the various recipient health facilities were not provided for audit.

In addition, a payment of Kshs.22,499,185 made on 24 January, 2022 was not supported by user requisitions, LPO, inspection and acceptance report, and counter receipt vouchers from various recipient health facilities. In addition, an amount of Kshs.15,869,398 was paid to the same supplier. Although the contract between the County and service provider has been signed as a framework contract under clause 4 (a), it does not meet the threshold of framework contracting including having a minimum of seven (7) vendors in that category, the maximum duration of the contract is three years

but the contract attached had no duration, the prices have not been attached to the contract as required and the method of implementing the framework contract was also not explained.

In the circumstances, the propriety and value for money of the payment amount of Kshs.131,587,780 could not be confirmed.

#### **495. Payment for Undelivered Digitization Services**

The County Executive entered into an agreement with a local technology firm for the digitization of the Directorate of Cooperative Development on 24 June, 2021 at a contract sum of Kshs.6,933,452 for a contract period of six (6) months. The contract was to be implemented in two (2) phases at 50% each of the total contract price. The County Executive paid Kshs.4,021,402 to the company on 1 March, 2022. However, the contract period lapsed without any work being done and certified.

As a result, the regularity and value for money of this payment could not be confirmed.

### **REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE**

#### **Basis for Conclusion**

#### **496. Summary of Fixed Assets**

##### **496.1 Failure to Update the Assets Register**

The summary of fixed assets register at Annex 6 of the financial statements reflects consolidated assets balance of Kshs.12,173,897,198 as at 30 June, 2022. Review of the detailed assets register provided for audit revealed that the asset register was not updated.

Further, Ownership and logbooks for fifty-two (52) motor vehicles recorded in the assets register were not provided for audit . In addition, fifteen (15) double cabin Isuzu Pickups and four (4) Toyota Fortuner motor vehicles were purchased at the close of the 2020/2021 financial year and delivered during the year under review at a cost of Kshs.77,172,000 and Kshs.33,560,000 respectively have not been recorded in the assets register. This was contrary to Section 149(2)(o) of the Public Finance Management Act, 2012 which requires the accounting officer to ensure that the respective county government entity has adequate systems and processes in place for the maintenance of an assets register that is current, relevant and available to the relevant County Treasury and Auditor-General.

##### **496.2 Grounded Motor Vehicles**

Physical inspection exercise at the Thika transport office in November, 2022 revealed that several transport and machinery equipment were grounded. The corresponding inspection reports to ascertain whether it was economical to repair the transport and machinery equipment or recommend for bonding was not provided for audit verification. The transport office has no security fence while some of the grounded transport and machinery equipment was inherited from the defunct local authorities. Records provided indicate that one hundred and thirty-four (134) motor vehicles are due for bonding, however, no recommendation by the asset disposal committee has been made on the

same. In addition, some grounded vehicles had current insurance policies without any value for money being derived from the expenditure. Further, temporary employees were recorded to be stationed at the transport office without clear details of the tasks they were to undertake.

#### **496.3 Unaccounted for Grounded but Repairable Vehicles**

Review of transport and machinery equipment records revealed that there are ninety-three (93) vehicles valued at Kshs.351,348,330 which are grounded but repairable. Included in this number are four (4) vehicles which could not be traced to the asset register. Another thirty-two (32) vehicles did not have a cost attached to them on the asset register.

#### **496.4 Motor Vehicles Detained in Garage Due to Non-payment**

Review of the records provided revealed that twenty-five (25) vehicles with a total value of Kshs.61,494,000 were impounded/detained at various garages for non-payment of services. Included in this number are eleven (11) vehicles whose cost is not disclosed in the asset register. Further, there was no information or report to show how long the vehicles have been held at the garages. No plausible reason has been provided for the failure to pay the services providers and delay in obtaining the vehicles for use by the County.

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

#### **497. Failure to Authorize Payment Vouchers**

Review of a sample of payment records revealed that payments totalling to Kshs.38,166,643 were paid and processed without examination and authorization by the accounting officer or his appointed officer. In addition, payments totalling to Kshs.15,390,450 were processed and paid, and the requisite stamp was not affixed on the documents them, being an indication that they had been paid up. Further, a payment of Kshs.73,731,600 in respect of transfer of funds from the County Revenue Fund (CRF) to Kenya Devolution Support Programme (KDSP) was made without proper authorization by the accounting officer, while a payment to Kiambu Level 5 hospital of Kshs.9,000,000 was also not properly authorized by the accounting officer.

In the circumstances, the existence of an effective system of internal controls of payments could not be confirmed.

#### **498. Non-Adherence to Guidelines from Public Service Commission**

Review of payment records in respect of compensation of employees revealed that an amount of Kshs.561,475,117 was paid in respect of salaries and wages for one thousand (1000) staff through manual systems instead of the prescribed electronic payroll the Integrated Payroll and Personnel Database (IPPD). No explanation was provided for the failure to use IPPD in paying salaries for these employees.

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

## **COUNTY EXECUTIVE OF TURKANA - NO.23**

### **REPORT ON THE FINANCIAL STATEMENTS**

#### **Basis for Qualified Opinion**

##### **499. Unsupported Use of Goods and Services**

The statement of receipts and payments reflects amount of Kshs.2,958,072,863 for use of goods and services as disclosed in Note 5 to the financial statements. The expenditure however includes Kshs.5,753,100 paid to local merchants but was not supported by tax compliance certificates, user requisitions, delivery notes, inspection and acceptance reports and attendance lists for stakeholders invited to meetings.

Further, the expenditure includes an amount of Kshs.258,867,505 for insurance costs, which further includes an amount of Kshs.18,213,363 paid to an insurance service provider for insurance services for motor vehicles. However, tender documents including; user department requisition, advertisement, tender register, tender bid document, appointment of tender and evaluation committees, tender opening and evaluation minutes, notification of award and letter of acceptance, professional opinion, contract agreement and insurance policy documents were not provided for audit.

In addition, insurance costs included an amount of Kshs.2,025,000 paid to a local merchant for supply of office stationery under insurance services.

In the circumstances, the regularity and accuracy of insurance costs of Kshs.20,238,363 could not be confirmed.

##### **500. Inaccuracies in Statement of Cashflows and Notes**

The statement of cashflows includes an increase in outstanding imprests of Kshs.67,970,904 indicated as a prior year adjustment which is not supported by the corresponding Note 19 that reflects an increase of Kshs.231,035,602. No explanation was provided for the anomaly.

In the circumstances, the accuracy of the change in outstanding imprests of Kshs.67,970,904 in the cashflow statement could not be confirmed.

#### **Other Matter**

##### **501. Unresolved Prior Year Issues**

In the report of 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, the report on the progress on follow up of auditor's recommendations showed that the Management had not resolved the issues.



## **502. Budgetary Control and Performance**

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on a comparable basis amounts of Kshs.15,211,885,528 and Kshs.9,962,073,711 respectively, resulting to a shortfall in disbursements by Kshs.5,249,811,817 (or 35%) of the budget. Similarly, the County Executive incurred total expenditure of Kshs.10,110,561,458 against a budget of Kshs.15,211,885,528 resulting to under expenditure of Kshs.5,101,324,070 (or 34%) of final budget.

The under-funding and the under-expenditure impacted negatively on implementation of programmes and service delivery to the public.

## **503. Statement of Budget Execution by Programmes and Sub-Programmes**

The total expenditure in the statement of budget execution by programmes and sub-programmes of Kshs.9,708,806,883 varies with the total expenditure in the statement of receipts and payment by an unexplained and unreconciled amount of Kshs.367,605,040. It was therefore not possible to ascertain the accuracy of the amounts in the statement of budget execution by programmes and sub-programmes.

## **504. Pending Bills**

Other important disclosure<sup>1</sup> and 2 and Annex 2 and 3 to the financial statements reflects total pending account payables and staff payables amount of Kshs.2,015,196,164 and Kshs.88,893,232 respectively totalling to Kshs.2,104,089,396 which ought to have been paid but was outstanding as at 30 June, 2022 contrary to Regulation 41(2) of the Public Finance Management (County Governments) Regulations, 2015.

In the circumstances, other pending bills affects the subsequent years budget as they form the first charge.

## **REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

### **Basis for Conclusion**

## **505. Non-Compliance with Fiscal Responsibility Principles on Wage Bill**

The County Executive had an approved final budget amount of Kshs.15,211,885,528 composed of recurrent budget of Kshs.10,537,785,338 or 69% of total budget and development budget of Kshs.4,674,100,190 or 31% of the total budget in compliance with Section 107(2)(b) of Public Finance Management Act, 2012.

However, during the year, under review the total expenditure was Kshs.10,076,411,923 which included recurrent amount of Kshs.7,713,810,006 or 77% and development expenditure of Kshs.2,362,601,918 or 23 % contrary to Section 107 (2) (b) of Public Finance Management Act, 2012.

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

## **506. Project Implementation Status**

A sample of projects identified and verified revealed that, fifty (50) projects with total contract sum of Kshs.475,276,580 were at various states of implementation. Forty-three (43) projects on routine road maintenance, construction of buildings, construction and civil works and supply and delivery of specialized equipment's amounting to Kshs.329,596,490 had been completed. Six (6) projects with a contract sum of Kshs.132,159,816 were still ongoing, while one (1) project costing an amount of Kshs.13,520,274 and an amount of Kshs.4,442,306 already paid had stalled. Further, a comprehensive project implementation status report was not provided for audit to ascertain the overview of the effectiveness of utilization of the development expenditure.

In the circumstances, the non-completion of projects as planned denied the public the services and benefits that would have accrued from the completed projects as envisioned in the budget.

## **507. Accounts Receivable - Outstanding Imprest**

Included in the statement of assets and liabilities is an amount of Kshs.170,521,036 for accounts receivable- outstanding imprest as at 30 June, 2022 as disclosed in Note 15 to the financial statements. However, the expenditure includes Kshs.87,178,125 issued to members of staff before surrender of previous imprests contrary to Regulation 93(8) of the Public Finance and Management (County Governments) Regulations, 2015 which states that in order to effectively and efficiently manage and control the issue of temporary imprests, an accounting officer or AIE holder shall ensure that no second imprest is issued to any officer before the first imprest is surrendered or recovered in full from his or her salary. In addition, an amount of Kshs.158,896,406 of the total outstanding imprest of Kshs.170,521,036 was due for surrender on or before 30 June, 2022 but had not been surrendered as at the close of the financial year contrary to Regulation 93(5) of the Public Finance and Management (County Governments) Regulations, 2015 which requires holder of temporary imprest to account for or surrender the imprest within seven working days after returning to the duty station. At the time of audit in November, 2022, there was no evidence of subsequent surrender or recovery of outstanding imprest of Kshs.170,521,036.

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

## **508. Non-Preparation and Submission of the Consolidated Financial Statements**

Management did not prepare and submit the consolidated financial statements and relevant summaries to the Auditor-General with copies to the National Treasury, Controller of Budget and the Commission on Revenue Allocation. This is contrary to Section 163(1) and (4) of the Public Finance Management Act, 2012 which states that at the end of each financial year, the County Treasury shall, for the county government, consolidate the annual financial statements in respect of all the county government entities in formats to be prescribed by the Accounting Standards Board.

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

#### **509. Irregular Purchase of Generator for the County Headquarters**

Management incurred an amount of Kshs.6,584,007 paid to a local merchant for purchase of a generator for the County Headquarters. However, the terms of payment as indicated in the contract stated that the client shall pay the amount of Kshs.6,699,516, being 80% of contract cost upon delivery of the generator, 10% on installation and completion certificate issued and 10% retention to be paid after 6 months of usage. The generator was delivered on 26 March, 2022 and received on 30 March, 2022 and had not been installed as at the time of audit in November, 2022 but the supplier was paid the full amount less taxes contrary to the contractual terms. In addition, no retention fee was withheld from the supplier

In addition, the supplier did not provide a 10% performance security of the contractual sum contrary to Section 142 (1) of the Public Procurement and Asset Disposal Act, 2015.

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

#### **510. Delayed Completion of Project**

Note 10 to the financial statements reflects an amount of Kshs.201,699,954 relating to constructions and civil works expenditure. The expenditure includes an amount of Kshs.18,269,805 paid to a local merchant for completion of Kataboi Eco lodge at a contract sum of Kshs.60,016,621. Review of the procurement records revealed that during the financial year 2014-2015 the department of tourism had awarded a contract for construction to completion of the hotel at Kataboi in Lakezone ward to a contractor at a contract sum of Kshs.66,389,746 to be completed in December, 2015.

Project physical inspection report done in October, 2018 by the project manager revealed the project had incurred approved variations amounting to Kshs.9,958,464 due to challenges between the bills of quantities and drawings. The report also stated that the project was estimated to be 75% complete and 90% of the payments had already been made and retention fee was Kshs.7,634,821. The project manager recommended for termination of contract citing variation of contract costs which amounted to more than 25% of the contract sum and that the contract delivery period had elapsed.

Another site meeting held on 1 February, 2019 between the County Executive and the contractor arrived at a mutual agreement on the winding up of the contract and it was agreed that the contractor be paid Kshs.7,634,821 as retention fee. A termination letter dated 26 March, 2019 was issued to the contractor. However, summary of payments made to the contractor before termination of the contract project status report, pre-inspection report from the department of infrastructure were not provided for audit. In addition, bills of quantities for the new contract, payment voucher, interim payments certificate of works and statement for valuation for the expenditure of Kshs.18,269,805 were not provided for audit review. The new contract also did not specify the period under which the contract will be valid and the works completed. Physical inspection in the month of November, 2022 revealed the contractor was still on site but not much of renovation works had been done.

In the circumstances, value for money on the project in both contracts could not be confirmed.

### **511. Irregular Borrowing from County Funds**

The County Executive had an outstanding amount of Kshs.319,619,870 owed to various county funds which had been borrowed on short term basis for cash management at the beginning of the year. During the year ended 30 June, 2022, the County Executive further borrowed Kshs.180,852,404 and repaid an amount of Kshs.43,000,000 resulting in outstanding balance of Kshs.457,472,274. However, County Assembly approval was not provided for total borrowings of Kshs.180,852,404 as required by Section 142(1) of the Public Finance Management Act, 2012,

Further, the borrowed amount was not credited to the County Revenue Fund contrary to Regulation 81(1)(a) of Public Finance Management Act (County Governments) Regulations, 2015 and the details of utilization of the borrowed funds have not been disclosed or provided for audit.

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

### **512. Compensation of Employees**

#### **512.1 Non-Compliance with the One Third of Basic Salary Rule**

Review of monthly payroll revealed instances where employees of the County Executive received net salaries which were less than a third of their respective basic salaries while others received negative salaries. This is contrary to Section 19(3) of the Employment Act, 2007. Management did not provide justification for payments of net pay less than one third of respective staff salaries.

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

#### **512.2 Non-Compliance with the Law on Staff Ethnic Composition**

Review of personnel records revealed that during the year under review the County Public Service Board recruited a total of one hundred and forty-one (141) into permanent and pensionable staff positions. However, all of the staff recruited were from the dominant community. This was contrary to the provisions of Section 65(1),(e) of the County Governments Act, 2012 which provides that not more than 30% of staff will come from one community.

In addition, the County Executive had a total of three thousand seven hundred and seven (3,707) employees out of whom two thousand nine hundred and thirty (2,930) or approximately 79% were from the dominant community contrary to Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 on ethnic composition thresholds requirements.

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

### **513. Incomplete Construction of Kalokol Resource Centre**

The tender for construction of Kalokol Resource Centre was awarded to a local contractor at a contract sum of Kshs.25,104,510 on 12 January, 2021 and works were expected to be completed within sixteen (16) weeks commencing 27 January, 2021. The contractor was paid an amount of Kshs.11,678,590 on 28 June, 2021. However, physical inspection of the project in November, 2022 confirmed that the works were yet to be completed, more than eighteen (18) months after lapse of the contract period. Approximately 50% of the works had been done and the contractor was not on site. Further, project progress report, renewal of performance bond and records of the payments made so far were not provided for audit.

In the circumstances, it was not possible to confirm whether value for money incurred on the project was realized.

### **514. Incomplete Construction of Plastic Re-Use Facility**

The contract for the construction of plastic re-use facility was awarded to a local contractor at contract sum of Kshs.13,626,320 on 13 January, 2017 and works were expected to be completed within twelve (12) weeks. The contractor was paid an amount of Kshs.4,895,620 on 15 April, 2021. However, by the time of audit in the month of November, 2022 the project was incomplete more than three (3) years after the expected completion date and the contractor was not on site. Further, project progress report, renewal of performance bond, records of additional payments and other previous payments were not provided for audit.

In the circumstances, it was not possible to confirm that the public obtained value for money on the expenditure incurred.

### **515. Construction of Chain-Link Fence and Water Distribution**

Management incurred an amount of Kshs.8,250,804 paid to a local merchant on 22 March, 2022 for the construction of chain link fence and water distribution at Kerio Breeding Centre. Review of the contract revealed that the winning bidder did not provide certified bank statement for the last six (6) months, this being evaluation criteria number five (5 for audit). Therefore, the bidder was awarded a score of zero (0) by all the three evaluators and should not therefore have proceeded to the financial evaluation stage rendering all the bidders and the tender non-responsive. However, the evaluation report dated 23 February, 2021 signed by all the three evaluators still recommended the bidder for award of the tender. No explanation was provided for this violation of the evaluation criteria.

The professional opinion dated 25 February, 2021 concurred with the evaluation report awarding the tender to the winning bidder and concluded that the evaluation was done according to the laws despite the failure to provide certified bank statements.

The contract was entered into and signed on 16 March, 2021 before the lapse of fourteen (14) days after notification of award and the contract did not specify the contract period.

In the circumstances, the propriety and value for money on the contract could not be confirmed.

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

### **Basis for Conclusion**

#### **516. Failure to Operationalize Public Finance Management Standing Committee**

The County Executive did not operationalize the Public Finance Management Standing Committee to provide strategic guidance on public finance management matters as required by Section 18.(1) of the Public Finance Management (County Governments) Regulations, 2015 which states that 'There is 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, provision of appropriate strategic guidance on public finance management could not be confirmed.

#### **517. Failure to Maintain Assets Register**

The summary of non-current assets register in Annex 6 to the financial statements indicates that the County Executive had fixed assets with a historical cost of Kshs.4,399,594,379 as at 30 June, 2021. During the year under review, additional assets of Kshs.1,474,180,070 were acquired as reflected in the statement of receipts and payments and Note 10 to the financial statements, resulting to cumulative total assets of Kshs.5,873,772,449 as at 30 June, 2022. However, the County Executive did not maintain an accurate and up to date assets register that could be relied on to confirm the nature, number, physical location and fair value of the assets.

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



## **COUNTY EXECUTIVE OF WEST POKOT - NO.24**

### **REPORT ON THE FINANCIAL STATEMENT**

#### **Basis for Qualified Opinion**

##### **518. Inaccuracies in Transfers from CRF and Other Receipts**

The statement of receipts and payments and as disclosed in Notes 1 and 3 to the financial statements reflects exchequer releases (transfers from CRF) amounts of Kshs.6,629,278,531 and other receipts of Kshs.115,000,267 respectively. However, review of the financial statements of the County Revenue Fund revealed that only an amount of Kshs.5,972,813,490 was transferred to the County Executive resulting to an unexplained variance amounting to Kshs.656,465,041. In addition, other receipts balance includes Own Source Revenue amounting to Kshs.113,705,713 which was disbursed from the County Receiver of Revenue and received in the County Revenue Fund. However, it is not clear how the same amount was also received in the County Executive without having been transferred from the County Revenue Fund (CRF).

In the circumstances, the accuracy of the transfers from County Revenue Fund (CRF). and other receipts amounting to Kshs.6,744,278,798 could not be confirmed.

##### **519. Inaccuracies in Acquisition of Assets**

The statement of receipts and payments and as disclosed in Note 10 to the financial statements reflects a balance of Kshs.1,016,793,841 in respect of acquisition of assets. However, this amount differs with the amount for additions in the year as disclosed on the summary of non-current assets register (Annex 6) to the financial statements amount of Kshs.1,268,438,136 resulting to an unexplained variance amount of Kshs.251,644,295. Further, the financial statements on page 63 discloses assets balance of Kshs.3,864,074,032 acquired from the defunct Local Authority. However, the asset register provided for audit had not been updated to include these assets.

In the circumstances, the completeness and accuracy of the acquisition of assets balance of Kshs.1,016,793,842 could not be confirmed.

##### **520. Unsupported Compensation of Employees**

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects compensation of employees amounting to Kshs.2,580,026,894 which includes an amount of Kshs.283,035,872 paid as basic wages of temporary/casual employees who were engaged in the departments of Health, Lands, and Finance. However, the number of casual employees engaged could not be confirmed as there were no departmental requisitions for casual engagements and no evidence was provided to confirm that the County Public Service Board had authorised the departments to engage the casuals. In addition, evidence of how the casual employees were hired, the tasks for which they were paid, their job descriptions, their terms of engagement, casual remuneration policy and the monthly muster rolls were not provided for audit.

In the circumstances, regularity and propriety of compensation of employees balance of Kshs.283,035,872 could not be confirmed.

#### **521. Irregular Transfers to Other Government Entities**

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflects transfers to other government entities balance of Kshs.1,289,648,256 which includes an amount of Kshs.533,627,122 in respect of capital grants to Government agencies and other levels of Government. The transfers to other Government agencies further include an amount of Kshs.43,752,150 transferred to various secondary schools and one primary school for construction of buildings. However, construction of buildings in schools are functions of the National Government and not the County Government as provided for by Article 186 and the Fourth Schedule of The Constitution of Kenya, 2010.

In the circumstances, the propriety and completeness of capital grants to Government agencies and other levels of Government balance of Kshs.43,752,150 could not be confirmed.

#### **522. Unsupported Specialised Materials and Services**

The statement of receipts and payments and as disclosed in Note 5 to the financial statements reflects use of goods and services totalling to Kshs.1,069,338,095 which includes specialised materials and services amounts of Kshs.357,405,830. Included in this amount is Kshs.40,567,737 paid to Kenya Medical Supplies Authority (KEMSA) on 01 March, 2022 for the supply and delivery of medical drugs and non-pharmaceuticals to various health facilities within the County. However, review of records and physical inspection of sampled health facilities at Chepareria Subcounty Hospital, Kacheliba District Hospital, Serewo Health Centre and Keringet Health Centre revealed that drugs and non-pharmaceuticals supplied directly to the health institutions totalling to Kshs.5,252,899, were not inspected and confirmed on delivery. Also, there were no bin cards maintained for recording receipt, issues and running balances of the drugs and non-pharmaceuticals.

In the circumstances, the accuracy and completeness of specialised materials and services balance of Kshs.5,252,899 could not be confirmed.

#### **523. Unsupported Acquisition of Assets**

The statement of receipts and payments and as disclosed in Note 10 to the financial statements reflects acquisition of assets balance of Kshs.1,016,793,841 which includes an amount of Kshs.78,969,474 in respect of purchase of specialised plant, equipment and machinery. Included in this amount is Kshs.29,812,000 paid for the supply and delivery of CASE Motor Grader 865B. However, ownership documents for the grader were not provided for audit. In addition, no post-delivery inspection was conducted and a report from mechanical engineer from Department of Roads, Public Works and Infrastructure to confirm the specifications of the plant was not provided for audit.

Further, the acquisition of assets balance includes construction of roads amounting to Kshs.291,589,470 which further includes an amount of Kshs.2,100,000 in respect of

annual roads inventory and condition survey for maintenance purposes. The expenditure was advanced through imprest to an officer of the department. However, the expenditure was not supported with daily itinerary showing list of roads visited on given dates and the officers involved to account for the days and authenticate the expenditure.

Further, analysis of IFMIS payment details revealed that imprest was expensed at source instead of charging the below the line accounts and charging respective expenditure accounts on surrender hence casting doubt on whether the imprest was properly and promptly surrendered.

In the circumstances, the accuracy and completeness of acquisition of assets balance of Kshs.31,912,000 could not be confirmed.

## **Other Matter**

### **524. Budgetary Control and Performance**

The statement of comparison of budget and actual amounts reflects final receipts budget and actual amounts on a comparable basis amounts of Kshs.7,671,679,349 and Kshs.6,744,278,798 respectively resulting to an under-funding amount of Kshs.927,400,551 or 12% of the budget. Similarly, the County Executive spent an amount of Kshs.6,593,841,642 against an approved budget amount of Kshs.7,671,679,349 resulting to an under-expenditure of Kshs.1,077,837,707 or 14% of the budget.

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

### **525. Progress on Follow-up of Prior Year Audit Recommendation**

In the audit report of the previous years, several paragraphs were raised. However, Management has not resolved all the prior year matters. Management has not provided satisfactory explanation for the delay in resolving the issues.

### **526. Project Implementation Status**

During the year under review, the County Executive approved a budget amount of Kshs.2,589,782,554 to implement one thousand and thirty-five (1035) projects. However, analysis of the status report revealed that four hundred and fifty-six (456) projects with a budget amount of Kshs.890,792,798 were implemented while five hundred and seventy-nine (579) projects with a budget amount of Kshs.1,698,989,756 or 66% of the budgeted projects were not implemented.

The under-performance in project implementation affected the planned activities and may have impacted negatively on service delivery to the citizens.

### **527. Undisclosed Pending Bills**

The financial statements had no disclosure of pending bills as required by the reporting guidelines. However, review of documents revealed that the County Executive had pending bills totalling to Kshs.24,540,542 which includes Kshs.4,497,800 in respect of

pending bills incurred in the year 2018 and earlier. No explanation was given for continued holding 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 and the Accounting Officer shall ensure this is done to the extent possible that the County Government does not default on debt obligations.

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

## REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

### Basis for Conclusion

#### **528. Non-Compliance with the One-Third of Basic Salary Rule**

Review of payroll records for the year under review, revealed that thirteen (13) employees earned a net salary of less than a third ( $\frac{1}{3}$ ) of the basic salary contrary to Section C.1(3) of the Public Service Commission (PSC) Human Resource Policies, 2016 which provides that public officers shall not over commit their salaries beyond two thirds ( $\frac{2}{3}$ ) of basic salary as this may expose the staff to pecuniary embarrassment. The Management did not explain the failure to comply with the policy.

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

#### **529. Non-Compliance with the Law on Fiscal Responsibility Principles- Wage Bill**

The statements of receipts and payments reflects an expenditure amount of Kshs.2,580,026,894 on compensation of employees representing 38% of the total receipts amount of Kshs.6,744,278,798. This is contrary to the provisions of Regulation 25(1) (a) and (b) of the Public Finance Management (County Governments) Regulations, 2015 which states 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.

#### **530. Revenue Management System**

The statement of receipts and payments and as disclosed in Note 10 to the financial statements reflects acquisition of assets balance of Kshs.1,016,793,841 which includes purchases of specialized plant, equipment and machinery totalling to Kshs.78,969,474 which further includes an amount of Kshs.6,550,000 paid to a local supplier for the supply, delivery, commissioning and customization of revenue collection system. In addition, the supplier was paid for deployment of unstructured revenue courses, delivery of customized modules/structured modules; vehicle management system, citizen portal self service module, enforcement module, equity bank revenue systems integration and offline

module deployment. However, none of the modules were operational and the courses were not conducted.

The supplier has cumulatively been paid an amount of Kshs.38,750,000 or 92.26% of the contract sum with a balance of Kshs.3,250,000 yet to be paid but the functionality of the system is still at less than 50% hence casting doubts on the propriety of the payments already made. In addition, the contract delivery date was further extended to a new completion date of 30 June, 2022 from the previous one of 31 December, 2021 without approval of the evaluation committee as required by the Public Procurement and Assets Disposal Act Section 139(2).

In the circumstances, the Management was in breach of the law and the value for money from the expenditure could not be confirmed.

## **531. Department of Water, Environment and Natural Resources**

### **531.1 Stalled Construction of Kapkoris - Makutano Water Supply Project**

The County Executive entered into a contract for the construction of the intake works, laying of pipeline from Kapkoris to Makutano storage tank at a contract sum of Kshs.29,200,622 on 21 June, 2019 for a contract period of eighteen (18) months which was further extended by nine (9) months from 15 December, 2020. The contractor has been paid a total amount of Kshs.16,920,004. However, detailed design, mapping report before laying the pipeline, approval from the relevant regulatory authorities including County Civil Works on the laying of the pipeline on way-leave and the County Executive spatial plans to identify the ownership of public or private land on which the pipeline was to be laid were not provided for audit.

Physical inspection of the project on 06 July, 2022 revealed that the filtration intake chamber and valve chamber slab, the intake chamber fencing, fabrication of steel structure, mounting of water tank and its fencing were not done. These were part of the intake works valued at Kshs.3,126,400. Some parts of the pipeline were left exposed, leading to damage and were prone to vandalism as well. The progress report for the project was not provided and most of the works had not been undertaken. The contractor was not on site and therefore it was not possible to confirm when the project will be completed.

In the circumstances, value for money invested in the project had not been received.

### **531.2 Irregular Replacement of Rig and Truck Engine**

Review of contracts documents revealed that the Management awarded a contract for the replacement of damaged compressor for existing drilling rig and replacement of truck engine at a contract sum of Kshs.9,802,000 for a contract period of six (6) months from 02 November, 2021 through direct procurement. However, there was no justification for the use of direct procurement method as required under Regulation 90(1)(a) of the Public Procurement and Assets Disposal Regulations, 2020 and Section 103 of the Public Procurement and Assets Disposal Act, 2016 and therefore the method may have been used to avoid competition. There was no evidence that the acquisition price was fair and

reasonable as there was no market survey done to arrive at the best price hence the goods may not have been acquired at the best price.

Further, there was no evidence that the Accounting Officer appointed an ad hoc evaluation committee to carry out tender negotiation and there was no ad hoc evaluation report contrary to Section 90 of the Public Procurement and Asset Disposal Act Regulations, 2020. In addition, the inspection and acceptance committee report indicated that the old truck engine model 2515 was replaced with a new truck engine model 2515 costing an amount of Kshs.1,658,800. However, physical inspection on the project on 14 July, 2022 revealed that the engine fitted was a truck engine of model CF 2000 which was a different model from the one indicated as fitted therefore casting doubts on the performance of the drilling rig. Further, the engine fitted appeared old and yet the approved request was for a new engine. The inspection committee did not adhere to technical specifications contrary to Section 35 of the Public Procurement and Asset Disposal Regulations, 2020.

In the circumstances, the Management was in breach of the law and the value for money incurred on the project could not be confirmed.

### **531.3 Un-Utilized Piping and Extension Borehole Project**

Review of contracts documents revealed that the Management awarded a contract for laying of a pipe and extension at Kamketo Borehole - Kasei Ward at a contract sum of Kshs.1,799,550 on 13 April, 2022 through request for quotations. However, review of documents revealed that preliminary authorization/approval from relevant regulatory authorities on laying of the pipeline on the way leave was not done, therefore the certainty of the project could not be confirmed.

Further physical inspection of the project on 06 July, 2022 revealed that a large part of the pipeline was still exposed and uncovered and the full contract sum had been paid. The Project was not in use and no explanation was given as to why the project still remained idle.

In the circumstances, the value for money invested in the project could not be confirmed.

### **531.4 Anomalies in Installation of Solar Panel**

Review of contracts documents revealed that the Management awarded a contract for the installation of a solar panel at Kachepkai Mnagei Ward at a contract sum of Kshs.1,999,900 for a contract period of one (1) month from 06 May, 2021. The contract was awarded through request for quotation. However, review of the IFMIS Evaluation Matrix Report under the preliminary evaluation stage revealed that the contractor did not have a valid trading license which was a mandatory requirement and was still rated as a responsive bidder and was awarded the tender.

Further, the Bill of Quantities provided for excavation of pipeline trench of a distance of 510 meter in length costed at the rate of Kshs.420 per meter totalling to Kshs.214,200. Physical inspection of the project on 21 July, 2022 revealed that the actual trench distance



was 300 meters totalling to Kshs.126,000 and therefore, there was unaccounted and paid for trench length of 210 meters totalling to Kshs.88,200.

The contract also provided for supply of 32 mm internal diameter HDPE pipes PN8 to community water points at cost of Kshs.252,000 and 40mm internal diameter HDPE pipes PN8 at cost of Kshs.252,000. The estimated trench distance as per the Bill of Quantities is 510 Meters, against verified trench distance of approximately 300 meters hence reflecting unaccounted and paid for pipes resulting to a possible loss amounting to Kshs.563,214. The supply and installation of metal inspection box complete with G.I. fittings totalling to Kshs.15,000 as per the Bill of Quantities was not fixed.

In addition, most of the works were vandalized, which includes, solar panel fittings, earth cables, fence, treated poles and metallic gate hence rendering the project non-operational.

In the circumstances, value for money invested in the project could not be confirmed.

## **532. Department of Health**

### **532.1 Incomplete Construction of Propoi Dispensary**

Review of contracts documents revealed that the Management awarded a contract for the construction of Propoi Dispensary at a contract sum of Kshs.5,555,455 on 06 April, 2017. However, the signed contract agreement had no end date for the implementation of the project and as such, no defect liability period was indicated contrary to Section 142(b) of the Public Procurement and Assets Disposal Regulations, 2020 which states that the Contractor be responsible for the repairs resulting from defects of poor workmanship and make corrections pointed out in the partial provisional acceptance report.

Further, a certificate of practical completion dated 24 June, 2019 had been issued and an amount of Kshs.5,200,000 paid to the Contractor, but physical inspection of the Project on 06 July, 2022 revealed that the building is incomplete as it had no window glasses, the security fence is flattened and the project has stalled despite a total payment of 93% of the contract sum.

In the circumstances, the value for money invested in the project could not be confirmed.

### **532.2 Poor Workmanship in Proposed Construction of Tapach Dispensary**

The County Executive entered into a contract for the construction of ward block at Tapach Dispensary at a contract sum of Kshs.5,897,080 on 06 April, 2017. However, review of the expenditure records and physical inspection of the project on 06 July, 2022 revealed that an amount of Kshs.5,028,623 or 85% of the contract sum had already been paid to the Contractor; the signed contract document between the Contractor and the County Executive had no end date for the implementation of the project and defect liability period contrary to Section 142(b) of the PPADA Regulations, 2020 which states that the Contractor be responsible for the repairs resulting from defects of poor workmanship and make corrections pointed out in the partial provisional acceptance report.

Further, the inspection and acceptance certificate and a certificate of practical completion both dated 07 December, 2021 had been issued but physical inspection of the project on 06 July, 2022 revealed that 3 doors were broken, and had no frames and therefore, not lockable. The 12mm wooden ceiling was leaking and the project was not in use seven months after certificate of practical completion was issued.

In the circumstances, the value for money invested in the project could not be confirmed.

### **532.3 Failure to Connect Electrical Supply to the Intensive Care Unit (ICU)**

Review of contracts documents revealed that the Management awarded a contract for the supply, delivery, and installation of a power supply cable from the power house to the Intensive Care Unit of Kapenguria County Referral Hospital at a contract sum of Kshs.3,991,560 on 06 April, 2017. The project was undertaken by the contractor up to 85 % of the works valued at Kshs.2,967,000. However, the contractor could not connect the cable to the power house until the power supply was upgraded by the Kenya Power. No explanation was given why the County Government entered into a contract without first establishing specific requirements for the successful completion of the contract.

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

## **533. Department of Trade**

### **533.1 Incomplete Construction of Milk Processing Plant**

Review of contracts documents revealed that the Management awarded a contract for the construction of milk processing plant at Kibichich Pokot South Sub-County at a contract sum of Kshs.28,999,238 for a contract period of nine (9) months from 02 February, 2021 with an end date of 01 November, 2021. The contractor requested for the first extension on 04 October, 2021 up to 30 June, 2022 and a second extension on 28 February, 2022 up to 31 October, 2022 through the Project Manager. However, the 10% performance bond from an Insurance Company amounting to Kshs.2,899,924 dated 20 January, 2021 had expired on 11 February, 2022 and had not been replaced to cover the period up to 30 October, 2022. In addition, the contract extension requested for on 28 February, 2022 through the Project Manager and approved by the Accounting Officer was un-procedural as it was not approved by the tender evaluation committee. The contractor had since been paid cumulatively an amount of Kshs.22,676,991 or 78 % of the contract sum as at 20 May, 2022 but the project remained incomplete as at the time of audit in the month of July, 2022, 9 months after the contracted project completion date. Further, physical inspection conducted in the month of July, 2022 revealed that the contractor had abandoned the works and was not on site.

In the circumstances, value for money invested in the project could not be confirmed.

### **533.2 Incomplete Supply of Honey Packaging Equipment to Kodich Farmers**

Review of contracts documents revealed that the Management awarded two (2) contracts for the supply of honey packaging equipment to a farmers' co-operative society at a total contract sum of Kshs.1,699,300. However, the stores ledger for the department was not

provided for audit hence, it was not possible to confirm that the goods were received and taken on charge.

Further, physical inspection on the project on July, 2022 revealed that equipments worth Kshs.846,600 were not received by the Co-operative Society. Also, only one (1 No.) electric chamber costing an amount of Kshs.360,000, and which was not operational, was received at the Co-operative Society office instead of the two (2) expected to have been supplied. No reasons were provided for the failure to deliver the equipment as planned and ordered. The Co-operative Society also lacked records for the goods received from the County Executive.

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

### **533.3 Incomplete Construction of Mango Processing Plant**

Review of contracts documents revealed that the Management awarded a contract for the proposed construction of mango processing plant in Lomut at a contract sum of Kshs.12,054,667 on 02 February, 2021. The contractor has since been paid an amount of Kshs.9,473,728 or 79% of the contract sum. However, the contract period ending on 01 November, 2021 was irregularly extended by the chief officer trade to 30 June, 2022 without the recommendation of the tender evaluation committee contrary to Section 139(2)(a) of the Public Procurement and Assets Disposal Act, 2015 which requires that an Accounting Officer of a procuring entity, on the recommendation of an evaluation committee, may approve the request, which request shall be accompanied by a certificate from the tenderer making a justification for such extension of contract period.

Physical inspection of the project on July, 2022 revealed that the Contractor had abandoned the site without completing the works as per the Bill of Quantities and the extended contract period had also lapsed. No explanation was provided by Management on why the Contractor was unable to implement the project within the stipulated period and the efforts made subsequently to complete the project.

Further, an amount of Kshs.2,998,971 was paid to a local merchant engaged on 08 December, 2021 through a quotation for fencing the land on which the processing plant was being constructed after a petition was launched in court over the ownership of the land. No evidence was provided on the resolution of the matter or ownership of the land by the County Executive.

In the circumstances, value for money on the expenditure could not be confirmed and Management was in breach of the law.

### **533.4 Supply and Installation of Sacco Maintenance Software**

Review of contracts documents revealed that the Management awarded a contract for the installation of Sacco Management System at a contract sum of Kshs.4,495,000 on 14 June, 2021. The tender opening committee was appointed on 12 May, 2021 and the tender opening minutes signed on 13 May, 2021. Two (2) bidders were recorded to be responsive, the winner with a bid price of Kshs.4,495,000 and another with no bid price.

However, there was inconsistency between the dates and other details in the documents submitted for audit, in that evaluation minutes were dated 17 July, 2021 while the GOK IFMIS evaluation report was signed on 24 July, 2021 and the two set of records were signed by different committee members hence casting doubt on the credibility of the evaluation process. Further, the winning bidder did not provide a breakdown of the contract sum on the sub components of the items to be supplied, as per the bid documents but provided a consolidated tender sum. In addition, the unsuccessful bidder who was notified as per Section 87(3) of the Public Procurement and Assets Disposal Act, 2015 was different from the winner further casting doubts on credibility of the procurement process.

Further, the Management also procured ICT networking equipment for the Co-operative Society at a contract sum of Kshs.1,495,000 from the same service provider which was paid on 16 November, 2021. These equipment were for use in the same project of installation of Sacco Management System but the procurement was split in contravening Section 54(1) of the Public Procurement and Assets Disposal Act, 2015 which provides that no procuring entity may structure procurement as two or more procurements for the purpose of avoiding the use of a procurement procedure except where prescribed.

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

#### **534. Unaccounted for Avocado Seedlings for Farmers**

Review of contracts documents revealed that the Management awarded a contract for the supply and delivery of 8,000 avocado seedlings to Siyoi Ward at a contract sum of Kshs.1,995,200 on 28 April, 2022. However, no evidence was provided to establish the criteria used to identify the beneficiaries. Further, identification, vetting, award minutes and attendance register for the farmers who benefitted from the program were not provided for audit.

Further, the signed distribution list to account for one thousand two hundred (1200) Avocado seedlings costing an amount of Kshs.120,000 to the beneficiaries was not provided for audit and therefore, it was not possible to confirm whether the beneficiaries actually received the seedlings. In addition, the distribution list for Paraya Village, Stotwo, Simat Village, Talau, Kapsuruam, Keprench appeared to have been signed by the same people casting doubt on the authenticity of the distribution list could not be confirmed.

In the circumstances, value for money incurred could not be confirmed.

#### **535. Poor Implementation of Roads Projects**

Review of documents and physical inspection of roads projects valued at Kshs.38,614,125 in the month of July, 2022 revealed poor workmanship in that soil and loose gravel were not tested for quality and therefore were easily swept away during heavy rains.

In the circumstances, value for money invested on the projects could not be confirmed.

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

### **Basis for Conclusion**

#### **536. Lack of Approved Information Technology Security Policy**

Review of the County Executive's information technology systems revealed that the County Executive's did not have an approved IT policy for governance and management of its ICT resources. In addition, there is no ICT steering committee in place to assist in the development of ICT policy framework to enable the County Executive to realize long-term ICT 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 County Executive's ICT assets. 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, Management's preparedness for interruptions and loss of critical information in case of disaster could not be confirmed.

#### **537. Lack of Risk Management Policy and Strategy**

The Management had not put in place Risk Management Policy, strategies, and risk register to mitigate against risk. It was, therefore, not clear how the risk exposures is managed. This is in contravention of Regulation 158 (1)(a) and (b) of the Public Finance Management (County Governments) Regulations, 2015 which requires the Accounting Officer to ensure that the County Government entity develops risk management strategies, which include fraud prevention mechanism; and the County Government entity develops a system of risk management and internal control that builds robust business operations.

In the circumstances, Management's preparedness to mitigate against risk in case of losses and interruption of operations could not be confirmed.

## COUNTY EXECUTIVE OF SAMBURU - NO.25

### REPORT ON THE FINANCIAL STATEMENTS

#### Basis for Qualified Opinion

#### 538. Unsupported Insurance Costs

The statement of receipts and payments reflects an amount of Kshs.1,673,450,405 in respect of use of goods and services which, as disclosed in Note 5 to the financial statements includes insurance costs of Kshs.225,141,922 out of which an amount of Kshs.3,096,775 relates to payment for insurance of motor vehicles. However, supporting documents including policy documents for the motor vehicles insured were not provided for audit.

In the circumstances, accuracy and completeness of the expenditure of Kshs.3,096,775 incurred on insurance could not be confirmed.

#### 539. Variances Between Financial Statements and Integrated Financial Management Information System (IFMIS)

The financial statements provided for audit review reflected the various balances following unreconciled which are at variances with corresponding balances in the Integrated Financial Management Information System

Component	Balance in the Financial Statements (Kshs.)	Balance in IFMIS (Kshs.)	Variance (Kshs.)
Exchequer Releases (Transfers from the CRF)	4,927,105,342	5,285,948,066	(358,842,724)
Other Receipts	34,147,666	-	34,147,666
Use of Goods and Services	1,673,450,470	1,708,627,053	(35,176,583)
Surplus/Deficit	(346,327,310)	(56,808,899)	(289,518,410.60)
Bank Balances	385,968,926	(4,187,304,040)	4,573,272,966
Cash Balances	-	15,128,563,108	(15,128,563,108)
Total Cash and Cash Equivalent	385,968,926	10,941,259,068	(10,555,290,142)
Outstanding Imprests and Advances	37,159,044	141,162,704	(104,003,660)
Total Financial Assets	423,127,970	11,082,421,772	(10,659,293,802)
Deposits and Retentions	134,872,180	5,619,920,350	(5,485,048,170)
Net Financial Assets	288,255,790	5,462,501,422	(5,174,245,632)
Fund Balance B/Fwd.	1,405,933,732	1,679,443,887	(273,510,155)
Prior Year Adjustments	(771,350,632)	-	(771,350,632)
Net Financial Position	288,255,790	1,622,634,987	(1,334,379,197)



In absence of any reconciliation, the accuracy and completeness of the respective amounts could not be confirmed.

#### **540. Doubtful Ownership of Land**

Annex 6 to the financial statements on summary of non-current assets reflects total assets (Historical Cost) value of Kshs.6,219,464,556 but with Nil balance for land. However, the County Executive owns several parcels of land including those that were inherited from the defunct local authorities. No reason was provided why the County Executive did not maintain and update the register. Further, no ownership documents were provided for land on which the County headquarters and the official Governor's residence is built.

In the circumstances, valuation and ownership of the total assets value of Kshs.6,219,464,556 could not be confirmed.

#### **Other Matter**

#### **541. Prior Year Unresolved Issues**

In the report 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 has indicated that some of the issues have not been resolved.

#### **542. 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.5,405,493,703 and Kshs.4,961,253,008, respectively, resulting to an under-funding of Kshs.444,240,695 or 8% of the budget. Similarly, the County Executive spent Kshs.5,307,580,317 against an approved budget of Kshs.6,705,855,994 resulting in an under-expenditure of Kshs.1,398,275,677 or 21% of the budget.

The under-funding and under-performance 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**

#### **543. Anomalies in Procurement**

##### **543.1 Construction of Sewerage and Drainage Works**

The statement of receipts and payments reflects an amount of Kshs.1,305,083,568 in respect of acquisition of assets which as disclosed in Note 10 to the financial statements includes a balance of Kshs.102,187,803 in respect to construction and civil works, out of which an amount of Kshs.5,677,000 was paid to a company for sewerage and drainage works through a request for quotation. This is contrary to Section 105 (a) of the Public

Procurement and Asset disposal Act, 2015 which states that a procuring entity can use request for quotation from the register of suppliers for procurement if the estimated value of goods, works or non-consultancy services being procured is less than the prescribed maximum value for using request for quotations as prescribed in regulations. The Public Procurement and Asset Disposal Regulations, 2020 second schedule fixed the allowable maximum threshold for class A procuring entities at Kshs.5,000,000.

Further, the contract agreement for the winning bidder was not provided for audit review contrary to Section 135 of the Public Procurement and Asset Disposal Act, 2015 which requires creation of a procurement contract.

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

#### **543.2 Construction of Civil Works**

The statement of receipts and payments reflects an amount of Kshs.1,305,083,568 in respect to acquisition of assets which as disclosed in Note 10 to the financial statements includes an amount of Kshs.102,187,803 in respect to construction and civil works. This component includes an amount of Kshs.5,260,400 paid to a company for construction of gabions through a request for quotation contrary to Section 105 (a) of the Public Procurement and Asset disposal Act, 2015 which states that a procuring entity can use request for quotation from the register of suppliers for procurement if the estimated value of goods, works or non-consultancy services being procured is less than the prescribed maximum value for using request for quotations as prescribed in the regulations. Public Procurement and Asset Disposal Regulations 2020 second schedule fixed the allowable maximum threshold for class A procuring entities at Kshs.5,000,000.

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

#### **543.3 Construction of Tululug Rock Catchment**

The statement of receipts and payments reflects an amount of Kshs.1,305,083,568 in respect to acquisition of assets as disclosed in Note 10 to the financial statements which includes an amount of Kshs.102,187,803 in respect of construction and civil works. This amount includes a total of Kshs.3,300,865 paid to a company for construction of Tululug rock catchment. However, the request for quotation was sent to only one bidder thus resulting to direct procurement contrary to Section 106 (2)(d) of the Public Procurement and Asset Disposal Act, 2015 which requires at least three (3) quotations to be submitted prior to evaluation.

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

#### **544. Non-Compliance with the One-Third of Basic Salary Rule**

During the year under review, one hundred and thirty (130) employees earned a net salary of less than a third (1/3) of the 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. Further Section D.22 of the County Human

Resources Manual on Pecuniary embarrassment states that a public officer will be expected to retain a net salary of not less than 1/3 of the basic salary per month.

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

#### **545. Non-Compliance with the Law on Fiscal Responsibility Principles- Wage Bill**

The statements of receipts and payments reflects an expenditure of Kshs.1,951,850,999 on compensation of employees which represents 39% of the total receipts of Kshs.4,961,253,008. This was contrary to the provisions of Regulation 25(1) (a) and (b) of the Public Finance Management (County Governments) Regulations, 2015 which provides a threshold of 35%.

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

#### **546. Non-Compliance with the Law on Staff Ethnic Composition**

During the year under review, the total number of employees of the County Executive was one thousand seven hundred and twenty-eight (1728) out of whom one thousand three hundred and fifty-five (1,355) or 78 % 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 Commission of 2008, which states that all public officer shall seek to represent the diversity of the people of Kenya.

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

#### **547. Employees Above Mandatory Retirement Age**

Review of employees records reflected that eighteen (18) employees were in the payroll despite having attained the mandatory retirement age of sixty (60) years and were not people living with disability. The County Executive did not explain why the employees had not retired. This contravened the provisions of the Public Service Commission Circular Ref No: PSC/ADM/13(7) dated 19 November, 2020 on Mandatory Retirement Age of Public Officers that provides the mandatory retirement age to be 60 and 65 years for non-disabled and for people with disability, respectively.

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

#### **548. Unsupported Payment of Allowances to Village Council Members**

As previously reported, the statement of receipts and payments and as further disclosed in Note 5 to the financial statements reflects an amount of Kshs.1,673,450,405 in respect of use of goods and services which includes an amount of Kshs.110,883,438 in respect of hospitality supplies and services. This amount includes Kshs.44,940,000 paid as sitting allowances to the village council of elders during the year under review. However, no evidence of approval of the sitting allowances by Salaries and Remuneration Commission (SRC) was provided for audit.

In the circumstance, the regularity of the expenditure amounting to Kshs.44,940,000 could not be confirmed.

#### **549. Procurement of Drugs without Contractual Agreement**

The statement of receipts and payments reflects an amount of Kshs.1,673,450,405 in respect of use of goods and services and as disclosed in Note 5 to the financial statements. The amount includes a total of Kshs.168,628,661 in respect to specialized materials and services. During the year under review, the County Executive procured drugs amounting to Kshs.59,072,372 from Kenya Medical Supplies Agency (KEMSA).

However, the contract between the County Executive and KEMSA expired on 26 July, 2021 hence the procurement of drugs worth Kshs.59,072,372 was made without valid contractual obligations. Further, inspection and acceptance committee report and stores record (S13 forms) indicated that all the drugs had been delivered whereas as at August, 2022 drugs worth Kshs.10,403,289 were yet to be delivered.

In the circumstances, value for money on the expenditure of Kshs.10,403,289 could not be confirmed.

#### **550. Unaccounted for Supply and Delivery of Food and Rations**

The statement of receipts and payments reflects an amount of Kshs.1,673,450,405 on use of goods and services which, as disclosed in Note 5 to the financial statements includes an amount of Kshs.168,628,661 in respect of specialized materials and services out of which an amount of Kshs.3,934,620 was paid for supply and delivery of food and rations. However, review of the stores records at Samburu Referral Hospital revealed that the supplies were not recorded and accounted for in monetary terms as delivery notes only indicated quantities.

Further, the inspection and acceptance reports were not provided for audit review. This is contrary to Section 48(3) of the Public Procurement and Asset Disposal Act, 2015 which states that the inspection and acceptance committee shall immediately after the delivery of the goods, works or services; inspect and where necessary, test the goods received, inspect and review the goods, works or services in order to ensure compliance with the terms and specifications of the contract; and accept or reject, on behalf of the procuring entity, the delivered goods, works or services.

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

#### **551. Unsupported Reimbursements of Allowances**

The statement of receipts and payments reflects an amount of Kshs.1,673,450,405 in respect to use of goods and services which, as further disclosed in Note 5 to the financial statements includes an amount of Kshs.814,558,977 and Kshs.149,122,297 in respect to other operating expenses and domestic travel and subsistence, respectively. Included in the operating expenses and domestic travel and subsistence expense amount of Kshs.2,942,400 and Kshs.510,400, respectively, all totalling to Kshs.3,452,800 paid to various members of staff as reimbursements or claims for night outs and coincidental expenses, while on various activities. However, no supporting documents for the activities including prior approval from the accounting officer were provided for audit.

In the circumstances, value for money on the expenditure of Kshs.3,452,800 could not be confirmed.

## **552. Unbalanced Budget**

The statement of comparison of budget and actual amounts reflects receipts budget of Kshs.5,405,493,703 and a budgeted expenditure of Kshs.6,705,855,994 resulting in an unbalanced budget of Kshs.1,300,362,291. However, no explanation was provided on how the County Executive intended to finance the deficit contrary to Regulation 31(c) of the Public Finance Management (County Governments) Regulations, 2015 which require budgeted revenues and expenditure to be balanced.

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

## **REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE**

### **Basis for Conclusion**

## **553. Lack of a Risk Management Policy**

As previously reported, Management did not provide evidence of existence of a Risk Management Policy to guide its management on risk management assessment and formulation of risk mitigation strategies in the year under review. This is contrary to the Regulation 158(1)(a) and (b) of the Public Finance Management (County Governments) Regulations, 2015 which requires Accounting Officer to develop risk management strategies which include fraud prevention mechanisms and internal control that builds robust business operation.

In the circumstances, it was not possible to confirm whether the internal controls built within the financial and operational system were functional as intended during the year under review.

## **554. Lack of Information Communication Technology (ICT) Strategic Plan and ICT Steering Committee**

Review of the County Executive's information technology systems revealed that the County Executive did not have an approved ICT Policy for governance and management of its ICT resources. Further, there is no ICT steering committee in place to assist in the development of ICT policy framework to enable the County Executive to realize long-term ICT strategic goals. Lack of an approved ICT policy may result in an unclear direction regarding maintenance of information security across the organization and safeguarding the County Executive's ICT assets. 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 effectiveness of the ICT internal control processes of the County Executive could not be confirmed.

#### **555. Payment of Salaries Outside Intergraded Personnel and Payroll Data (IPPD)**

The statement of receipts and payments reflects an amount of Kshs.1,951,850,999 in respect of compensation of employees and as disclosed in Note 4 to the financial statements. Review of salary records on the expenditure revealed that the expenditure included wages totalling to Kshs.228,107,701 which was paid through a manual payroll system. The manual payroll is prone to errors and other forms of misstatement.

In the circumstances, the existence of an effective mechanism to staff public resources could not be confirmed.



## **COUNTY EXECUTIVE OF TRANS NZOIA - NO.26**

### **REPORT ON THE FINANCIAL STATEMENTS**

#### **Basis for Qualified Opinion**

##### **556. Unaccounted for Office Stationeries and Cleaning Materials**

The statement of receipts and payments reflects an expenditure of Kshs.422,632,918 under other payments which includes an amount of Kshs.127,199,761 spent on office stationeries and cleaning materials by the Departments of Health and Finance. However, stores records such as S3 forms and S11 forms indicating how the items were received and issued were not maintained.

In the circumstances, the accuracy, propriety and completeness of the expenditure of Kshs.127,199,761 could not be confirmed.

##### **557. Failure to Receipt Revenue**

The County Executive collected revenue amounting to Kshs.177,831,271 through the ZIZI revenue system. This amount does not include revenue collected by health facilities which is accounted for and banked separately. An analysis of the bank statements indicates that the County received revenue amounting to Kshs.196,037,501 which resulted in a variance of Kshs.18,206,230 which was not receipted.

In the circumstances, the accuracy of the receipts amounting to Kshs.177,831,271 could not be ascertained.

##### **558. Anomalies in Other Operating Expenses**

The statement of receipts and payments reflects an expenditure of Kshs.1,201,401,824 under use of goods and services which includes an amount of Kshs.201,157,225 in respect of other operating expenses as disclosed in Note 3 to the financial statements. However, payments amounting to Kshs.14,419,369 were made to clear pending bills relating to prior years which were not disclosed in the year 2020/2021 financial statements. Further, payments for goods totalling Kshs.4,917,026 were not recorded in the store's ledger while payments for legal fees totalling Kshs.6,129,224 were not supported by case files.

In the circumstances, the accuracy and completeness of other operating expenses of Kshs.25,465,619 could not be confirmed.

##### **559. Misclassification of Expenditure Under Construction and Civil Works**

The statement of receipts and payments reflects an expenditure of Kshs.1,782,559,268 on acquisition of assets which includes an amount of Kshs.753,042,782 for construction and civil works as disclosed in Note 6 to the financial statements. However, payments totalling Kshs.109,204,957 paid through the Department of Gender, Youth, Culture,

Sports and Tourism were for the purchase of household goods, including blankets and cooking gas cylinders, that are not construction in nature.

In the circumstances, the regularity of the construction and civil works expenditure of Kshs.109,204,957 could not be confirmed.

#### **560. Unsupported Expenditure on Construction of Roads**

The statement of receipts and payments reflects an expenditure of Kshs.1,782,559,268 on acquisition of assets which includes an amount of Kshs.233,231,152 for the construction of roads as disclosed in Note 6 to the financial statements. However, the respective procurement and project implementation records such as requisitions, tender advertisements, appointment letters for Tender Opening and Evaluation Committee Members, tender opening and evaluation minutes, priced bills of quantities, measurement of works and site inspection minutes were not provided for audit.

In the circumstances, the regularity of the expenditure amounting to Kshs.233,231,152 could not be confirmed.

#### **561. Unsupported Cash and Cash Equivalents**

The statement of assets and liabilities reflects a bank balance of Kshs.110,200,648 as detailed in Note 8 to the financial statements. The balance includes Kenya Commercial Bank National Agriculture and Rural Inclusive Growth Programme (NARIGP) operations account balance of Kshs.52,181,172 and Kenya Commercial Bank Agricultural Sector Development Support Programme (ASDSP) account balance of Kshs.8,804,649. During the year under review, the County Government transferred a total of Kshs.225,041,254 and Kshs.12,194,066 to NARIGP and ASDSP respectively. However, the transferred amounts were fully recognized as expenditure in the statement of receipts and payments. The Management did not explain why the balances were still reflected in the statement of assets and liabilities.

In the circumstances, the accuracy and completeness of the bank balance of Kshs.110,200,648 could not be confirmed.

#### **562. Lack of Disclosure of Assets in Summary of Non-Current Assets Register**

Annex 5 to the financial statements reflects a summary of non-current asset register balance of Kshs.12,588,669,075 which includes an amount of Kshs.1,782,559,268 in respect of acquisitions during the year. However, the asset register presented for audit did not reflect the assets acquired during the year. Further, the asset register was not prepared in conformity with the Guidelines on Asset and Liability Management in the Public Sector of March, 2020 issued by the Cabinet Secretary to The National Treasury.

In the circumstances, the accuracy and completeness of non-current assets balance of Kshs.12,588,669,075 could not be confirmed.

#### **Other Matter**

#### **563. Budgetary Control and Performance**

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.9,305,304,756 and Kshs.7,953,219,439

respectively resulting to an under-funding of Kshs.1,352,085,317 or 15% of the budget. Similarly, the County Executive spent Kshs.7,856,324,225 against an approved budget of Kshs.9,305,304,756 resulting to an under-expenditure of Kshs.1,448,980,531 or 16% of the budget.

The under-funding and under-expenditure are an indication that the planned programs and activities would not be implemented and the public may not have received the envisaged services.

#### **564. Accumulation of Pending Accounts Payables**

Annex 2 to the financial statements indicates pending accounts payables balance of Kshs.821,549,884 as at 30 June, 2022. Review of schedules in support of the amounts from the respective Departments revealed significant variances as detailed below:

<b>Department</b>	<b>Amount as per Financial Statements (Kshs.)</b>	<b>Amount as per Supporting Schedules (Kshs.)</b>	<b>Variance (Kshs.)</b>
Public Works, Transport and Infrastructure	49,146,203	250,040,929	(200,894,726)
Environment, Water and Natural Resources	67,424,048	125,246,233	(57,822,185)
Gender, Youth, Sports, Culture and Tourism	22,422,514	96,430,033	(74,007,519)

Schedules of pending accounts payables and supported invoices from thirteen (13) Departments were not provided for audit. Further analysis of the schedules for the Department of Public Works, Transport and Infrastructure revealed pending accounts payables amounting to Kshs.176,576,529 which were not reflected in the Annex while there was an amount of Kshs.34,353,507 in the Annex and not in the schedules. Similarly, analysis of the schedules for the Department of Environment, Water and Natural Resources revealed pending accounts payables amounting to Kshs.67,689,350 which were not reflected in the Annex and Kshs.15,737,027 that were in the Annex and not in the schedules.

Accumulation of pending bills is contrary to The National Treasury Circular Ref. AG 3/101/75 which requires Accounting Officers to establish effective financial controls and maintain financial discipline for efficient use of resources. It is also contrary to Regulation 41(2) of the Public Finance Management (County Governments) Regulations, 2015 which requires that debt service payments should be a first charge on the County Revenue Fund.

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

## **565. 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, Report on Effectiveness of Internal Controls, Risk Management and Governance. Although Management has indicated that the issues have been resolved, the matters remain unresolved as the Senate has not deliberated and issued recommendations on them.

## **REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

### **Basis for Conclusion**

## **566. Acquisition of Assets**

### **566.1 Variance on Parcels of Public Land within Kitale Municipality**

A Task Force established by the County Government of Trans Nzoia, in consultation with the National Land Commission, through the Kenya Gazette Notice Vol.CXXIII-No.137 dated 25 June, 2021 in its report submitted to the Governor of Trans Nzoia County in June, 2022, established that the Kitale Municipality has 123 parcels of public land. This number of parcels of public land varied with 962 parcels included in the Trans Nzoia County Draft Land Valuation Roll of 17 September, 2015 translating to a reduction of 839 parcels of public land within 10 years. Further, review of the defunct Kitale Municipal Council Valuation roll of 20 November, 2006 revealed that the defunct Kitale Municipal Council had 1,403 parcels of public land at that time which was then reduced by 441 to 962 parcels as at 17 September, 2015. The Management, however, did not provide evidence that proper procedures for the allocation of public land were followed as required by Sections 12, 13 and 14 of The Land Act, 2012.

Further, the County Government charged rates based on a valuation roll that was approved in the year 2006 which is over 18 years contrary to Section 3 of the Valuation for Rating Act which requires every local authority to, at least once in every ten years or such longer period as the Minister may approve, cause a valuation to be made of every rateable property within the area of the local authority in respect of which a rate on the value of land is, or is to be imposed, and the values to be entered in a valuation roll.

### **566.2 Incomplete Asset Management Records**

Review of the records in respect of the County assets revealed that the County Government does not maintain reliable, accurate and up-to-date fixed assets register and valuation register of properties. The asset register provided does not conform to the reporting templates issued by The National Treasury, and it did not have specific details of all the assets owned by the County Government. It was therefore not possible to identify the number of properties owned by the County Government and their valuation as at the time of audit. Further, the County Government does not have Asset Monitoring and Management System and therefore cannot link all assets to the Geographical Information System (GIS).

The County Government also lack approved Assets Management Policies and guidelines and has not developed County Government Asset and Liability Management Guidelines

in line with policy, guidelines and templates issued by Public Sector Accounting Standards Board (PSASB) with the concurrence of the Cabinet Secretary, The National Treasury and Economic Planning.

In addition, the County Treasury has not constituted County Assets and Liabilities Management Committees to assist the County Treasury in the overall implementation of the assets and liability management framework. Further, the County Treasury has not implemented a maintenance plan in respect of every non-financial asset. The Accounting Officer has also not undertaken a comprehensive verification and condition assessment of all tangible assets controlled or used by the entity during the financial year under review.

In addition, it was not possible to identify, verify the existence and ownership of assets including land, buildings, motor vehicles, computers and computer accessories, furniture and fittings, plant and equipment, roads, current assets, biological assets, intangible assets, and projects and work in progress owned by the County Government across all the Departments.

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

### **566.3 Implementation of the Construction of Kitale Multi-Storey Business Complex**

The County Executive planned to construct a Multi Storey Business Complex Building in Kitale at a contract sum of Kshs.874,280,383. The financing model was to be co-funded in financial years 2018/2019, 2019/2020, 2020/2021 and 2021/2022 by the Kenya Urban Support Programme (KUSP) - Kshs.490,000,000; County Government of Trans Nzoia (CGTN) - Kshs.289,280,383; and Kenya Devolution Support Programme (KDSP) – Kshs.95,000,000. The contract awarded to a local construction company on 07 June, 2018 was to be implemented within an estimated completion period of 25 months, ending 07 July, 2020. The 586 closed-door market facility was aimed at providing market facilities to the public. However, project verification on 11 November, 2022, over 27 months after the contract period elapsed, revealed that the project was at about 70% completion level.

Further, review of the project records, and physical inspection of the project, revealed the following anomalies:

- a) The external and internal walling estimated to cost Kshs.38,717,682 were expected to be made of natural stonework with a comprehensive strength of 7N/mm squared but concrete blocks were instead used. However, there were no approved variation orders by the Accounting Officer and the variations were not captured in the measurement of works.
- b) The surface area of the internal walling estimated at 31,017 S/M was also reduced due to the change in plan from building 586 closed shops to having:
  - i) Ground floor has an open floor plan with an open-air market, 108 lockable shops, 208 display stands, 14 food courts, 264 people sitting area, 1 boda boda Sacco office and 75 boda boda parking,
  - ii) First and second floors have 256 (each 128) lockable shops, 608 (each 304) display stands and 228 (114 each) open-air spaces,

- iii) Third-floor plan has an open-air market, 314 display stands and 978 open spaces.
- iv) The number of lockable shops reduced from 586 to No.364, a reduction of 222. Similarly, the number of louvered double-leaved door was reduced by a similar number. Each door was costed at Kshs.83,115 implying that Kshs.18,451,530 was paid for work not done. Further, physical audit verification of the project revealed that the doors installed are normal steel doors expected to be less than half the price of louvered double-leaved doors.

Review of Valuation Certificate No. 9 revealed that an initial provision for works under Item No, 4 of Kshs.139,400,000 was revised upward by Kshs.81,150,000 (49%) to Kshs.208,945,123 after utilizing Kshs.127,795,123. This revision was not approved by the Evaluation Committee and the Accounting Officer.

Further, Certificate No.9 included Speciality provisional works under Item No. 5 estimated to cost Kshs.404,430,000. However, the Bill of Quantities and the measurement of works in support of the Kshs.315,038,427 paid for the specialty works were not presented for audit making it difficult to establish whether the works were competitively sourced and that the payments made were for actual work done.

In the circumstances, it was not possible to confirm that the contract was implemented as envisaged and in compliance with Section 150 of the Public Procurement and Asset Disposal Act, 2015 which requires an Accounting Officer or his or her appointed representative to be responsible for ensuring that the goods, works and services are of the right quality and quantity.

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

#### **567. Proposed Construction of Trans Nzoia County Teaching and Referral Hospital**

The statement of receipts and payments reflects an expenditure of Kshs.1,782,559,268 under acquisition of assets which includes an amount of Kshs.275,948,775 in respect of construction of buildings. The latter amount includes an amount of Kshs.108,400,393 paid to a consultant for services rendered for the construction of Trans Nzoia County Teaching and Referral Hospital.

However, the contract agreement was not provided for audit and therefore it was not possible to establish the initial contract sum and terms. Further, minutes of site visits conducted on 7 and 8 February, 2019 indicated a contract sum of Kshs.732,338,531 for Phase 2 and a revised contract sum for Phase 1 of Kshs.687,192,065 implying that the revised contract sum was Kshs.1,419,530,596.

Records presented for audit revealed that Phase 1 of the project was completed on 23 July, 2016 and Phase 2 of the project commenced on 15 December, 2018 with a projected completion date of 30 September, 2020.

A site verification on 28 October, 2022 revealed the following:

- (i) Construction on the second floor of four (4) theatres, the extension of a new wing and restaurant and cafeteria with estimated costs of Kshs.69,487,816.90, Kshs.90,789,233.62 and Kshs.22,721,066 respectively, were not in the original Bill



of Quantities. Further, variations amounting to Kshs.182,698,117 were not approved by the Evaluation Committee and the Accounting Officer contrary to Section 139(1) and 139(2) of the Public Procurement and Asset Disposal Act. The variations escalated the contract sum to Kshs.1,602,528,713.

- (ii) Phase 2 of the project remained incomplete as at 28 October, 2022, one hundred (100) weeks after elapse of the target completion date of 30 September, 2020. The following observations were also made:
  - a) Construction of the accident and emergency theatre was ongoing while the construction of the extended four (4) theatre rooms was also ongoing at about 35% completion.
  - b) The walls of theatre rooms on the ground floor had only one coat of paint applied while second floor's flooring was not done, doors were not fixed, electrical wiring and painting was not done.
  - c) Various additional works including three (3) lifts; a second floor consisting of the main laboratory, ENT unit and other undefined areas; sixteen (16) ICU wards; a new maternity theatre and an undefined area had stalled.
  - d) There were also no Medical Engineer Reports on the new changes and how this would impact the project. For instance; the open air and light coming through the corridor adjacent to the maternity wing were blocked by the contraction of additional areas leaving the corridor dark and losing esthetic value for the hospital. The section need to be completely lit during the day and the impact should be further reviewed by an independent Medical Engineer.
  - e) The foundation, frame and original pillars of the building have not been changed yet the building's plan has been changed from 2 to 3 floors. This has not been supported with tests to indicate that the building can sustain the pressure of an additional floor, the equipment and the occupants.
  - f) The external wall fence keying was not done while the road leading to the referral hospital was poorly done with dangerous blind corners leading to a steep depression that is dilapidated and with no road signs. The road did not have a retaining wall as required. Further, the service gate leading to the mortuary was poorly done, and not accessible by motor vehicles since the road is built 1.5 metres below the entrance.
- (iii) A sub-contractor was paid Kshs.6,412,264 for the filling of medical oxygen cylinders at the hospital. The filling was however done at the hospital's oxygen plant which was installed by the sub-contractor.
- (iv) There were no meaningful activities on site, an indication that the project had stalled even though the hospital was commissioned in August, 2022 in its incomplete status.

In the circumstances, it was not possible to ascertain whether value for money was obtained from funds incurred on the project, and Management was in breach of the law.

## **568. Lack of a Detailed Procurement Plan and Implementation of the E-Procurement System**

The Annual Procurement Plan for the financial year 2021/2022 did not specify the works, goods and services to be procured and the timelines within which procurement was to be done. General terms were used to describe the items and an aggregate amount was fixed against the items making it difficult to confirm whether the activities paid for during the year were included in the Procurement Plan. This was contrary to Regulation 41 of the Public Procurement and Disposal Regulations, 2020.

The County Executive also conducted some of its procurement processes outside IFMIS contrary to Regulation 49(2) of the Public Procurement and Asset Disposal Regulations, 2020 which requires the conduct of e-procurement procedures for the supply of goods, works and services 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.

## **569. Compensation of Employees**

### **569.1 Non-Compliance with the One Third of Basic Pay**

Review of the monthly payrolls for the year under review revealed instances where some employees of the County Executive received net salaries which were less than one third of the basic salary. This was contrary to Section 19(3) of the Employment Act, 2007 which states that the total amount of all deductions made by an employer from the wages of his employee at any one time, shall not exceed two-thirds of such wages.

### **569.2 Anomalies in Contractual and Temporary Employees**

Review of personnel records revealed that the County Executive had sixty (60) contractual employees, for a period exceeding six (6) months, thirty (30) of whom were above the age of sixty (60) years. There was no evidence that there was an emergency and/or they were experts to warrant their employment on contractual terms beyond 60 years. This was contrary to the Public Service Commission Circular Ref: PSC/GEN/10/III/(28) dated 5 April, 2019 on a framework for short-term employment in the Public Service.

Further, the County Executive engaged the services of six hundred and sixty (667) casuals out of whom 592 were engaged for twelve months without the approval of the County Public Service Board contrary to Section Part B16 of County Human Resource Manual 2013 which stipulates that Casual workers shall be engaged only on urgent short-term tasks with the approval of the County Public Service Board and that casual workers shall not be engaged for more than three months, as stipulated in the Employment Act (2007).

### **569.3 Employees Sharing the Same Bank Account**

Review of the payroll revealed that six (6) employees were sharing three bank accounts and as a result the salaries were paid into these shared accounts. There was no documentary evidence indicating the affected officers had given authority to the County Executive to pay their salaries into these common accounts. This was contrary to Section 17.(1) of the Employment Act, 2007.

#### **569.4 Personal Emoluments Paid Outside Integrated Personnel and Payroll Database (IPPD) System**

Included in the employees cost for the year under review is an amount of Kshs.151,826,540 for salaries and allowances paid outside the Integrated Personnel and Payroll Database (IPPD), contrary to the Section 1.5.1 of the Financial Accounting Recording and Reporting Manual and The National Treasury guidelines. No satisfactory explanation was given for the processing of the wages outside the IPPD system. Further, there was a risk of unauthorized payments through manual payrolls.

#### **569.5 Irregular Promotions**

Review of the payroll revealed instances where one hundred and six (106) employees of the County Executive were promoted by between 2 to 9 job groups within a year. The basis of these unusual promotions was not supported by documentary evidence such as advertisements, a list of applicants, interview minutes and a budget for the promotions. Further, no explanation was given in support of the unusual movement in job groups.

#### **569.6 Irregular Retention of Employees Above Sixty (60) Years**

The statements of receipts and payments reflect compensation of employees Kshs.2,908,416,393 as disclosed in Note 2 to the financial statements. Included in the balance is Kshs.142,182,717 paid to thirty-nine (39) employees who were still in service despite attaining the mandatory retirement age of sixty (60) years for several months based on June 2022 gross salary. Management did not provide reasons for the irregular retention of the employees beyond the mandatory retirement age.

#### **569.7 Non-Compliance with Deduction and Remittance of Statutory Dues**

Analysis of the i-Tax general ledger report obtained from the County Executive's KRA portal revealed that tax obligations totalling Kshs.2,759,678,795 comprised of Kshs.2,393,901,512 PAYE, Kshs.134,663,056 VAT and Kshs.231,114,227 Withholding Tax were outstanding as at 30 June, 2022. 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 9<sup>th</sup> of the following month; while Section 19 (2) of the Value Added Tax Act, 2013 and Section 34 (3) of the Tax Procedures Act, 2015 specify the duration within which the other forms of taxes should be remitted.

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

### **570. Identification, Collection and Accounting for Own Generated Revenue**

#### **570.1 Uncollected Revenue**

Own source revenue for the year under review amounted to Kshs.379,991,105 against a budgeted amount of Kshs.529,500,000 resulting to unrealized revenue of Kshs.149,508,895 or 28% of the budget. This was contrary to Regulation 63(1) of the Public Finance Management (County Governments) Regulations which requires Accounting Officers to put adequate safeguards for the prompt collection and proper accounting for, all county government revenue and other sums of moneys relating to their county departments or agencies.

## **570.2 Long Outstanding Property Rates**

Review of records maintained by the County Executive revealed that outstanding property rates amounted to Kshs.20,020,184,186 as at 19 February, 2022. However, there was no evidence of the measures put in place by Management to collect the rates. This was contrary to Regulation 63(b) of the Public Finance Management (County Governments) Regulations, 2015 that provides that an Accounting Officer and a Receiver of Revenue are personally responsible for ensuring that adequate measures, including legal action where appropriate, are taken to obtain payment.

## **570.3 Spending of Own Generated Revenue at Source by County Health Facilities**

Review of revenue records from various Sub-county hospitals within Trans Nzoia County established that revenue totalling Kshs.69,495,571 was collected out of which only Kshs.18,077,851 was banked resulting in expenditure at the source of Kshs.51,417,851 contrary to Regulation 63(4) of the Public Finance Management (County Governments) Regulations, 2015 which requires all sums of money collected by a Receiver of Revenue or Collector of Revenue or collected and retained by a county government entity, be paid into the designated bank accounts of the county government and shall not be used by any public officer in any manner between the time of their receipts and payment into the bank except as provided by law.

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

## **571. Failure to Prepare Quarterly Reports on Procurement**

The County Executive did not prepare quarterly reports on the implementation of the annual procurement plan and submit them to the County Executive Committee Member for Finance as required by Regulation 40(6) of the Public Procurement and Asset Disposal Regulations, 2020.

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

## **572. Contracts not Publicized in the Public Procurement Information Portal**

All the contracts awarded by the County Executive were not published and publicized in the public procurement information portal or County's website. This was contrary to Section 138(2) of the Public Procurement and Asset Disposal Act, 2015, which requires an Accounting Officer of a procuring entity to report all contract awards to the Public Procurement Regulatory Authority (PPRA). This was also contrary to Executive Order No. 2 of 2018 which requires publication of all procurement information including tender notices, contracts awarded, suppliers and their directors in the Public Procurement Information Portal (PIIP).

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

## **573. Failure to Appoint Receiver of Revenue**

The County Executive Committee Member for Finance did not appoint a Receiver of Revenue contrary to Section 157(1) of the Public Finance Management Act, 2012, which requires him to, in writing, designate persons to be responsible for collecting, receiving

and accounting for such county government revenue as he may specify in their letters of designation.

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

#### **574. Anomalies in Fuel Usage**

The statement of receipts and payments reflects an expenditure of Kshs1,201,401,824 under use of goods and services which includes an amount of Kshs.10,813,721 for fuel, oil and lubricants. However, Management made payments totalling Kshs.177,245,086 for fuel and other petroleum products to various suppliers in all its programmes. However, motor vehicle work tickets were not presented to account for how the fuel, which was bought and paid for in bulk, was issued to the motor vehicles contrary to Section 160(1) of the Public Procurement and Asset Disposal Act, 2015 that requires an Accounting Officer to a procuring entity to manage its inventory, assets and stores to prevent wastage and loss, and continuing utilization of supplies.

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

#### **575. Non-Surrender of Outstanding Imprest**

The statement of assets and liabilities reflects a Nil balance in respect of outstanding imprests and advances. However, review of the IFMIS imprest register presented for audit revealed an amount of Kshs.100,150,000 transferred to County Executive of Trans Nzoia Standing Imprest Account held at Equity Bank. Review of the bank statements for the account revealed that cash withdrawals totalling Kshs.103,620,000 were made by two officers and a manual cash book presented for audit showed that the cash was spent on hospitality costs, domestic and subsistence allowances, general office stationeries and others that should otherwise have been procured competitively as required by law.

Further, standing imprest amounting to Kshs.21,800,139 transferred to County Government of Trans Nzoia Health Office Account held at Kenya Commercial Bank were overdue and ought to have been surrendered within seven (7) days of the officers returning to their duty stations as required in Regulation 93 of the Public Finance Management (County Governments) Regulations, 2015. No justification was provided for the failure to recover the above amounts from the affected staff salaries.

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

### **REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE**

#### **Basis for Conclusion**

#### **576. Unprocedural Voiding of Payments and Payments Without Matching Purchase Orders**

Analysis of the Integrated Financial Management Information System (IFMIS) revealed that two thousand, nine hundred and seventy-seven (2,977) payments with amounts totalling Kshs.1,568,032,810 were voided before the final payment stage. No explanation was provided on why payments that had already been approved by the Controller of Budget (CoB) were cancelled before the final payment process. Further, no evidence was



provided to show that the cancellation of these payments was notified to the Controller of Budget.

In addition, a comparative analysis of payment details and the purchasing activity register revealed instances where payments for goods, services and works were done without corresponding purchase orders.

In the circumstances, risk management strategies, which include fraud prevention mechanism and a system of risk management and internal control could not be confirmed.

#### **577. Lack of an Information Technology (IT) and Continuity Policy**

Review of the ICT infrastructure and documents revealed that the County Executive did not have an approved IT Strategic Committee, Strategic Recovery Plan, formal and documented emergency procedures and IT Continuity Plan despite continued use and procurement of ICT equipment and software.

In the circumstances, the effectiveness of Management's response to risks could not be confirmed.

#### **578. Internal Audit and Risk Management**

##### **578.1 Internal Audit Reports**

Review of the County Executive of Trans Nzoia for the year 2021/2022 revealed that there was no evidence of work done by the Internal Audit Unit in the year under review contrary to Regulation 153(1) of the Public Finance Management (County Governments) Regulations, 2015 which requires an internal auditor to evaluate budgetary performance, financial management, transparency and accountability mechanisms and processes and review the state of risks management, control governance and effectiveness of the financial and non-financial performance management in the County Government entities.

##### **578.2 Non-Functional Audit Committee**

Although the County Executive had established an Audit Committee, the Audit Committee did not hold any meetings 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.

##### **578.3 Lack of a Risk Management Policy**

During the year under review, the County Executive of Trans Nzoia did not have a Risk Management Policy. This was contrary to Regulation 158 1(a)(b) of the Public Finance Management (County Governments) Regulations, 2015 which requires each County Government entity to develop risk management strategies and a system of risk management strategies, which include fraud prevention mechanism; and the County Government entity develops a system of risk management and internal control that builds robust business operations.

In the circumstances, the County Executive was not capable of identifying operational areas prone to risks and put mitigation measures against misuse or loss of public resources.



## COUNTY EXECUTIVE OF UASIN GISHU - NO.27

### REPORT ON THE FINANCIAL STATEMENTS

#### Basis for Qualified Opinion

##### 579. Inaccuracies in the Financial Statements

The statement of receipts and payments reflects total revenue and expenditure of Kshs.9,265,267,117 and Kshs.10,252,542,027, respectively for the year ended 30 June, 2022. However, the amounts differed with the Integrated Financial Management Information System (IFMIS) ledger as detailed below:-

<b>Payments</b>	<b>Financial Statements Amounts (Kshs)</b>	<b>Amounts in IFMIS Ledger (Kshs)</b>	<b>Variance (Kshs)</b>
Use of Goods and Services	1,847,601,014	1,858,193,373	(10,592,359)
Transfers to Other Government Units	1,122,810,868	695,545,578	427,265,290
Other Grants and Transfers	620,168,057	209,495,650	410,672,407
Acquisition of Assets	3,045,647,234	3,084,283,424	(38,636,190)
Finance Costs, including Loan Interest	231,721	30,000	201,721

Further, examination of the statement of cash flows reflects prior year other adjustments amounting to Kshs.111,500 and Kshs.160,517,070 in respect of outstanding imprests and advances and deposits and retentions, respectively. However, Management omitted the 2019/2020 outstanding balances of Kshs.3,343,895 and Kshs.133,443,364 in calculating the increase/(decrease) in the outstanding imprests and advances and deposits and retentions resulting to an unexplained variance of Kshs.3,232,395 and Kshs.27,073,706, respectively.

In the circumstances, the accuracy, completeness, presentation and disclosure of the amounts reflected in the financial statements could not be confirmed.

##### 580. Late Transfers from the County Revenue Fund

The statement of receipts and payments reflects exchequer releases (transfer from the CRF) of Kshs.9,265,267,117 as disclosed in Note 1 to the financial statements. However, review of payment records and bank statements provided for audit revealed that transfers to the County Executive amounting to Kshs.135,177,841 were received on 18 July, 2022 after the end of the financial year. As a result, the transactions were not recorded within the correct reporting period. This is contrary to Regulation 97(1) of the Public Finance Management (County Government) Regulations, 2015 on accounting and reporting which

states that the accounts of the County Government Entities shall record transactions which take place during a financial year running from 1, July to the 30, June.

In the circumstances, the accuracy, completeness, presentation and disclosure of the transfers to County Executive amounting to Kshs.135,177,841 could not be confirmed.

#### **581. Inaccuracies in the Cash and Cash Equivalents**

The statement of assets and liabilities reflects bank balances of Kshs.653,894,949 held in thirty – three (33) bank accounts and one Mpesa account as disclosed in Note 14A to the financial statements. However, the bank balance in respect of overseas education bank account in Kenya Commercial Bank for students proceeding for further studies in Finland and Canada was not disclosed in the financial statements.

In the circumstances, the accuracy and completeness of the bank balance of Kshs.653,894,949 could not be confirmed.

#### **582. Non-Current Assets**

##### **582.1 Acquisition of Land Without Ownership Documents**

The statement of receipts and payments reflects acquisition of assets amount of Kshs.3,045,647,234 as disclosed in Note 10 to the financial statements which includes an amount of Kshs.112,079,979 in respect of acquisition of land. Review of records provided for audit established that the County Executive paid fully for various parcels of land valued at Kshs.84,314,997. However, no ownership documents were provided for audit other than the original title deeds of the vendors. Further, full payment was made upon signed sale agreements despite the full ownership not transferred to the County Executive.

In the circumstances, ownership of the parcels of land acquired by the County Executive valued at Kshs.84,314,997 could not be confirmed.

##### **582.2 Omission of Assets Inherited from Defunct Local Authorities**

Annex 6 to the financial statements on summary of Non-Current Asset Register reflects historical cost carried forward balance of Kshs.15,745,789,109. However, the fixed assets register provided for audit revealed that assets inherited from the defunct Local Authorities were omitted from the balances. Management explained that although the assets were excluded from the fixed assets register, they had been verified, validated and details forwarded to the Intergovernmental Relations Technical Committee (IGRTC) and Intergovernmental Budget and Economic Council (IBEC) so that they give guidance and direction. This was contrary to the gazette notice No. CXXI-No.81 of 21 June, 2019 which provided that County Governments should record the assets inherited from the defunct Local Authorities on the as-is-where-is basis.

In the circumstances, the accuracy and completeness of the summary of non-current assets register balance of Kshs.15,745,789,109 could not be confirmed.

### **582.3 Incomplete Fixed Assets Register**

The summary of fixed assets register disclosed in Annex 6 to the financial statements reflects total historical costs of assets balance of Kshs.15,745,789,109. However, review of the County Executive's fixed asset register revealed that assets whose total historical cost amounting to Kshs.14,846,535,780 were not included in the summary of fixed asset register. Further, the register did not indicate the size of each parcel of land and the terms in which they are held as required by Regulation 136(2) of Public Finance Management (County Governments) Regulations, 2015. Further, Management had not tagged or branded its assets for tracking and safeguarding. As a result, the County Executive is likely to lose its assets due to weak controls in asset monitoring and control.

In the circumstances, the completeness and accuracy of fixed assets balance of Kshs.15,745,789,109 as at 30 June, 2022 could not be confirmed.

### **582.4 Fixed Assets Without Ownership Documents**

The summary of fixed assets register in Annex 6 to the financial statements reflects total historical costs of assets balance of Kshs.15,745,789,109. Included in the balance is historical cost of land balance of Kshs.290,611,733 which includes a balance of Kshs.202,446,669 relating to forty-six (46) parcels of land whose ownership documents were not provided for audit. Although Management explained that the process of obtaining titles for the said land were underway, the process had not been finalized as at the time of audit. In addition, included in transport equipment balance of Kshs.451,912,340 is an amount of Kshs.246,568,586 in respect of eighty-six (86) transport equipment out of which seventy-one (71) motor vehicles had nil cost as indicated in the fixed asset register. Further, the logbooks were not provided for audit.

In the circumstances, the completeness, accuracy and ownership of assets balance of Kshs.15,745,789,109 could not be confirmed.

### **582.5 Unremitted Retirement Benefits Contributions**

The statement of receipts and payments reflects compensation of employees amount of Kshs.3,612,444,534 as disclosed in Note 4 to the financial statements which includes an amount of Kshs.222,014,340 paid to pension and other social security contributions. Review of the payrolls and payment vouchers in respect of Local Authorities Provident Fund (LAPFUND), Local Authority Pension Trust (LAPTRUST) and Public Services Superannuation Scheme (GOK PSSS) reflected gross amount of Kshs.194,561,899 in respect of pension contributions for seven (7) months. However, the remittance records indicated that an amount of Kshs.192,361,734 was paid resulting to underpayment of Kshs.2,200,165. In addition, no documentary evidence was provided for review to confirm subsequent remittance of the balance and non-inclusion of the amount in the pending payables.

In the circumstances, the accuracy and completeness of social security contributions of Kshs.222,014,340 could not be confirmed.

## **582.6 Non-Disclosure of Outstanding Pension Contributions**

Note 2 on other important disclosures and Annex 3 to the financial statements reflects pending staff payables balance of Kshs.51,360,496 as at 30 June, 2022. However, review of records reflected unremitted retirement benefits contributions to pension funds totalling Kshs.297,813,110 resulting in an unexplained and undisclosed variance of Kshs.246,452,614. Further, Management did not provide satisfactory explanation for failure to settle the bills in the year when they were incurred or paid as a first charge during the year under review. This was contrary to Section 53 (a)(1) of the Retirement Benefits Act, 1997 which requires an employer to remit the deduction from the employee's emoluments to a pension scheme within fifteen (15) days of the deduction.

In the circumstances, the accuracy and regularity of outstanding pension contribution could not be confirmed.

### **Other Matter**

## **583. Budgetary Control and Performance**

The statement of comparison of budget and actual amounts - recurrent and development combined amounts reflects final receipts budget and actual on comparable basis of Kshs.13,213,659,493 and Kshs.9,265,267,117, respectively resulting to an under-funding of Kshs.3,948,392,376 or 30% of the budget. Similarly, the County Executive spent Kshs.10,252,542,027 against an approved budget of Kshs.13,213,659,493 resulting to an over-expenditure of Kshs.2,961,117,466 or 22% of the budget.

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

## **584. Pending Cases Against the County Executive**

As reported earlier, Annex 8 to the financial statements discloses one hundred and nine (109) cases with estimated financial impact of Kshs.496,814,946 pending against the County Executive as at 30 June, 2022. Further, examination of records provided for audit revealed that over seven hundred (700) court cases were pending against the County Executive. Management explained that several measures have been put in place to deal with the increasing court cases including handling the matters in-house, operationalizing the Office of the County Attorney, out-of-court settlements and establishment of an independent fund to deal with the court cases.

The unresolved cases may have a significant financial impact on the County Executive and can adversely affect future cash flows.

## **585. Accumulation of Pending Accounts Payables**

Note 1, 2 and 3 of other important disclosures to the financial statements reflects pending accounts payable, pending staff payables and other pending payables balance of Kshs.620,546,085, Kshs.51,360,496 and Kshs.43,589,664, respectively totalling to Kshs.715,496,245. However, the supporting schedule reflected total pending bills

balance of Kshs.710,286,352 resulting to an unexplained variance of Kshs.5,209,893. Accumulation of pending bills is contrary to The National Treasury Circular Ref AG 3/101/75 which requires Accounting Officers to establish effective financial controls and maintain financial discipline for efficient use of resources and Regulation 41(2) of the Public Finance Management (County Government) Regulations, 2015 which requires that debt service payments shall be a first charge on the County Revenue Fund. Further, failure to settle pending bills during the year in which they relate distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

## **586. Unresolved Prior Year 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, Management had not resolved the issues or explained failure to implement the recommendations.

## **REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

### **Basis for Conclusion**

## **587. Compensation of Employees**

### **587.1 Non-Compliance with the Fiscal Responsibilities Principles on Wage Bill**

The statement of receipts and payments reflects compensation of employees amount of Kshs.3,612,444,534 representing 39% of the total revenue totalling to Kshs.9,265,267,117. This is contrary to Regulation 25(1)(b) of the Public Finance Management (County Governments) Regulations, 2015 which states that in addition to the fiscal responsibility principles set out in Section 107 of the Act, the following fiscal responsibility principles shall apply in the management of public finances, the limit set under paragraph (a) above, shall not exceed thirty five (35) percent of the County Government's total revenue.

### **587.2 Non-Compliance with the One Third of Basic Pay Rule**

The statement of receipts and payments reflects compensation of employees amount of Kshs.3,612,444,534 as disclosed in Note 4 to the financial statements. However, review of the payroll for the year ended 30 June, 2022 revealed instances where some employees received net salaries less than a third of their respective basic salaries while other staff members received negative salaries. This was contrary to Section 19(3) of the Employment Act, 2007 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.

### **587.3 Non-Compliance with the Law on Staff Ethnic Composition**

Review of personnel records provided revealed that during the year, the County Public Service Board recruited a total of seventy-five (75) County staff who were employed in

various categories. However, out of the seventy-five (75) County staff recruited, sixty-eight (68) or approximately 91% were from the dominant community in the County contrary to the provisions of Section 65(1)(e) of the County Governments Act, 2012 which requires that the County Public Service Board in selecting of employees, to ensure that at least thirty percent (30%) of the vacant posts at entry level are filled by candidates for appointment who are not from the dominant ethnic community in a County.

Further, there was no evidence to show that Management submitted to the National Employment Authority notification of employment contrary to Section 31(1) of the National Employment Authority Act, 2016 which states that upon successful interview and securing of employment by a person registered under this Act, the successful applicant shall communicate the same to the Authority in the prescribed manner. No explanation was provided for the omission.

In addition, the County Executive had a total of three thousand two hundred and twenty-two (3,222) employees out of whom two thousand five hundred and ninety-three (2,593) or approximately 79% were from the dominant community.

#### **587.4 Irregular Employment of Casuals**

The statement of receipts and payments reflects an amount of Kshs.3,612,444,534 in respect of compensation of employees as disclosed in Note 4 to the financial statements, which includes an amount of Kshs.132,310,267 paid to County casual employees. Included in the expenditure is an amount of Kshs.108,619,333 incurred on casual employees who were engaged on temporary terms continuously for more than three (3) months contrary to the provisions of Section 37(1)(a)(b) and (3) of the Employment Act, 2007 which provides for conversion of the casual employment to a regular employment terms for employees who have worked in an entity continuously for more than three months. No explanation was provided for the anomaly.

#### **587.5 Staff Members and Interns with Similar Bank Account Numbers**

Review of the County Executive's payroll revealed instances where members of the County Executive including interns had the same bank codes, branch and account number in the same bank which were not joint bank account contrary to Section 1.5.1 of the Financial Accounting Recording and Reporting Manual which requires that salaries are paid directly into staff bank accounts. Management did not explain why members of staffs shared bank account numbers with a risk of incurring irregular payments.

#### **587.6 Failure to Establish Occupational Safety and Health Committee**

The County Executive has not established a safety and health committee at the workplace as required under Section 9(1) of the Occupational Safety and Health Act, 2007. Further, Management has not provided a safety and health audit report as required under Section 11(1) of the Occupational Safety and Health Act, 2007 which stipulates that the occupier of a workplace shall cause a thorough safety and health audit of his workplace to be carried out at least once in every period of twelve months by a safety and health advisor.

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



## **588. Use of Goods and Services**

As disclosed in Note 5 to the financial statements, the statement of receipts and payments reflects expenditure of Kshs.1,847,601,014 in respect of use of goods and services. Review of records in respect of the expenditure revealed the following unsatisfactory issues:-

### **588.1 Irregular Payment for Training Services**

The expenditure includes an amount of Kshs.208,598,936 in respect of training expenses. Examination of documents in support of the expenditure revealed that a payment of Kshs.3,000,000 was made to a supplier for provision of catering and full board services during training of sixty-six (66) County Officers from Roads Department. However, review of the County Executive training needs analysis for the year 2019-2020, revealed that the Department did not submit training requirements during the year. This was contrary to Paragraph 2.3.1 of the Public Service Commission Human Resource Development Policy for Public Service June, 2015, which states that all training in public service organizations shall be based on comprehensive Training Needs Assessments (TNA) to be conducted every three (3) years or as need arises.

In the circumstances, it was not possible to confirm value for money for the expenditure totalling Kshs,3,000,000.

### **588.2 Irregular Award of Legal Dues or Fees, Arbitration and Compensation Payments**

The expenditure includes an amount of Kshs.40,526,089 paid to six(6) legal firms representing the County Executive in various legal cases and providing legal consultancy services. According to the signed framework contract dated 3 January, 2018, the law firms were to provide legal services as instructed by the County Executive for a period between three (3) years and five (5) years commencing immediately upon signing of the contract and were subsequently renewed on 4 January, 2021. However, the procurement documents on how the legal firms representing the County Executive were identified and appointed were not provided for audit.

Further, no documentary evidence was provided to show that Management prepared value for money assessment reports as required by Section 114(2) of Public Procurement and Asset Disposal Act, 2015, or that Management prepared and submitted to the Accounting Officer with a copy to the internal auditor quarterly reports detailing analysis of the items procured through framework agreements as required by Section 114(6) of Public Procurement and Asset Disposal Act, 2015. In addition, no documentary evidence was provided to show that the Accounting Officer reported the contracts awarded to Public Procurement Regulatory Authority as required in Section 138(2) of the Public Procurement and Asset Disposal Act, 2015.

In the circumstances, it was not possible to confirm the competitiveness in the procurement process and value for money for payments totalling to Kshs.40,526,089 on legal dues or fees, arbitration and compensation payments.

## **589. Acquisition of Assets**

The statement of receipts and payments reflects acquisition of assets amount of Kshs.3,045,647,234 as disclosed in Note 10 to the financial statements. Review of records and inspections carried out revealed the following unsatisfactory issues:

### **589.1 Construction of Buildings**

#### **589.1.1 Complete but Idle Maternity Ward**

The expenditure includes construction of buildings amount of Kshs.551,337,013 which further, includes an expenditure of an amount of Kshs.7,504,866 that was paid towards the construction of seventy (70) beds maternity ward in the financial year under review. The tender for the construction was competitively procured at a contract sum of Kshs.63,005,156 on 29 March, 2017 with an expected completion time of fifty-six (56) weeks from the date of signing of the agreement. A total sum of Kshs.59,871,749 or approximately 94% of the contract sum had been paid to the contractor as at 30 June, 2022. Physical verification conducted in the month of August, 2022, approximately two hundred and seventy-six (276) weeks after the signing of the contract agreement revealed that the works had been completed but the Ward was not in use. Further, payments for year 2019, 2020, 2021 and 2022 were paid after the expiry of the contractor's performance bond on 26 June, 2018.

#### **589.1.2 Delay in the Proposed Erection and Completion of Model Kesses Sub-county Hospital**

The expenditure includes construction of buildings amount of Kshs.551,337,013 as disclosed in Note 10 to the financial statements. Further, included in the expenditure is an amount of Kshs.113,776,165 that was paid towards the proposed erection and completion of Model Kesses Sub - county Hospital phase two in the financial year under review. The tender for the project was competitively procured and awarded to a company at a contract sum of Kshs.450,565,250 on 29 May, 2020 with an expected completion period of one hundred and four (104) weeks, commencing immediately upon signing of the contract agreement. The contract involved construction of out-patient department block, family planning block, kitchen block, incinerator and laundry and morgue block. A total amount of Kshs.277,478,076 or approximately 62% of the contract had been paid as at 30 June, 2022. Physical verification conducted in the month of August, 2022 revealed that the substructures of the buildings were complete, roofing of the buildings was done, and the works were approximately 78% complete. Although the contractor was on site, the construction was behind schedule by six (6) months which was over one hundred and twelve (112) weeks after signing of the contract agreement.

#### **589.1.3 Delay in the Construction and Completion of Turbo Sub-county Office Block**

The expenditure includes construction of buildings amount of Kshs.551,337,013. Included in this expenditure is an amount of Kshs.24,876,814 that was paid to a local contractor towards construction and completion of Turbo Sub - county office block in the year under review. The tender was competitively procured and awarded to a company at a contract sum of Kshs.105,055,705 on 3 January, 2022 with an expected completion time of fifty-

two (52) weeks commencing immediately upon signing of the agreement. However, the managerial reports and operational plan by the project implementation team, a risk register maintained to monitor all identified contract risks and the mitigation plan and a status report that include executive summary report on performance of activities and budget; and any other issues relevant to the contract such as environmental and general observation on the performance rating were not provided for verification. Further, there was no documentary evidence that report by the Implementation Committee to the Accounting Officer on the outcome of the project was prepared contrary to Regulation 138(1) of Public Procurement and Asset Disposal Regulations, 2020 which states that a review meeting, status report that include executive summary, reports on the performance of the activities and budget by the implementation team be done and forwarded to the Accounting Officer.

#### **589.1.4 Delay in the Construction of Flats**

The expenditure includes construction of buildings amount of Kshs.551,337,013. Included in the expenditure is an amount of Kshs.6,050,950 paid to a local contractor towards proposed erection and construction of low cost two-bedroom flats at Macharia Estate. The contract was competitively procured and awarded to a company at a contract sum of Kshs.37,844,799 on 5 January, 2022 with works expected to be completed within thirty-six (36) weeks. An amount of Kshs.6,050,950 approximately 16% of the contract sum was paid during the 2021/2022 financial year.

Although the Project Implementation Team was appointed to oversee the implementation of the project and submit to the Accounting Officer monthly reports, reports were not provided for audit. Further, there was no documentary evidence by the Team to the Accounting Officer on the outcome of the project contrary to Regulation 138(1) Public Procurement and Asset Disposal Regulations, 2020. Physical verification of the project conducted in the month of November, 2022, revealed that over thirty-six (36) weeks after the signing of the contract agreement had lapsed and approximately 40% of the works had been done, the contractor was on site and works on the project were ongoing beyond the completion date. Approval for the extension was not provided.

#### **589.1.5 Stalled Construction of Chagaiya High Altitude Training Camp**

The expenditure includes construction of buildings amount of Kshs.551,337,013. Further, included in this expenditure is an amount of Kshs.20,934,085 paid to a contractor for construction of Chagaiya High Altitude Training Camp in the year under review. The tender was competitively procured and awarded to a company at a contract sum of Kshs.136,526,650 on 27 March, 2020 with an expected completion period of seventy-two (72) weeks commencing immediately upon signing of the agreement. There was an extension request for another thirty (30) weeks and the extension was granted by the procuring entity on 30 August, 2021 and the revised completion date was 30 March, 2022.

Amounts of Kshs.42,983,760 and Kshs.20,934,085 were paid to the contractor during the financial year 2020/2021 and 2021/2022 respectively all totalling to Kshs.63,917,845 approximately 47% of the contract sum. However, physical verification of the project conducted in the month of November, 2022, that is over thirty-one (31) months after the signing of the contract agreement revealed that approximately 50% of the works had been

done. At the time of verification, the contractor was not on site, an indication that the project had stalled with only 50% of the works completed. Further, Management reports and operational plan by the Implementation Team for the project were not provided for audit contrary to Regulation 138(1) Public Procurement and Asset Disposal Regulations, 2020 which states that a review of meetings, status reports that include executive summary, reports on the performance of the activities and budget by the implementation team be done and forwarded to the Accounting Officer.

#### **589.1.6 Delay in the Upgrading of Stadium**

The expenditure includes construction of buildings amount of Kshs.551,337,013 which further includes an amount of Kshs.405,357,958 paid to a company in respect of proposed upgrading of sixty-four (64) Stadium in the financial year under review. The tender for the proposed upgrading of the stadium was competitively procured and awarded at a contract sum of Kshs.1,163,563,925 on 9 April, 2021 with works expected to be completed within sixty (60) weeks commencing immediately upon signing of the agreement. However, there was no documentary evidence provided by the Project Implementation Committee on the contract management plan.

Further, there was no documentary evidence of a report on the outcome of the project by the implementation committee to the Accounting Officer contrary to Regulation 138(1) of the Public Procurement and Asset Disposal Regulations, 2020 which states that a review meeting, status report that include executive summary, reports on the performance of the activities and budget by the implementation team be done and forwarded to the Accounting Officer. Physical verification of the project conducted in the month of November, 2022 over twenty (20) months after the signing of the contract agreement revealed that approximately 40% of the works had been done, the contractor was on site and works on the project were ongoing.

#### **589.1.7 Delay in the Proposed Erection and Completion of Ziwa Level 5 Hospital**

The expenditure includes construction of buildings amount of Kshs.551,337,013, which further includes an amount of Kshs.30,683,959 paid towards the proposed construction of Ziwa Sub-county Level Five Hospital in the financial year under review. The tender for the proposed construction of the Hospital was competitively procured and awarded to a Company at a contract sum of Kshs.806,562,179 on 2 January, 2020 and work was expected to be completed within forty (40) weeks commencing immediately upon signing of the agreement. The contract involved construction of X-Ray block, outpatient department block, records block, pharmacy block and maternity block. A total of Kshs.249,107,644 or approximately 31% of the contract sum had been paid to the contractor as at 30 June, 2022.

Physical verification of the project conducted in the month of August, 2022, approximately sixty-eight (68) weeks after the signing of the contract agreement confirmed that the substructures of the buildings are complete but roofing of the buildings was not yet done. The contractor was on site and the works were approximately 58% complete.

In the circumstances, the residents of Uasin Gishu County may not get value for money for funds already invested on the delayed projects.

## **589.2 Irregular Procurement of Consultancy Services**

The expenditure includes refurbishment of building expenditure of Kshs.38,217,070. Included in the expenditure is an amount of Kshs.10,848,800 in respect of request for consultancy services for supervision of the proposed upgrading of sixty-four (64) stadium. The tender was awarded to a company at a contract sum of Kshs.56,800,000. The Management notified the unsuccessful tenders in writing but did not indicate the reasons why the successful bidder was chosen as required by Section 87(3) of Public Procurement and Asset Disposal Act, 2015. In addition, no documentary evidence was provided to show that the Accounting Officer reported monthly the contracts awarded to the Public Procurement Regulatory Authority as required in Section 138(2) of Public Procurement and Asset Disposal Act, 2015 and Public Procurement and Asset Disposal (PPRA) CIRCULAR NO 01.2021 dated 21 April, 2021. According to the Inspection and Acceptance Committee report dated 28 June, 2022, the service was at 48.8% complete whereas the performance bond expired on 29 October, 2022.

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

## **589.3 Construction of Roads**

### **589.3.1 Construction of Box Culvert at Chamnyet-Kabutia Road in Kipsomba Ward**

The expenditure includes construction of roads amount of Kshs.770,726,298. Included in the expenditure is an amount of Kshs.4,234,989 paid on 22 April, 2022 to a contractor for construction of Box Culvert at Chamnyet-Kabutia road in Kipsomba ward. According to a letter of notification of award dated 31 May, 2021 an amount of Kshs.4,235,798 was offered and the contractor accepted the offer and the resulting contract was signed on 18 June, 2021. However, no evidence was provided to show that the Accounting Officer reported the contracts awarded to the Public Procurement Regulatory Authority on monthly basis as required by Section 138(2) of Public Procurement and Asset Disposal Act, 2015 and the same placed on the notice boards as per Circular No.01/2021 dated 21 April, 2021 of Ref No.PPRA/6/5 VOL.1/(10) of Public Procurement Regulatory Authority.

### **589.3.2 Hire of Construction Equipment for Construction of Assorted Roads**

The expenditure includes construction of roads amount of Kshs.770,726,298. Further, included in this expenditure is an amount of Kshs.94,153,028 incurred on hiring of construction equipment for construction of roads in Uasin Gishu County. The tender for hiring of construction equipment was competitively procured and the winning bidders notified on 29 November, 2021 and 2 December, 2021 and the resulting contracts were signed as from 22 December, 2021 to 4 January, 2022. However, no documentary evidence was provided to show that the Accounting Officer reported the contracts awarded to Public Procurement Regulatory Authority on monthly basis as required in Section 138(2) of Public Procurement and Asset Disposal Act, 2015 and the same was placed on their notice boards as per Circular No.01/2021 dated 21 April, 2021 of Ref No.PPRA/6/5 VOL.1/(10) for Public Procurement Regulatory Authority. No explanation was provided for the anomaly.



### **589.3.3 Unsupported Expenditure on Construction of Ziwa Township Road**

The expenditure includes construction of roads amount of Kshs.770,726,298 which further includes an amount of Kshs.29,388,717 paid in two instalments to a company in respect of construction of roads works at Ziwa Township. The tender was competitively procured and awarded to a company at a contract sum of Kshs.29,392,030 on 6 December, 2021. However, included in the contract sum was amounts of Kshs.1,444,000, Kshs.540,000 and Kshs.9,720,746 for preliminaries and supervisory or support services, HIV/AIDS awareness and education respectively, which were not supported with site inspection register, signed daily reports, certified payment certificate and signed payment details of the same as required by Regulation 104 of the Public Finance Management (County Governments) Regulations, 2015.

### **589.3.4 Unsupported Expenditure in the Construction of Racecourse Primary-Oletebes-Pastrol Centre Marriot Junction Road**

The expenditure includes construction of roads and construction and civil works amount of Kshs.770,726,298 and Kshs.1,080,551,144 respectively, totalling to Kshs.1,851,277,442. Included in the expenditure are payments totalling to Kshs.106,505,439 paid in three (3) instalments to a Construction Company in respect of construction of Racecourse Primary-Oletebes-Pastrol Centre Maroit junction road. The tender was competitively procured, awarded and contract signed on 9 January, 2021 at a contract sum of Kshs.130,712,766. According to a regret letter dated 10 December, 2020, the Management notified the unsuccessful tenders in writing and also indicated the successful bidder and tender price but did not state the reason for the bid submitted by the successful bidder as required by Regulation 82(3) of the Public Procurement and Asset Disposal Regulations, 2020. Further, included in the expenditure is amounts of Kshs.2,035,000, Kshs.981,537 and Kshs.60,052,049 paid for preliminaries and supervisory/support services, HIV/AIDS awareness and education and third interim payment certificate totalling to Kshs.63,068,586 which were not supported with site inspection register, signed daily reports, certified payment certificate and signed payment details of the same contrary to Regulation 104 of the Public Financial Management (County Governments) Regulations, 2015. In addition, no documentary evidence was provided indicating that the Accounting Officer reported the contracts awarded to the Public Procurement Regulatory Authority on monthly basis as required in Section 138(2) of the Public Procurement and Asset Disposal Act, 2015 and the same was placed on their notice boards as per Circular No.01/2021 dated 21 April, 2021 of Ref No.PPRA/6/5 VOL.1/(10) for Public Procurement Regulatory Authority.

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

## **589.4 Construction and Civil Works**

### **589.4.1 Unsupported Variances in the Infrastructure Works in Eldoret Municipality**

The expenditure includes construction of civil works amount of Kshs.1,080,551,144. Included in the expenditure is an amount of Kshs.26,356,763 paid for infrastructure works in Eldoret Municipality during the year under review. The tender was awarded to a construction company at a contract sum of Kshs.154,800,000 for a period of seventy-two



(72) weeks. The works covered non-motorized transport infrastructure; Chepkoilel - Sogomo, Zion mall – Rupa – RVTTI - AIC Kaplimo – Sosiani - Oil Libya, Public works – PCEA - A104(AIC Cathedral). During the year under review, two payments were made in respect of retention money totalling to Kshs.26,356,763. Review of the summary of bill of quantities on interim payment certificate number 3 for earth works revealed an unexplained material variance of Kshs.20,010,114 (approximately 502%) between the billed amounts of Kshs.3,990,000 and expenditure to date of Kshs.24,000,114. This is contrary to Section 139(4) of the Public Procurement and Asset Disposal Act, 2015 which provides that, the quantity variation for goods and services does not exceed fifteen per cent of the original contract quantity, the quantity variation of works does not exceed twenty per cent of the original contract quantity.

#### **589.4.2 Unsupported Expenditure - Proposed Paving of Miyako-Maxxis Tagore, Ndupawa-Fish Point**

The expenditure includes construction of roads, construction and civil works and research, project preparation, design and supervision amounts of Kshs.770,726,298, Kshs.1,080,551,144 and Kshs.132,986,555 respectively, totalling to Kshs.1,984,263,997. Included in the expenditure is an amount of Kshs.62,597,829 paid in three (3) instalments to a Company in respect of paving of Miyako-Maxxis Tagore, Ndupawa-Fish Point.

Records indicated that the tender for proposed paving of Miyako-Tagore, Ndupawa-Fishpoint was competitively procured and awarded to a company and a contract signed on 8 January, 2021. According to the letter of regret dated 10 December, 2020, Management notified the unsuccessful tenders in writing and indicated the successful bidder and tender price but did not state the reason why the bid submitted by winning bidder was successful as required by Regulation 82(3) of the Public Procurement and Asset Disposal Regulations, 2020. Further interim certificate No. 1 had a sum of Kshs.83,032,801 which included Kshs.5,115,000 and Kshs.2,338,750 for preliminaries and supervisory or support services and for HIV/AIDS awareness and education totalling Kshs.7,453,750 which were not supported with site inspection register, signed daily reports, certified payment certificate and signed payment details of the same as required by Regulation 104 of the Public Finance Management (County Governments) Regulations, 2015.

#### **589.4.3 Acquisition of Intangible Assets**

The expenditure includes acquisition of intangible assets expenditure of Kshs.7,414,324. Included in the expenditure is an amount of Kshs.3,431,173 paid to a consultant in June, 2022 for acquisition of intangible assets. According to a letter of notification of award dated 30 March, 2022 an amount of Kshs.8,577,934 was offered which the consultant accepted as indicated in the unreferenced letter of acceptance dated 12 April, 2022 and a contract was signed on 25 April, 2022. The consultant was to conduct the service immediately and deliver within twelve (12) weeks. According to the final report dated 17 June, 2022, the consultant had implemented all the deliverable terms as showed in the signed contract. However, the software's rights were still housed in the consultant's server and not clear when the software will be handed over to the County Executive as the contract is behind schedule.

In the circumstances, Management was in breach of the law and the public may not get value for money.

#### **589.5 Non-Surrender of Outstanding Imprest**

The statement of assets and liabilities reflects account receivable - outstanding imprests and advances balance of Kshs.3,601,760 as disclosed in Note 15 to the financial statements. The imprests were overdue and ought to have been surrendered within seven (7) days of the officers returning to their duty stations as required in Regulation 93 of the Public Finance Management (County Governments) Regulations, 2015. No justification was provided for the failure to recover the above amounts from staff salary.

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

#### **589.6 County Assembly Budget**

During the year under review, the County Executive allocated the County Assembly a final budget of Kshs.807,971,808. This exceeded the lower of seven percent of the total revenues of the County Government of Kshs.9,677,712,285 (8%) or twice the personnel emoluments of that County Assembly of Kshs.350,654,059, whichever is lower (i.e Kshs.701,308,118) by Kshs.106,663,690. This is contrary to Regulation 25(1)(f) of the Public Finance Management (County Governments) Regulations, 2015. The excess budget may have adversely affected the implementation of County Executive programmes and service delivery to the public.

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

### **REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE**

#### **Basis for Conclusion**

#### **590. Failure to Prepare Monthly Payroll Reconciliation Statements**

The statement of receipts and payments reflects compensation of employees amount of Kshs.3,612,444,534 as disclosed in Note 4 to the financial statements. However, during the year, monthly payroll reconciliation statements were not prepared reconciling changes in month to month payroll payment; this may lead to non-detection of errors in payroll data. This was contrary to Regulation 158(1) of Public Finance Management (County Governments) Regulations, 2015 which states that the Accounting Officer shall ensure that (a) the County Government entity develops risk management strategies, which include fraud prevention mechanism; and (b) the County Government entity develops a system of risk management and internal control that builds robust business operations.

In the circumstances, risk management strategies, which include fraud prevention mechanism and a system of risk management and internal control could not be confirmed.

#### **591. Lack of Inventory Policy**

Review of procurement records revealed that there was no documentary evidence provided indicating that the procurement entity had an Inventory Policy to guide on inventory management, stores and assets purchased. Further there were no yearly stock take reports. This was contrary to Regulation 132(1) 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 - (a) preventative mechanisms are in place to eliminate theft, security threats, losses, wastage and misuse; (b) movement and conditions of assets can be tracked; and (c) stock levels are at an optimum and economical level.

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

#### **592. Lack of Risk Management Policy**

Review of the County Executive records for the year 2021/2022 revealed that the Risk Management Policy was not in place contrary to Regulation 158(1)(a)(b) of the Public Finance Management (County Governments) Regulations, 2015 which requires each County Government entity to develop risk management strategies and a system of risk management strategies, which include fraud prevention mechanism; and the County Government entity develops a system of risk management and internal control that builds robust business operations.

In the circumstances, the County Executive ability to identify operational areas prone to risks and put in mitigation measures against misuse or loss of public resources could not be confirmed.

#### **593. Salaries Paid Outside Integrated Personnel and Payroll Database (IPPD) System**

The statement of receipts and payments reflects compensation of employees expenditure of Kshs.3,612,444,534 as disclosed in Note 4 to the financial statements. Included in the expenditure is an amount of Kshs.46,912,273 paid as salaries and allowances outside the Integrated Personnel and Payroll Database (IPPD), contrary to The National Treasury guidelines. No explanation was provided for processing of the wages outside the IPPD system. Further, there is risk of unauthorized payments through manual payrolls and the calculations are prone to error or manipulations.

In the circumstances, existence of effective mechanisms on the payroll could not be confirmed.

## COUNTY EXECUTIVE OF ELGEYO/MARAKWET - NO.28

### REPORT ON THE FINANCIAL STATEMENTS

#### Basis for Qualified Opinion

#### 594. Variance Between Financial Statements and Integrated Financial Management Information System (IFMIS) Records

Review of the financial statements revealed several balances which differ with those reflected in the IFMIS ledger in relation to corresponding accounts as detailed below;

Item Description	Financial Statements Amounts (Kshs.)	Amounts as per IFMIS Records (Kshs.)	Variance (Kshs.)
Exchequer Releases	4,588,451,226	372,256,692	4,216,194,534
Other Grants and Transfers	78,149,877	77,910,977	238,900
Bank Balances	455,836,241	9,346,641,177	8,890,804,936
Cash in Hand	-	2,125,024,856	2,125,024,856
Accounts Receivables - Outstanding Imprest and Clearance Accounts	-	13,395,992	13,395,992
Accounts Payable - Retention Money	93,032,849	83,845,852	9,186,997

No reconciliations were provided by Management for the variances.

In the circumstances, the accuracy and completeness of the balances and the financial statements could not be confirmed.

#### 595. Un-Supported Expenditure

The statement of receipts and payments reflects other grants and transfers amount of Kshs.78,149,877 which includes scholarships and other educational benefits expenditure of Kshs.52,183,544 as disclosed in Note 8 to the financial statements. However, payments totalling to Kshs.2,729,420.00 was not acknowledged through miscellaneous receipts and acknowledgement letters from beneficiary institutions.

In the circumstance, the accuracy and completeness of other grants and transfers of Kshs.2,729,420.00 could not be confirmed.

#### 596. Unconfirmed Deliveries of Pharmaceuticals and Non-Pharmaceutical Items

The statement of receipts and payments reflects use of goods and services amount of Kshs.487,950,930 which includes specialized materials and services amount of Kshs.167,346,194 as disclosed in Note No.5 to the financial statements. This further includes an expenditure of Kshs.41,632,585 paid to Kenya Medical Supplies Agency (KEMSA) for supply of pharmaceuticals and non-pharmaceutical items of Kshs.28,844,960 and Meds of Kshs.12,787,625. However, the payments were done

without invoices and delivery notes as proof of delivery for the supplies. It was not possible to confirm whether these supplies were delivered.

In the circumstances, the propriety and completeness of the payment of Kshs.41,632,585 could not be confirmed.

## **Other Matter**

### **597. Budgetary Control and Performance**

The statement of comparison of budget and actual amounts had an approved final receipts budget of Kshs.5,961,136,889 against actual receipts of Kshs.4,588,451,226 resulting in an under-receipt of Kshs.1,372,685,663 or 23% of the approved budget. Similarly, out of the approved final expenditure budget of Kshs.5,961,136,889, the County Executive realized an actual expenditure of Kshs.4,513,715,903 leading to an under-expenditure of Kshs.1,447,420,986 or 24% of the approved budget.

The under-utilization of approved budget and under funding affected planned activities and may have impacted negatively on service delivery.

### **598. Unresolved Prior Year Audit Matters**

Review of the progress on follow up on prior year auditor's recommendations revealed that, 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 which remained unresolved contrary to Section 149(2)(l) 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**

#### **599. Non-Compliance with Recruitment Procedures**

Review of personnel records revealed that the County Public Service Board (CPSB) recruited a total of twenty-seven (27) employees across five (5) departments. However, the recruitment was carried out without an annual recruitment plan/human capital plan contrary to Regulation 119(2) of the Public Finance Management (County Governments) Regulations, 2015 which states that the budgetary allocation for personnel costs shall be determined on the basis of a detailed costing of a human capital plan of a County Government entity as approved by the responsible county department for public service management matters, the County Public Service Board and County Treasury.

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

#### **600. Non-Compliance with the Law on Staff Ethnic Composition**

Examination of personnel records provided revealed that the County Public Service Board (CPSB) recruited a total of twenty-seven (27) employees across five (5) departments and one (1) County Public Service Board (CPSB) Member.

However, all the twenty-eight (28) staff recruited (100%) were from the dominant community in the county contrary to the provisions of Section 65(1)(e) of the County Government Act, 2012 which requires that the County Public Service Board in selecting of employees, to ensure that at least thirty percent (30%) of the vacant posts at entry level are filled by candidates for appointment who are not from the dominant ethnic community.

Further, the records provided for audit indicated that the County Executive had a total of one thousand six hundred and seventy-seven (1,677) employees out of which one thousand five hundred and seventy-four (1,574) or 94% were from the dominant community. 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 community.

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

#### **601. Non-Compliance with the Law on Fiscal Responsibility – Wage Bill**

Review of the compensation of employees revealed that expenditure on compensation to employees was Kshs.2,239,580,441 equivalent to 49% of total revenue of Kshs.4,588,451,226. The expenditure was in excess of the threshold of 35% prescribed in Regulation 25(1b) of the Public Finance Management Act (County Government) Regulations, 2015.

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

#### **602. Electric Fencing - Rimoi National Reserve**

The statement of receipts and payments reflects acquisition of assets amount of Kshs.1,344,469,910 which includes construction and civil works balance of Kshs.387,632,927 as disclosed in Note 10 to the financial statements. This further includes a payment of Kshs.2,499,300 to a local company with respect to supply, delivery and installation of fencing materials at Rimoi Game Reserve. However, a physical verification of the project on 21 October, 2022, showed that the fencing materials had been delivered but not installed. The fencing posts were not treated for weather resistance as specified in the contract documents and were lying at the Rimoi National Reserve. The Solar panels and batteries were kept at the County Head Quarters and not installed. No explanation was provided as to why the fencing project was not completed as required.

In the circumstances, it was not possible to confirm whether value for money was realized on the expenditure.



#### **603. Rehabilitation and Extension of Ainabyat Water Project**

The statement of receipts and payments reflects acquisition of assets amount of Kshs.1,344,469,910 which includes rehabilitation and civil works amount of Kshs.157,699,883 as disclosed in Note 10 to the financial statements. Included in the balance is payment of Kshs.32,763,155 to a contractor towards rehabilitation and extension of Ainabyat Water project. The works were to be completed within one hundred fifty (150) days between 4 March, 2021 and 4 August, 2021. Physical verification of the project revealed that works valued at Kshs.6,782,050, although paid for, had not been completed.

In the circumstances, the value for money on the expenditure of Kshs.6,782,050 could not be confirmed.

#### **604. Unutilized Hospital Equipment**

The statement of receipts and payments reflects acquisition of assets amount of Kshs.1,344,469,910. Included in this amount are payments totalling to Kshs.62,564,734 in respect to purchase of specialized plant, equipment and machinery as disclosed in Note 10 to the financial statements. Examination of the documents provided for audit revealed that the County Executive paid an amount of Kshs.8,800,000 and Kshs.1,395,620 for supply and delivery of hospital theatre equipment for Kaptarakwa Sub-county hospital and laundry machine to Tambach Sub-county hospital respectively. However, physical verification carried out in the month of November, 2022 revealed that the theatre equipment had been lying idle for six (6) months, while the laundry machine had been lying idle for thirteen (13) months and had not been installed.

In the circumstances, the value for money on the expenditure of Kshs.10,195,620 on specialized equipment and machinery could not be confirmed.

#### **605. Incomplete Projects**

Thirty-three (33) projects with a total expenditure amount of Kshs.199,170,821 were verified. Out of these, twenty-eight (28) projects were complete while five (5) projects were at various stages of completion with a total expenditure amount of Kshs.91,769,122. However, Management has not explained the reasons for not completing the five (5) projects.

In the circumstances, the value for money on the expenditure of Kshs.91,769,122 on incomplete projects could not be confirmed.

#### **606. Irregular Payment of Insurance Rebates**

Examination of payment records indicated that the County Executive paid an amount of Kshs.5,052,000 to National Hospital Insurance Fund (NHIF) in respect to rebates. However, the Memorandum of Understanding provided to support the payments expired in December, 2019. No renewal documents were provided for audit. Further these payments were not supported with relevant documentation on how the beneficiaries were identified, registered and profiled in the County Executive records.

In the circumstances, the value for money on the expenditure of Kshs.5,052,000 could not be confirmed.

#### **607. Irregularities on Payment to the Tender Evaluation Committees**

The statement of receipts and payments reflects total payments amount of Kshs.4,513,715,903. However, examination of documents revealed tenders totalling to Kshs.69,942,906 were evaluated by the same officers contrary to Section 46(1) & (2) of the Public Procurement and Asset Disposal Act, 2015. No documents were provided to confirm how the officers were appointed to the tender evaluation committee as required by the Act. Further, no evidence was provided to show whether there was consultation between the procuring entity and the head of the department before such appointments were made.

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

### **REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE**

#### **Basis for Conclusion**

#### **608. Lack of Operating Manuals**

As reported previously, Management had not developed financial manuals, policies and procedures to guide key processes and controls for the management of revenue, assets and expenditure. The manuals and policies would have prescribed roles and responsibilities in County operations and provided for segregation of duties and other controls.

In the absence of the manuals, guidance and controls on management of revenue, assets and expenditures of the County Executive could not be confirmed.

#### **609. Manual Processing of Personnel Emoluments**

The statement of receipts and payments reflects compensation of employees' balance of Kshs.2,239,580,441. Included in this balance is personnel emoluments payments totalling to Kshs.172,870,338 which were processed and paid manually 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.

In the circumstance, existence of effective management of payroll could not be confirmed.

## COUNTY EXECUTIVE OF NANDI - NO.29

### REPORT ON THE FINANCIAL STATEMENTS

#### Basis for Qualified Opinion

#### 610. Presentation, Accuracy and Completeness of the Financial Statements

##### 610.1 Differences Between Financial Statements and Integrated Financial Management Information System (IFMIS) Reports

The financial statements reflects items with balances that vary with the corresponding balance in the reports generated from IFMIS as detailed below;

Notes to Financial statement	Amount as per Financial Statements (Kshs)	Amount as per Notes to IFMIS Reports (Kshs)	Variance (Kshs)
Exchequer Releases	7,235,998,225	-	7,235,998,225
Other Receipts	298,804,624	-	298,804,624
Compensation of Employees	3,649,417,748	3,877,026,950	(227,609,202)
Use of Goods and Services	1,380,479,065	2,167,956,443	(787,477,378)
Subsidies	9,500,000	-	9,500,000
Transfer to Other Government Entities	803,003,318	-	803,003,318
Other Grants and Payments	392,680,715	121,790,767	270,889,948
Acquisition of Assets	1,080,487,617	1,537,849,493	(457,361,876)
Cash and Bank Balances	573,925,503	388,170,169	185,755,334
Cash in hand	20,372	7,474,612,858	(7,474,592,486)
Accounts Receivables - Outstanding Imprest	-	968,154,385	(968,154,385)
Deposits and Retention	7,829,373	-	7,829,373
Fund Balance Brought Forward	573,945,875	(34,413,083,519)	34,987,029,394
Prior Year Adjustments	15,649,903	-	15,649,903
Pending Accounts Payable	83,348,794	50,965,243,317	(50,881,894,523)
Related Party Transactions	6,990,869,041	-	6,990,869,041

No satisfactory explanations or reconciliations has been provided for the above variances.

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

##### 610.2 Misstatements in the Statement of Comparison of Budget and Actual Amounts

The statement of comparison of budget and actual amounts-recurrent and development combined reflects total actual payments on comparable basis amount of Kshs.7,315,568,463, while a recast revealed a total of Kshs.7,725,891,066 resulting to an understatement by Kshs.410,322,603. Further, other grants and transfers actual

expenditure is reflected as Kshs.803,003,318 instead of Kshs.392,680,715 as reflected in the statement of receipts and payments, leading to a difference of Kshs.410,322,603.

In addition, the statement of comparison of budget and actual amounts (development) reflects actual on comparable basis, total payments of Kshs.1,579,050,137. Recast of the payments however, revealed a total of Kshs.1,588,550,137 resulting to an understatement of Kshs.9,500,000. The statement also reflects a budget utilization difference of Kshs.1,112,124,663, while a recast revealed a budget utilization difference of Kshs.1,102,624,663 resulting to an overstatement of Kshs.9,500,000.

### **610.3 Budget Execution by Programmes and Sub-Programmes**

The budget execution by programmes and sub-programmes reflects an over expenditure of Kshs.1,215,000 design of roads and bridges. Similarly, the statement reflects expenditure of Kshs.349,869,941 free primary education which is a misrepresentation since the budget has no item on free primary education. Further, the statement reflects secondary bursary management services expenditure of Kshs.156,504,115 which is at variance with the amount of Kshs.107,000,000 reflected as transfer to Nandi County Education Fund in Note 7 to the financial statements.

In the circumstances, the accuracy completeness, presentation and disclosure of the budget amount could not be confirmed.

### **610.4 Summary of Non-Current Assets Register**

As disclosed in Annex 6 to the financial statements, the summary of non-current assets register reflects historical cost as at 30 June, 2022 carried forward balance of Kshs.8,992,730,283 which includes heritage and cultural assets balance of Kshs.1,406,759,241. Examination of records revealed that purchase of breeding stocks amount of Kshs.29,979,303 has been classified as additions to heritage and cultural assets during the year. Further, acquisition of strategic stocks and commodities amount of Kshs.54,007,589 was included under additions for the year as biological assets. The amount was however, for vaccines and liquid nitrogen purchased by the Department of Agriculture for service delivery to farmers but were included in the asset register. Further, buildings and structures and transport equipment balances of Kshs.519,689,394 and Kshs.31,184,178, respectively, were included as additions during the year but could not be confirmed as the supporting documents were not provided.

In the circumstances, the accuracy and completeness of non-current assets balance of Kshs.8,992,730,283 could not be confirmed.

## **611. Misstatements in the Cash and Cash equivalents**

### **611.1 Unconfirmed Bank Reconciliation Statements**

Examination of bank reconciliation statement for the Central Bank of Kenya Recurrent Account for the month of June, 2022 revealed payments in the cash book not recorded in bank statement (unpresented cheques) amount of Kshs.145,449,228. Details on the dates when the payments were subsequently cleared in the bank were however, not provided. Further, out of the total unpresented cheques, payments totalling Kshs.19,734,054 relates to imprests issued to members of staff. The County Government

did not however disclose any outstanding imprests in the financial statements and the imprest registers, warrants and approvals were not provided for audit.

In addition, cash and cash equivalents balance of Kshs.573,925,503 includes Nandi County KDSP Account balance of Kshs.49,245,004 while the cash book reflects a balance of Kshs.34,516,564 resulting to a variance of Kshs.14,728,440 which has not been explained.

#### **611.2 Irregular Netting off Balances**

Further, the statement of assets and liabilities reflects cash and cash equivalents balance of Kshs.573,925,503 which includes net off of overdrawn deposits and retention and Nandi County salary account balance of Kshs.7,829,373 and Kshs.219,779,009 respectively as disclosed in Note 14A to the financial statements. This is contrary to IPSAS 1, paragraph 48 which states that assets and liabilities and revenue and expenses shall not be offset unless required or permitted by an IPSAS.

In the circumstances, the accuracy and completeness of the cash and cash equivalents balance of Kshs.573,925,503 could not be confirmed.

#### **611.3 Non-Disclosure of Pending Accounts Payable**

As disclosed in Note 1 on other important disclosures, the County Executive had pending accounts payable balance of Kshs.83,348,794. The analysis in Annex 2 for pending accounts payable has not been included as required by the Public Sector Accounting Standards Board.

In the circumstances, the accuracy and completeness of pending accounts payable balance of Kshs.83,348,794 could not be confirmed.

#### **611.4 Payments Made Outside IFMIS**

The statement of receipts and payments reflects use of goods and services amount of Kshs.1,380,479,065 which includes hospitality supplies and services amount of Kshs.147,464,882 as disclosed in Note 5 to the financial statements. However, verification of documents in support of the amount revealed that payments totalling to Kshs.14,469,230 were made to hotels for hire of conference facilities. The transactions were made outside the IFMIS system.

In the circumstances, the accuracy and propriety of the expenditure of Kshs.14,469,230 on hospitality supplies and services could not be confirmed.

#### **611.5 Irregular Payment of Insurance Costs**

The statement of receipts and payments reflects use of goods and services amount of Kshs.1,380,479,065 which includes insurance costs of Kshs.229,913,793 as disclosed in Note 5 to the financial statements. The amount includes payments made to an insurance broker of Kshs.175,000,000 for provision of medical insurance cover. However, review of records and supporting documents revealed the following unsatisfactory matters:

- i. Payment voucher for Kshs.75,000,000 was not provided for audit. Further, payment voucher for Kshs.100,000,000 was not supported with a Local Service Order, LSO while the insurance policy document was not provided for audit.
- ii. The professional opinion by the Head of Procurement function was issued on 14 October, 2021 while the tender evaluation was done on 28 October, 2021, fourteen (14) days after the professional opinion was given contrary to Regulation 78 (2) of the Public Procurement and Asset Disposal Regulations, 2020 which states that the evaluation report under paragraph (1), shall be reviewed by the head of the procurement function and forwarded to the Accounting Officer together with the professional opinion referred to in Section 84 of the Act within a day upon receipt of the evaluation report.
- iii. Letters appointing the Tender Opening Committee Members and the Committee's minutes were not provided for audit.
- iv. The contract agreement was to come into force on the date of execution of the agreement and to continue for the initial period of 12 months from the effective date. The contract agreement did not however, indicate the date the agreement was entered into. Therefore, it was not possible to determine the effective date and the initial period.

In the circumstances, the regularity and value for money for the expenditure of Kshs.175,000,000 on insurance costs could not be confirmed.

#### **612. Unsupported Deposits Account Balance**

As disclosed in Note 16 to the financial statement, the statement of assets and liabilities reflects Nil balance in respect of accounts payable/deposits and retentions (Kshs.299,207,297:2020/2021) as at 30 June 2022. The clearance of the balance brought forward has not been supported with a note and schedule detailing the refunds made to the contractors and occasioning the Nil balance as at 30 June, 2022. Further, no deposits ledger was provided to support the balance held in this account.

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

#### **613. Unsupported Expenditure – Compensation of Employees**

The statement of receipts and payments reflects compensation of employees amount of Kshs.3,649,417,748. Analysis of payrolls revealed that two hundred and thirteen (213) employees were paid through both IPPD and manual payrolls an amount of Kshs.221,723,160. Management explained the payments outside IPPD was for airtime allowances and salary increments. The detailed list of the officers, amounts and authorities were not provided for audit.

In the circumstances, the accuracy of the expenditure amounting to Kshs.221,723,160 could not be confirmed.



#### **614. Un-Supported Expenditure**

The statement of receipts and payments reflects use of goods and services amount of Kshs.1,380,479,065 as disclosed in Note 5 to the financial statements which includes domestic travel and subsistence allowances amount of Kshs.140,270,871. Review of the payment vouchers revealed that an amount of Kshs.3,092,315 was not supported by requisite documents including imprest warrants, work tickets, report on the activity, program and attendance list.

Further, the balance includes other operating expenses amount of Kshs.38,002,007 out of which an amount of Kshs.33,296,000 which was spent directly without issuing any imprests. This is contrary to Regulation 104 of the Public Finance Management Regulations, 2015 which states that all receipts and payments voucher 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 accuracy and completeness of use of goods and services amounting to Kshs.36,388,315 could not be confirmed.

#### **Other Matter**

#### **615. 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 Kshs.8,965,549,809 and Kshs.7,534,802,849 respectively, resulting to an under-funding of Kshs.1,430,746,960 or 16% of the budget. Similarly, the statement reflects final expenditure budget and actual on comparable basis of Kshs.8,965,549,809 and Kshs.7,315,568,463 respectively resulting to an under expenditure of Kshs.1,649,981,346 or 18 % of the budget.

However, Management has explained that the variances mainly occurred as a result of failure to collect own generated receipts, low transfers from other Government entities and delays in the disbursement of funds from The National Treasury.

The under-funding and under-expenditure affected the planned activities and impacted negatively on service delivery to the residents of Nandi County.

#### **616. 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, the Management had not resolved the issues nor given any explanation for failure to implement the recommendations.

## REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

### **Basis for Conclusion**

#### **617. Project Verification and Status**

The physical verification of projects conducted during the month of December, 2022 revealed that, eleven (11) projects with an expenditure of Kshs.30,737,483 were implemented, out of which, seven (7) were completed, one (1) was incomplete, one (1) had stalled and two (2) were ongoing.

In the circumstances, the public has not realised value for the money spent on uncompleted project.

#### **618. Compensation of Employees**

##### **618.1 Lack of Approved Staff Establishment**

Review of the staff records revealed that the County Government did not have an approved staff establishment to determine the optimum number of the employees required to achievement of goals and objectives in the strategic plan as required by Public Service Human Resource Policies.

##### **618.2 Excessive Wage Bill**

The statement of receipts and payments reflects compensation of employees of Kshs.3,649,417,748, or 49% of the total revenue of Kshs.7,534,802,849. This is contrary to the provisions of Regulation 25 (1) (b) of the Public Finance Management (County Governments) Regulations, 2015 and part B.5 (2) of the County Human Resources Manual, 2013 which provides that wages shall not exceed thirty-five percent (35%) of the County Government's total revenue.

##### **618.3 Non-Compliance with the One Third of Basic Salary Rule**

Analysis of IPPD payroll for the month of June 2022 revealed that forty-eight (48) employees had committed their salaries beyond the one third of their basic salary contrary to the provisions of Section 19 (3) of the Employment Act, 2007. Over-commitment of salary may lead to pecuniary embarrassment of the public servants.

##### **618.4 Non-Compliance with the Law on Staff Ethnic Composition**

Analysis of Integrated Payroll and Personnel Data revealed that the County Executive of Nandi had five thousand one hundred and seventy-two (5,172) employees out of whom, four thousand nine hundred and forty-six (4,946) or 96% were members of the same ethnic community. Management was in contravention of Sections 7(1) and (2) of the National Cohesion and Integration Act, 2008 which 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.

### **619. Failure to Prepare Financial Statements**

The County Executive Management did not prepare and submit to the Auditor-General financial statements for Municipality of Kapsabet for the year ended 30 June, 2022 as required by Section 46 of the Urban Areas and Cities Act, 2011.

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

### **620. Acquisition of Assets**

#### **620.1 Proposed Construction of New Hospital**

The statement of receipts and payments reflects acquisition of assets amount of Kshs.1,080,487,617 which as disclosed in Note 10 to the financial statements includes construction of buildings amount of Kshs.292,163,104. Further, the expenditure includes construction of a new hospital with mother and baby unit at Kapsabet County Referral Hospital. The contract, was signed on 17 April, 2019 at a contract price of Kshs.409,813,441 for a duration of two years, two months and two weeks to coincide with the closure of the financial year 2020-2021. However, physical verification conducted in the month of November, 2022 revealed that the roofing, plastering and partitioning had not been done.

Further, windows and doors were yet to be fixed and the project is only 65% complete over one and a half years after the contract date. In addition, certificates of works and payment vouchers for the financial year 2021-2022 were not provided for audit.

#### **620.2 Irregularity in Design, Supply, Installation and Commissioning of Milk Processing Equipment**

The statement of receipts and payments reflects acquisition of assets amount of Kshs.1,080,487,617 which includes construction of buildings and purchase of specialized plants, equipment and machinery amounts of Kshs.292,163,104 and Kshs.29,423,798, respectively. The amount includes payments totalling to Kshs.28,980,226 for design, supply, installation and commissioning of Nandi Co-operative creameries milk processing plant. Site visit in the month of October, 2022 and review of documents revealed the following unsatisfactory observations.

- i. Payment of Kshs.13,000,000 to a local firm for supply and installation of phase I of the equipment was supported by the certified works and inspection and acceptance committee report. The amount was however, an advance payment for clearance of transportation cost and port charges for the equipment which was not provided for in the contract.
- ii. The 10% retention monies were not withheld against the payments made totalling Kshs.28,980,226.
- iii. Contract for phase II of builder's work was entered into on 7 February, 2020 at a contract sum of Kshs.67,753,818. The contract did not however, specify the

contract period. Further, the contract indicated payments at 30% on signing contract, 30% upon completion of half of the works and 40% on completion. This is however against the Government Regulation on payments only being made on certified works or where advance payment is done, it should be specified in the contract and a security for the advance payment be provided.

- iv. Site instruction ref. CCD/01/03/2021 signed on 16 March, 2021 was issued by the Project Manager/Project Engineer varying the works by an amount of Kshs.15,878,716 or 23% of the contract price, resulting to an addendum to the contract which was signed on 26 April, 2021. The contract sum increased to Kshs.83,582,534. Management has not explained why the extra works were not included in phase II contract.
- v. The payment vouchers numbers, were supported with photocopies instead of original certificates of work done, posing a risk of making double payments.
- vi. Details of actual certified works against the payments made for the builder's works were not attached to the payments vouchers neither were they included in the project file.
- vii. Phase II, which included office block and external works was still in progress at the time of the audit. The floor finish had not been done on one half of the floor and installation of additional machineries under phase II was incomplete.
- viii. Payment certificate number 3 indicated prime costs and provisional sums amount of Kshs.4,974,845 as certified but which was not supported with schedules of work done or receipts.

In the circumstances Management was in breach of the law and value for money has not been realized.

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

### **Basis for Conclusion**

#### **621. Lack of Risk Management Policy and Disaster Recovery Plan**

As reported previously, the County Government did not have in place a Risk Management Policy and there were no formal risk assessments performed during the year under review.

Further, there was no internal audit review and audit committee assurance on the integrity of the County Executive's financial information, its system of governance, risk and internal controls and the legal and ethical conduct of management and employees. There was also no audit committee's evaluation of the adequacy of the control environment to provide reasonable assurance that the systems of internal control are of a high standard and functioning as intended.

In addition, no disaster recovery plan was in place to mitigate against loss of data and information.

In the circumstances, the internal control systems and processes are weak and the County Executive is exposed to risk of failure to achieve its goals

## **622. Internal Control Weaknesses on Processing of Payments**

Examination of payment vouchers in support of the expenditure incurred during the financial year 2021/2022 revealed the following control weaknesses: -

- i. Most of the payment vouchers did not indicate cheque numbers or internet banking (IB) references, cash book voucher numbers and dates, thereby making it difficult to trace the payments in the cash book and bank statements.
- ii. Payment vouchers and the supporting documents were not stamped with dated stamp.
- iii. Internal Audit section completion and sign was lacking in all the payment vouchers sampled for audit.
- iv. The Vote Control Section on the payment vouchers did not indicate the vote charged, the budgetary allocation, available balance before and after the charge and an authentication by the vote book accountant.
- v. The IFMIS System Generated Purchase Orders were not attached to payment vouchers but manual purchase orders were used, with few instances of IFMIS purchase Order numbers being quoted on the payment vouchers.

In the circumstances, the controls in payments process are weak and the process is prone to errors and fraud.

## **623. Weakness in the Internal Controls on Hire of Equipment**

The statement of receipts and payments reflects acquisition of assets amount of Kshs.1,080,487,617 as disclosed in Note 10 to the financial statements which includes expenditure on construction of roads amount of Kshs.406,490,463. Out of the expenditure, Kshs.193,699,837 was on hire of equipment and machinery. Review sampled payment vouchers totalling Kshs.20,085,000 on hire of machinery and equipment revealed that the invoices did not indicate the LSO number and measurement sheet did not indicate details of the road constructed. Further, the invoice were not authenticated by stamping and signing, not dated and numbered while the equipment utilization form did not indicate the equipment used.

In the circumstances, Management was in breach of Regulation 85 (4) of the Public Finance Management (County Governments) Regulations, 2015 which requires signatories to thoroughly scrutinize the documents supporting payments.

## COUNTY EXECUTIVE OF BARINGO - NO.30

### REPORT ON THE FINANCIAL STATEMENT

#### Basis for Adverse Opinion

#### 624. Inaccuracies in the Financial Statements

##### 624.1 Variance Between Financial Statements and Integrated Financial Management Information System (IFMIS) Reports

The financial statements presented for audit were at variance with the Integrated Financial Management Information Systems (IFMIS) reports as detailed below:

Item	Balance as Per Financial Statements Kshs.	Balance as Per IFMIS Trial Balance Kshs.	Variance Kshs.
<b>Payments</b>			
Compensation of Employees	3,014,499,152	2,955,708,696	58,790,456
Use of Goods and Services	1,072,829,978	1,075,933,898	(3,103,920)
Transfer to Other Government Entities	776,007,866	699,528,155	76,479,711
Other Grants and Transfers	756,177,793	79,219,399	676,958,394
Acquisition of Assets	1,510,050,953	1,573,870,620	(63,819,667)
Finance Costs	0	27,000	(27,000)
Other Payments	0	27,858,137	(27,858,137)
Bank Balances	1,602,965,729	(622,625,698)	2,225,591,427
Cash Balances	714,696	1,031,000	(316,304)
Accounts Receivables - Outstanding Imprest	20,655,319	395,506,056	(374,850,737)
Accounts Payables - Deposits and Retentions	84,727,018	39,106,205,228	(39,021,478,210)

##### 624.2 Inaccuracies in the Statement of Cash Flows

The statement of cash flows reflects cash and cash equivalents at end of the year amounting to Kshs.1,539,608,725 which differs with cash and cash equivalents balance of Kshs.1,603,680,425 reflected in the statement of assets and liabilities resulting to an unreconciled variance of Kshs.64,071,700. Further, the statement reflects Nil balance for net change in accounts receivables and payables while the statement of assets and liabilities reflects net increase in accounts receivables and accounts payables amounting to Kshs.16,027,329 and Kshs.10,967,513, respectively resulting to net cash flow of Kshs.5,059,816.

##### 624.3 Variance Between Statement of Comparison of Budget and Actual Amounts - Recurrent and Development Combined and Budget Execution by Programmes and Sub-Programmes

The statement of comparison of budget and actual amounts - recurrent and development combined reflects budgeted and actual expenditure amounting to Kshs.9,620,626,604 and Kshs.7,129,565,741 respectively while the statement of budget execution by programmes and sub programmes reflects budgeted and actual expenditure amounting to Kshs.8,818,107,584 and Kshs.6,412,145,905 respectively. The resultant variance of



Kshs.802,519,020 and Kshs.717,419,836 for budgeted and actual expenditure respectively was not reconciled.

#### **624.4 Variances Between the Financial Statements and Approved Budget Balances**

The statement of comparison of budget and actual amounts - recurrent and development combined reflects budgeted amount of Kshs.9,620,626,604 for both receipts and payments. The reported amount differs with the approved budget of Kshs.9,947,339,707 and Kshs.9,656,039,893 for receipts and payments, resulting to unexplained variances of Kshs.326,713,103 and Kshs.35,413,289 respectively.

#### **624.5 Misclassification of Expenditure**

The statement of receipts and payments reflects payments totalling to Kshs.7,129,565,742 in respect of various expenditure items. However, included in this amount is expenditure amounting to Kshs.626,110,087 that were not charged to the correct expenditure items, in accordance with the standard chart of accounts issued by the National Treasury thereby distorting the balances reflected in the financial statements.

In the circumstances, the accuracy and completeness of the financial statements balances could not be confirmed.

#### **625. Other Receipts**

The statement of receipts and payments reflects other receipts amount of Kshs.614,076,871. Included in this amount is own generated revenue of Kshs.253,222,149 which is at variance with the revenue collection bank accounts balances of Kshs.287,547,368 resulting to an unreconciled variance of Kshs.34,325,219.

In the circumstances, the accuracy and completeness of the own generated revenue amount of Kshs.253,222,149 for the year ended 30 June, 2022 could not be confirmed.

#### **626. Unsupported Compensation of Employees**

The statement of receipts and payments reflects compensation of employees' amount of Kshs.3,014,499,152 as disclosed in Note 4 to the financial statements. However, the balance differed with the payroll records balance of Kshs.2,925,391,525 resulting to an unreconciled variance of Kshs.89,107,627. Further, the balance includes an amount of Kshs.5,712,250 paid to administration police without proof of deployment letters, personal numbers, rank and approved daily rates or monthly rates payable to each.

In the circumstances, the accuracy and completeness of the compensation of employees' balance of Kshs.3,014,499,152 could not be confirmed.

#### **627. Use of Goods and Services**

##### **627.1 Unaccounted for Imprest Payments**

The statement of receipts and payments reflects use of goods and services amount of Kshs.1,072,829,978 and as disclosed in Note 5 to the financial statements. Included in

this amount is imprest payments totalling to Kshs.381,660,675 issued to various officers to perform County activities. However, the imprest warrants, surrender vouchers, proof of work done, objectives achieved or any reports issued were not provided for audit.

## **627.2 Unsupported Expenditure**

The statement of receipts and payments reflects use of goods and services balance of Kshs.1,072,829,978 out of which an amount of Kshs.340,170,656 incurred on various expenditure items was not adequately supported with relevant documentation.

In the circumstances, the regularity, accuracy, occurrence and completeness of use of goods and services balance of Kshs.721,831,331 could not be confirmed.

## **628. Other Grants and Transfers**

### **628.1 Unsupported Other Current Transfers and Grants**

The statements of receipts and payments and as disclosed in Note 8 to the financial statements reflects other grants and transfers amount of Kshs.756,177,793. Included in this amount is other current grants and transfers of Kshs.380,757,551 comprising of transfers to health facilities amount of Kshs.180,291,795 without expenditure returns detailing how the funds were utilized. Further, imprest amounting to Kshs.157,351,385 which were issued without surrender vouchers and procurement of goods and services of Kshs.48,635,060 all totalling to Kshs.205,986,445 did not qualify as grants or transfers. In addition, the total expenditure of Kshs.386,278,240 is at variance with other current transfers and grants amount of Kshs.380,757,551 with an unexplained variance of Kshs.5,520,689.

### **628.2 Transfers from Conditional Grants**

Other grants and payments amount of Kshs.756,177,793 includes other capital transfers grants amount of Kshs.320,920,241 out of which cash transfers of Kshs.317,438,955 were made to project operational bank accounts in various commercial banks. However, the detailed schedules for balances brought forward, receipts and actual payments or expenditures for the year and outstanding balances in respect of each project account were not provided for audit review.

### **628.3 Unsupported Transfers to Baringo County Fund Account**

Included in other grants and transfers of Kshs.756,177,793 is an amount of Kshs.380,757,551 in respect of other current grants and transfers out of which an amount of Kshs.12,100,000 was transferred to Baringo County Fund account for onward disbursements to older persons and persons living with disabilities within Baringo County. However, the schedule for the beneficiaries, their identity numbers, policy document guiding identification of beneficiaries and amounts payable to each were not provided for audit review.

### **628.4 Unsupported Grant to Lake Bogoria Community**

As disclosed in Note 8 to the financial statements, other current transfers and grants of Kshs.380,757,551 include an amount of Kshs.11,000,000, equivalent to a ten percent

(10%) of the prior year audited revenue collected by the County Executive from Lake Bogoria which was transferred to the local community during the year. However, the monthly and annual revenue collection reports in support of the percentage paid and the respective expenditure returns, project records approval and execution were not presented for audit review.

In the circumstances, the propriety, accuracy and completeness of other grants and payments amount of Kshs.756,177,793 for the year ended 30 June, 2022 could not be confirmed.

## **629. Acquisition of Assets**

### **629.1 Unsupported Construction of Buildings**

The statement of receipts and payments, and as disclosed in Note 10 to the financial statements reflects acquisition of assets amount of Kshs.1,510,050,953 out of which an amount of Kshs.260,063,564 was incurred on construction of buildings. However, detailed schedule indicating description of buildings, land reference numbers, contract numbers, contract value, payments to date and proof of land ownership were not provided for audit. Further, the constructed buildings were not recorded in the asset register.

### **629.2 Unsupported Construction of Roads**

Included in the acquisition of assets balance is road assets valued at Kshs.470,637,078 comprising of County funded and road maintenance levy funded roads of Kshs.267,953,685.35 and Kshs.202,683,392 respectively. However, the approval plans indicating specific description of the roads to be constructed, location reference numbers, Bills of Quantities, procurement documents indicating how the contractors were identified, statement on account detailing (itemizing) work done as per the specifications and certificate of completion for roads valued at Kshs.318,355,437 were not provided for audit review.

### **629.3 Unsupported Construction and Civil Works**

As disclosed in Note 10 to the financial statements acquisition of assets balance of Kshs.1,510,050,953 includes construction and civil works balance of Kshs.408,004,849 out of which an amount of Kshs.388,373,089 was incurred on drilling, equipping and piping of boreholes across the County. However, the hydrogeological survey reports, permits from the Water Resource Management Authority (WARMA), Environmental Impact Assessment and water quality testing reports were not provided for audit review.

### **629.4 Bulk Fuel for Construction of Roads and Civil Works**

Note 10 to the financial statements reflects acquisition of assets balance of Kshs.1,510,050,953. Included in the balance is an amount of Kshs.470,637,078 incurred on construction of roads out of which an amount of Kshs.56,211,000 was in respect of bulk fuel. Further, the balance includes an amount of Kshs.408,004,849 incurred on construction and civil works out of which a total of Kshs.10,298,276 was in respect of purchase of bulk fuel. However, the number of kilometres covered, list of vehicles or equipment used, work tickets showing fuel consumed, equipment daily

utilization schedules showing date and hours worked and road projects done were not provided for audit. In addition, details of rig machines, fuel consumed by each and list of boreholes sunk including their depth were also not provided for audit review.

In the circumstances, the accuracy, propriety and completeness of the acquisition of assets amount of Kshs.1,033,301,366 could not be confirmed.

### **630. Unreconciled Bank Balances**

The statement of assets and liabilities and as disclosed in Note 14 A to the financial statements reflects bank balances of Kshs.1,602,965,729. However, the bank balances excluded an amount of Kshs.97,874,094 held in two hundred and thirteen (213) commercial bank accounts in respect of Sub-counties, County projects and health facilities.

In the circumstances, the accuracy and completeness of the bank balance of Kshs.1,602,965,729 could not be confirmed.

### **631. Unsupported Outstanding Imprests and Advances**

The statement of assets and liabilities and as disclosed in Note 15 to the financial statements reflects outstanding imprest and advances balance of Kshs.20,655,319 which differs with the trial balance amount of Kshs.257,638,148 resulting to unreconciled variance of Kshs.236,982,829. Further, a detailed schedule showing opening balances, additions and payments for the year together with surrender vouchers were not provided for audit review.

In the circumstances, the accuracy, completeness and existence of outstanding imprest and advances balance of Kshs.20,655,319 could not be ascertained.

### **632. Unsupported Deposits and Retentions**

The statement of assets and liabilities and as disclosed in Note 16 to the financial statements reflects deposits and retentions balance of Kshs.84,727,018. However, detailed schedules showing opening balance, additions and payments in the year to arrive at the closing balance was not provided for audit review. Further, the cash book balance of Kshs.84,720,501 differed with the financial statement balance of Kshs.84,727,018 resulting to an unreconciled variance of Kshs.6,517.

In the circumstances, the accuracy and completeness of deposits and retention balance of Kshs.84,727,018 could not be confirmed.

### **Other Matter**

### **633. Budgetary Control and Performance**

The statement of comparison of budget and actual amounts reflects a total receipts budget of Kshs.9,620,626,404 against actual receipts of Kshs.6,473,919,891 resulting to budget underfunding of Kshs.3,146,706,713 or 33%. Similarly, the statement reflects

budgeted against actual expenditure of Kshs.9,620,626,604, and Kshs.7,129,565,741 respectively resulting to a variance of Kshs.2,491,060,862 or 26%.

The underfunding, under-collection and underperformance affected the planned activities and may have impacted negatively on the delivery of services to the residents of Baringo County.

#### **634. Unresolved Prior Year Matters**

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. This is contrary to the requirements of the Public Sector Accounting Standards Board reporting guidelines.

#### **635. Pending Bills**

Note 1 to the financial statements under other important disclosures reflects pending accounts payables totalling to Kshs.315,141,666 which was not supported by pending bills register or creditors control accounts.

In addition, Annex 2 - analysis of pending bills payable does not disclose sufficient information on the bills as required in the reporting format prescribed by the Public Sector Accounting Standards Board.

Failure to pay pending bills distorts the budget for the subsequent year as they form first charge.

### **REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

#### **Basis for Conclusion**

#### **636. Unaccounted for Certified Seeds, Breeding Stock and Live Animals**

The statement of receipts and payments and as disclosed in Note 10 to the financial statements reflects acquisition of assets expenditure amount of Kshs.1,510,050,953 out of which an amount of Kshs.107,937,109 was incurred on purchase of certified seeds, breeding stock and live animals. Although, the certified seeds, breeding stock and live animals were donated to farmers, youth groups, women groups and cooperative societies across the County, the following unsatisfactory matters were noted:

- i. There was no report on user needs or feasibility studies to determine the viability of the proposed agricultural projects within the County.
- ii. There were no elaborate criteria to identify the beneficiaries to the projects or evidence provided to show that the delivered biological assets and stock were subsequently issued to the intended beneficiaries.
- iii. Payments for the supplies were not supported with delivery notes, stores counter receipt vouchers, stores issue records, valid nursery phytosanitary inspection certificate and animal movement permits.

- iv. Breeding stock and live animals valued at Kshs.93,279,834 were procured from private companies without evidence of accreditation by the Agriculture, Fisheries and Food Authority or other relevant Government bodies contrary to Section 16(1) of the Crops Act, 2013 and therefore the quality of the delivered animals could not be confirmed.
- v. There were no valuation certificates from the County Livestock Officers indicating the value of breeding stock delivered and the immunization certificates to validate the quality of the breeding stock.
- vi. There was no evidence that monitoring and evaluation had been subsequently undertaken by County Agricultural Officers to assess the progress and provide assurance on success of the projects.

In the circumstances, value for money from the procurement worth Kshs.107,937,109 could not be confirmed.

### **637. Delayed Implementation of Donor Funded Projects**

The County Executive cumulatively received donor fund totalling to Kshs.387,120,526 from Kenya Devolution Support Programme (KDSP) in respect of implementation of thirteen (13) projects. However, at the time of audit, one month after closure of grant disbursements, only three (3) projects valued at Kshs.38,000,000 had been successfully implemented to completion leaving ten (10) projects with a funding of Kshs.349,120,526 partially implemented or not started as per the objective of the programme.

In the circumstances, the programme has not achieved its intended purpose for the benefit of the public.

### **638. Failure to Prepare and Submit Financial Statements for County Entities**

The County Treasury did not prepare and submit financial statements for two (2) established County Funds, Kabarnet Municipal Board and six (6) level 4 hospitals as required by the Public Sector Accounting Standards Board (PSASB) communicated through The National Treasury. This was contrary to Section 164(4) (a) of the Public Finance Management Act, 2012 which requires accounting officers to submit the entity's financial statements to the Auditor-General within three (3) months after the end of each financial year.

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

### **639. Failure to Comply with the Public Sector Accounting Standards**

The financial statements prepared and presented for audit were not in conformity with the financial reporting template prescribed by the Public Sector Accounting Standards Board and contained various errors.

In the circumstances, Management did not comply with the Public Sector Accounting Standards Board of Kenya's reporting format and disclosure requirements.



#### **640. Electronic Revenue Collection System**

The County Executive contracted a firm to provide automation of revenue collection for a period of three (3) years from 20 November, 2015 to 20 November, 2018. During the year under review an amount of Kshs.6,598,765 was paid to the consortium in respect of commission for services rendered without supporting documentation by way of gross revenue receipts, accountable documents and monthly revenue reports. Further, the service contract lapsed in 2018 and has not been renewed and therefore it is not clear on the basis for the commissions of Kshs.6,598,765 paid.

In the circumstances, value for money for the commission of Kshs.6,598,765 could not be confirmed.

#### **641. Non-Compliance with the Fiscal Responsibility Principles – Wage Bill**

The statements of receipts and payments and as disclosed in Note 4 to the financial statements reflects compensation of employees' expenditure amounting to Kshs.3,014,499,152. This represents 47% of the County's total receipts amounting to Kshs.6,473,919,891 which exceeded the set limit of thirty-five percent (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.

#### **642. Irregular Secondment of Employees to North Rift Economic Block (NOREB)**

The compensation of employees' expenditure balance of Kshs.3,014,499,152 includes an amount of Kshs.4,924,316 incurred as salaries to three (3) officers on secondment to North Rift Economic Block (NOREB). However, evidence of approval of the secondments by the respective Heads of Departments and the County Public Service Board and agreements were not provided.

This was contrary to Section 73(4) of the County Governments Act, 2012 which allows secondment of County public officers only if it is in the interest of the public officer or the concerned County Public Service Board.

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

#### **643. Recruitment and Promotion of Staff without a Staff Establish**

Review of the payroll records for the year indicated that the County Executive recruited seventeen (17) and promoted one thousand, two hundred and forty-three (1,243) officers. However, there was no evidence of an authorized staff establishment showing availability of the vacancies, advertisements, individual score sheets and board minutes of selection process. In addition, the number of vacancies, date of occurrence and other relevant details vacancies were not declared as required under Section B.5(2) and B.6 of the County Public Service Human Resource Manual, 2013.

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

#### **644. Irregular Engagement of Casual Employees**

The statement of receipts and payments reflects compensation of employees' expenditure amounting to Kshs.3,014,499,152, out of which an amount of Kshs.11,496,303 was incurred on basic wages of temporary employees. Records provided for audit revealed the following unsatisfactory matters:

- i. There was no approved staff establishment showing deficiency of staff to be filled by the casuals or formal requests done from the departmental heads on the need for engaging casuals.
- ii. There were no approvals by the County Public Services Board, authorizing Departments to recruit casual employees contrary to Section 74 of the County Governments Act, 2012 which states that the County Public Service Board shall regulate the engagement of persons on contract, volunteer and casual workers in its public bodies and offices.
- iii. Records in respect of how temporary employees were hired, the work for which they were hired, terms and conditions of services were not provided for audit review.
- iv. Muster rolls showing attendance of the casual workers were not provided for audit review. The existence of the temporary employees and their work stations could therefore not be confirmed.
- v. Management did not maintain temporary employees' payroll and instead made the payments to other County staff for onward transmission to the respective employees in cash.

In the circumstances, the propriety of casual wages paid could not be confirmed.

#### **645. Discriminatory Staff Medical Insurance Scheme**

The statement of receipts and payments and as disclosed in Note 5 to the financial statements reflects use of goods and services expenditure amount of Kshs.1,072,829,978 out of which an amount of Kshs.147,250,491 was incurred on insurance costs. Included in the insurance cost of Kshs.147,250,491 is an amount of Kshs.137,440,804 incurred on staff medical scheme for two thousand and eighty (2,080) employees out of the total staff population of three thousand seven hundred and ninety-three (3,793) thereby resulting in exclusion of one thousand, seven hundred and thirteen (1,713) employees from the medical scheme. This is contrary to the Salaries and Remuneration Commission Circular No. SRC/TS/CGOVT/3/61 of 19 December, 2014 which required County Governments to adopt and implement group medical scheme for all public officers serving in a County Government.

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

#### **646. Irregular Payment of Rent for Nairobi Liaison Office**

The statement of receipts and payments and as disclosed in Note 5 to the financial statements reflects use of goods and services amounting to Kshs.1,072,829,978 out of which an amount of Kshs.13,940,690 was incurred on rentals of produced assets.

Included in the expenditure of Kshs.13,940,690 is an amount of Kshs.2,148,199 incurred on rent for the County's liaison offices in Nairobi. However, the payment was not the responsibility of the County Executive but National Government as per the law.

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

#### **647. Irregular Procurement of Medical Supplies**

The statement of receipts and payments and as disclosed in Note 5 to the financial statements reflects use of goods and services expenditure amounting to Kshs.1,072,829,978, out of which an amount of Kshs.222,519,002 was incurred on specialized materials and services. Included in the expenditure of Kshs.222,519,002 is an amount of Kshs.220,928,799 spent on purchase of human drugs and non-pharmaceuticals to County health facilities out of which procurements valued at Kshs.138,605,488 were made through framework contracts executed outside the e-procurement module. This was contrary to Section 1(A) and IV(B) of Executive Order No. of 2018 which required all public entities to integrate procurement with IFMIS and use the established e-procurement framework.

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

#### **648. Unauthorised Foreign Currency Accounts Operated in Commercial Bank**

The bank balances of Kshs.1,602,965,729 and as disclosed in Note 14 A to the financial statements includes a balance of Kshs.118,695 held in a revenue collection dollar account in a commercial bank. However, proof of authority, granted by the Cabinet Secretary, National Treasury for Management to operate the foreign currency bank account was not presented for audit. This was contrary to Regulation 76(2) of the Public Finance Management (County Governments) Regulations, 2015 that requires all foreign currency denominated bank accounts operated by County entities be kept at the Central Bank of Kenya, unless exempted by the Cabinet Secretary.

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

#### **649. Medical Equipment Service Lease Contract**

Note 9 to the financial statements on other important disclosures reflects an amount of Kshs.153,297,872 transferred towards leased medical equipment. Records provided for audit revealed that in 2015, the County Government signed a Memorandum of Understanding (M.O.U) with the Ministry of Health on implementation of Health Care Information Technology (HCIT) otherwise referred to as the Managed Equipment Services (MES). According to the annual County Allocation of Revenue Act (CARA), in the seven (7) years that the MES Programme has been in operation, the County has paid lease rentals amounting to Kshs.904,468,086. However, the basis of the amount of annual lease rentals could not be determined since the cost of leased equipment and the lease period was unknown and the County did not have a register for recording the delivered managed equipment service assets.

In the circumstances, it was not possible to confirm whether the public received value for money from the Managed Equipment Services (MES) Programme.

#### **650. Irregular Procurement of Plant, Equipment and Machinery**

The statement of receipts and payments and as disclosed in Note 10 to the financial statements reflects acquisition of assets expenditure amounting to Kshs.1,510,050,953 which includes an amount of Kshs.177,907,494 in respect of purchase of vehicles and other transport equipment out of which an amount of Kshs.147,042,780 was incurred in respect of acquisition of earth moving plant, equipment and machinery for road construction without specifications in contravention of Section 60(1) of the Public Procurement and Asset Disposal Act, 2015. Further, despite the equipment being inspected and accepted on 24 January, 2022, there was no evidence that they were taken on charge and recorded in the fixed assets register.

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

#### **651. Unsupported Legal Fees**

The statement of receipts and payments and as disclosed in Note 5 to the financial statements reflects use of goods and services expenditure amounting to Kshs.1,072,829,978 which includes an amount of Kshs.71,846,820 incurred on other operating expenses. Included in the other operating expenses is an amount of Kshs.12,150,049 in respect of legal fees to ten (10) law firms that represented the County Executive in various Court cases. However, the payments were not supported by documentation on how the law firms were identified, signed service level agreements, certificates of appointment, evidence of court attendance and itemized billings in respect of every case.

Further, the private law firms were engaged to represent the County in Court cases without approvals by the County Executive Committee despite the County having recruited its own County Attorney, contrary to Section 16(1) of the Office of the County Attorney Act, 2020.

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

#### **652. Non-Implementation of e-Procurement System**

Review of the procurement system revealed that payment for goods, works and services amounting to Kshs.545,441,658 was done outside the Integrated Financial Management Information System. This implies that the County Executive had not fully implemented the use of e-procurement module contrary to Regulation 49(2) of the Public Procurement and Asset Disposal Regulations of 2020 and Part IV of the Executive Order No.2 of 2018.

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

#### **653. Stalled and Unutilized Projects**

Records provided for audit revealed that twelve (12) projects with a budget of Kshs.487,410,016 and cumulative payments of Kshs.348,470,710 were either stalled or complete but not in use.

In the circumstances, value for money for an amount of Kshs.348,470,710 incurred on the projects may not be obtained by the public.

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

### Basis for Conclusion

#### **654. Long Outstanding Land Rate and Rents**

Records provided for audit indicate that land rate and rent arrears of Kshs.149,155,713 have been outstanding from the year 2013. However, there was no evidence of any concerted efforts having been made by Management to enforce the collections as provided for under Regulation 63(1) and (2) of Public Finance Management (County Governments) Regulations, 2015. Further, the collector of revenue did not provide satisfactory reasons for the failure to collect the arrears by making a report to the County Executive Committee Member of Finance and Economic Planning.

In the circumstances, the effectiveness of revenue collection measures could not be confirmed.

#### **655. Internal Audit Function**

Records provided for audit revealed that the County Internal Audit Department did not have an approved internal audit charter, approved annual audit plan and independent budget or authority to incur expenditure. Further, the Audit Committee Members' terms of office expired on 2 June, 2022 and had not been renewed as at the time of audit.

In the circumstances, the governance structure is not properly constituted.

#### **656. Lack of Risk Management Strategies**

The County Executive did not have a risk management policy or strategy in place and therefore, had no approved processes and guidelines on how to mitigate operational, legal and financial risks contrary to Regulation 158 of the Public Finance Management (County Government Regulations) 2015. Additionally, it was noted that the County Executive lacks disaster recovery plan or business continuity plan which outlines how it will continue operating during an unplanned disruption in service. Management has not instituted its own policies and procedures to guide key financial processes and controls for the management of personnel and related expenditure. Further, the Management did not perform formal risk assessments from time to time.

Management may not therefore, be in a position to evaluate, rank and prioritize critical risks and channel resources towards mitigating identified risks. Ultimately the utilization of resources and quality of service may be negatively affected.

In the circumstances, existence of effective risk management measures could not be confirmed.

**657. Payment of Salaries Outside the Integrated Payroll and Personnel Database (IPPD)**

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects compensation of employees' expenditure amount of Kshs.3,014,499,152. However, included in the balance is an amount of Kshs.61,009,623 processed and paid to one hundred and twenty-six (126) employees outside the prescribed Integrated Payroll Personnel Database (IPPD) system. No explanation was provided by Management for the use of the manual system that is not only less efficient but is more prone to error, misuse and fraud.

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



## **COUNTY EXECUTIVE OF LAIKIPIA - NO.31**

### **REPORT ON THE FINANCIAL STATEMENTS**

#### **Basis for Qualified Opinion**

##### **658. Unsupported Expenditure**

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects an amount of Kshs.990,231,902 in respect to transfer to other government entities. However, verification of the supporting schedules indicate that an amount of Kshs.309,700,636 has not been supported.

Further, the statement reflects an amount of Kshs.59,732,900 in respect of other grants and payments out of which expenditure amounting to Kshs.9,298,000 was not supported.

In the circumstances, the accuracy and completeness of the amounts relating to transfer to other government entities and other grants and payments could not be confirmed.

##### **659. Doubtful Payment of Legal Fees**

The statement of receipts and payments and as disclosed in Note 3 to the financial statements reflects payment in respect of use of goods and services totalling to Kshs.1,220,827,102 which includes an amount of Kshs.125,800,557 in respect to other operating expenses out of which an amount of Kshs.23,815,918 was paid in relation to legal fees. However, there was no evidence that the payments were based on the Advocates' Remuneration Order which sets out the scale for payment of legal fees. Further, there was no evidence of engagement between the legal department and external lawyers attempting to negotiate or review the fee.

In the circumstances, the regularity of the legal fee expenditure of Kshs.23,815,918 could not be confirmed.

##### **660. Irregular Expenditure on County Assembly Members (MCAs)**

During the year under review, an amount of Kshs.820,000 was paid through imprests in form of allowances to MCAs and staff members during devolution conference on 23 and 24 November, 2021 at Makueni County. It was not clear why this amount was paid yet the County Assembly had its own budget. Further, no documentary evidence including surrender vouchers in respect to the expenditure was provided for audit review.

In the circumstances, the propriety of the expenditure of Kshs.820,000 paid as allowances to MCAs could not be confirmed.

## **661. Irregular Expenditure on Training**

Included in the use of goods and services payments of Kshs.1,220,827,102 is an amount of Kshs.30,914,889 being payment on training expenses out of which an amount of Kshs.10,619,245 was paid for a training on public service transformation from 20 February, 2022 to 5 March, 2022 in Israel. However, it was not clear why the training of leadership and management course was undertaken in Israel yet it could have taken place at the Kenya School of Government to save the high cost of conference, travel and per diem allowances paid to six (6) officers contrary to Section 6 of Treasury Circular No 20/2015 which requires that only international workshops, seminars and study tours that are justified in terms of benefit to the people of Kenya should be undertaken outside the country.

Further, copies of stamped passports to support the payment, flight boarding passes and signed attendance sheets were not provided for audit. In addition, air tickets were procured through cash payment thereby flouting procurement laws on procurement of services above the approved thresholds.

In the circumstances, the propriety of the expenditure amounting to Kshs.10,619,245 could not be ascertained.

### **Other Matter**

## **662. Budgetary Control and Performance**

The summary statement of appropriation - recurrent and development combined reflects final receipts budget and actual on comparable basis totalling to Kshs.8,340,703,410 and Kshs.5,801,910,038 respectively, resulting to an underfunding amounting to Kshs.2,538,793,372 or 30% of the budget. Similarly, the statement reflects final expenditure budget and actual on comparable basis totalling to Kshs.8,340,703,410 and Kshs.5,781,660,282 respectively, resulting to an underperformance amounting to Kshs.2,559,043,129 or 31% of the budget.

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

## **663. Pending Bills**

As disclosed in Annex 2 to the financial statements, the County Executive registered pending accounts payables amounting to Kshs.1,680,915,846 which included additions during the year totalling to Kshs.1,677,413,008 which were not supported by invoices, local purchase orders, local service orders and procurement documents. Further, pending bills amounting to Kshs.23,484,545 were omitted from list of bills.

Failure to pay pending bills in the year they relate distorts the subsequent year budget as they form first charge.

#### **664. Non-Disclosure of Project Implementation Status**

The statement of receipts and payments and as disclosed in Note 6 to the financial statements, reflects payments for acquisition of assets amounting to Kshs.878,860,928. However, the County Executive did not provide the project implementation status report (PIS) for audit review to confirm the status of all the budgeted and implemented projects in the year under review.

In the circumstance, it has not been possible to confirm the status of the projects that were planned, budgeted for and implemented during the year.

#### **665. Unresolved Prior Year 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 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**

#### **666. Compensation of Employees**

The statement of receipts and payments and as disclosed in Note 2 to the financial statements reflects compensation of employees' expenditure of Kshs.2,624,226,998. However, the following unsatisfactory matters were noted.

##### **666.1 Non-Compliance with the Law on Fiscal Responsibility Principles - Wage Bill**

The compensation of employees' expenditure of Kshs.2,624,226,998 represents 50% of the total receipts of Kshs.5,275,273,304. This is contrary to the provisions of Regulation 25(1) (a) and (b) of the Public Finance Management (County Governments) Regulations, 2015 which states that the County Government expenditure on wages and benefits for public officers should not exceed 35% of the county total revenue.

##### **666.2 Non-Compliance to the Third Rule of Basic Salary**

During the year ended 30 June, 2022, seventy-one (71) employees earned net salaries of less than a third ( $\frac{1}{3}$ ) of their basic salaries 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  $\frac{2}{3}$  of such wages.

### **666.3 Non-Compliance with Regulation and Guidelines on Acting Positions**

Review of documents revealed that the County Executive of Laikipia paid twenty-four (24) of its staff members acting allowance for a duration exceeding six (6) months contrary to the Public Service Commission, Human Resource Policies and Procedures Manual for the Public Service of May, 2016 C.14 (1) which states that acting allowance will not be payable to an officer for more than six (6) months.

### **666.4 Unauthorized Payment for Hardship Allowance**

Included in the compensation to employees amount of Kshs.2,624,226,998 is hardship allowance totalling Kshs.3,780,000 paid to seven (7) full time Board members of the County Public Service Board of Laikipia at the rate of Kshs.45,000 each per month. This is contrary to the Salaries and Remuneration Commission (SRC) circular which sets out the remuneration and benefits for Board Members of the County Public Service Board and which has not prescribed any allowance to full time Board members other than the set gross monthly remuneration package.

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

### **667. Non-Compliance with the Public Procurement and Asset Disposal Act, 2015**

Included in the use of goods and services expenses amount of Kshs.1,220,827,102 is an amount of Kshs.8,735,106 in respect of communication, supplies and services out of which expenditure of Kshs.2,281,400 was incurred in respect of installation of call software POE extension phones and configuration of PBX review. However, while, the letter of notification of award was issued on 11 May, 2021 and acceptance letter by the contractor dated 14 May, 2021, the contract agreement with the contractor was signed on 12 April, 2021 which was one month earlier than the contract award and letter of acceptance contrary to Section 135(5) of the Public Procurement and Asset Disposal Act, 2015 which states that an Accounting Officer of a procuring entity shall not enter into a contract with any person or firm unless an award has been made. Further, review of mandatory requirements revealed that the contractor's tax compliance certificate had expired.

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

### **668. Non-Compliance with the Salaries and Remuneration Commission Advisory**

During the year under review, an amount of Kshs.3,540,080 was paid in form of airtime allowances to Laikipia County Executive staff without any approval from the Salaries and Remuneration Commission. Further, there was no evidence of taxation of the airtime benefit to the employees. This is contrary to the 2013 Public Service Commission of Kenya County Public Service Human Resource Manual Section F.1 stating that "The Salaries and Remuneration Commission will be responsible for the review of the civil service salaries and allowances." and Section F.14 (1) stating that, "There are other allowances which may be paid to different categories of staff in various circumstances.

Such allowances will be determined by the County Government with the advice of the SRC.”

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

#### **669. Un-Approved Bond on Road Construction**

Review of the records and documents revealed that the County Executive committed Kshs.976,953,817 through issuance of Local Purchase Orders for various infrastructural projects to be financed through the Laikipia County Infrastructure Bond. Despite the Bond having been approved by the County Assembly, documents provided for audit revealed that on 2 June, 2022 the Cabinet Secretary for The National Treasury and Planning wrote to the Clerk of the Senate seeking the National Assembly’s approval of the sessional paper to enable The National Treasury to guarantee the infrastructure Bond. However, at the time of the audit no documentation was provided as to whether the sessional paper was approved by the senate.

Further, review of one of the projects, Improvement of roads in Karuga Town center, revealed that the contractor had commenced the works and had raised an interim payment certificate of Kshs.23,484,545 which at the time of the audit had not been paid for lack of funding contrary to Section 58(8) of the Public Procurement and Asset Disposal Act, 2015 which states that the Accounting Officer shall not commence any procurement proceedings until satisfied that sufficient funds to meet the obligations of the resulting contract are reflected in its approved budget estimates.

In the circumstances, value for money on the expenditure of Kshs.23,484,545 could not be confirmed.

#### **670. Incomplete Project**

Included in the payments for acquisition of assets amounting to Kshs.878,860,928 is construction of buildings payments totalling to Kshs.116,861,251 out of which an amount of Kshs.20,083,972 was paid to a contractor for various invoices for the construction works at Laikipia County Headquarters in Rumuruti. The County Executive entered into a contract with a contractor for the construction of additional floor at a contractual sum of Kshs.44,897,926. This contract was signed on the 14 May, 2019 and the works were to be completed by 12 May, 2022. However, it was noted that, although part of the project that was completed and leased to a commercial bank with the remaining space occupied by the Sub County Administrator, the project was not complete despite the expiry of the contractual period while the contractor had left the site.

Further, it was not clear how the property was leased out to the private entity as the lease documents were not provided for audit review.

In the circumstances, the public may not have realised value for money from the project expenditure of Kshs.44,897,926.

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

### **Basis for Conclusion**

#### **671. Payment of Salaries Outside the Integrated Payroll and Personnel Data Base Payroll**

Review of manual payment vouchers and supporting schedules revealed that salaries amounting to Kshs.353,261,427 were paid outside the Integrated Payroll and Personnel Data base (IPPD). This included salaries paid to Early Childhood Development Education (ECDE) teachers and staff without payroll number. No explanation has been provided why personal numbers have taken more than three months to be processed and why the staff members continue to be paid outside the IPPD.

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

#### **672. Lack of Training Policy**

During the year under audit, the County Executive incurred a total of Kshs.30,914,889 on training expenses. However, Management did not provide a training policy for audit verification and there was no evidence to indicate that training needs assessment was undertaken as the basis for training expenses incurred. It was, therefore, not possible to determine whether the training was need driven and whether value for money was realized.

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



## **COUNTY EXECUTIVE OF NAKURU - NO.32**

### **REPORT ON THE FINANCIAL STATEMENTS**

#### **Basis for Adverse Opinion**

##### **673. Inaccuracies of the Financial Statements**

The statement of receipts and payments reflects total receipts amounting to Kshs.16,654,957,076 which differed with county revenue fund balance of Kshs.17,690,796,337 resulting to unreconciled variance amount of Kshs.1,035,839,261. Further, the statement of receipts and payments reflect total payments amounting to Kshs.18,444,366,382 which differs with the recomputed amount of Kshs.18,443,366,382 resulting to unexplained variance amount of Kshs.1,000,000. In addition, the budget execution by programmes and contingent liabilities has not been included in the financial statement.

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

##### **674. Payments after the Financial Year End**

The statement of receipts and payments reflects payments totalling to Kshs.18,444,366,382 out of which an amount of Kshs.517,969,341 was paid after the closure of the financial year. This is contrary to the International Public Sector Accounting Standards (Cash Basis) reporting framework and Regulation 97(1) of the Public Finance Management (County Governments) Regulations, 2015 which states that the accounts of County Government entities shall record transactions which take place during the financial year running from 1 July of the preceding year to 30 June of the following year.

In the circumstance, the accuracy and completeness of the statement of receipts and payments could not be confirmed.

##### **675. Inaccuracies in Other Receipts**

The statement of receipts and payments reflects other receipts (own source revenue and donor funds) totalling to Kshs.3,628,840,753 out of which an amount of Kshs.3,259,072,974 was in respect of own source revenue as disclosed in Note 3 to the financial statements. Included in own source revenue amount is cess revenue amounting to Kshs.19,906,004 which differed with the supporting schedule amount of Kshs.17,689,504 resulting to unreconciled variance amount of Kshs.2,216,500.

Further, the cess collections were below the budgeted target amount of Kshs.30,000,000 by an amount of Kshs.10,093,996 or approximately 34% of the budget. No explanation was provided for the under collection which negatively affected the delivery of services.

In addition, other receipts amount of Kshs.3,628,840,753 varies with the balance of Kshs.9,324,388,779 reflected in the statement of comparison of budget and actual amounts amount of Kshs.5,695,548,026.

In the circumstances, the accuracy and completeness of the cess revenue totalling to Kshs.19,906,004 and other receipts amount of Kshs.Kshs.3,628,840,753 respectively could not be confirmed.

## **676. Unsupported Expenditure on Use of Goods and Services**

The statement of receipts and payments reflects use of goods and services amounting to Kshs.19,906,004 as disclosed in Note 5 to the financial statements. Review of the expenditure revealed the following anomalies:

### **676.1 Rentals of Produced Assets**

The balance includes rentals of produced assets balance of Kshs.20,492,849 which includes rent expenditure on ward offices totalling to Kshs.4,754,282. However, lease agreements and invoices in support of the rent paid were not provided for audit.

### **676.2 Insurance Costs**

Further, included in the insurance costs balance of Kshs.140,633,620 is an expenditure balance of Kshs.42,139,944 incurred on insurance for two hundred and twenty-seven (227) vehicles with effect from 01 November, 2021 to 31 October, 2022. However, Insurance valuation reports, copies of insurance certificates and policy documents were not provided for audit review.

### **676.3 Routine Maintenance of Motor Vehicles and Other Transport Equipment**

Included in the routine maintenance of vehicles and other transport equipment balance of Kshs.727,787,363 is an amount of Kshs.24,658,844 which was not supported by motor vehicle maintenance logbooks showing repairs, driver defects report, pre and post repair inspection reports and receipt of tyres. Further, routine routine maintenance of vehicles and other transport equipment cost increased from the prior year balance of Kshs.40,393,869 to the current balance of Kshs.727,787,363 resulting to an increase of Kshs.687,393,494 or 1701% which was not explained.

In the circumstances, the accuracy and propriety of use of goods and services expenditure amounting to Kshs.71,553,070 could not be confirmed.

## **677. Unsupported Other Grants and Transfers**

The statement of receipts and payments reflects other grants and transfer totalling to Kshs.3,157,011,991 as disclosed in Note 8 to the financial statements. However, review of records revealed the following anomalies;

### **677.1 Emergency Relief and Refugee Assistance (Emergency Fund)**

Included in other grants and transfer amount of Kshs.3,157,011,991 is emergency relief and refugee assistance (Emergency Fund) totalling to Kshs.70,000,000. The amount differed with the total payments reflected in the bank statements of Kshs.85,000,000 resulting to unexplained variance of Kshs.15,000,000.

### **677.2 Facility Improvement Fund Utilized as Appropriation in Aid (AIA) by Health Facilities**

Included in other grants and transfers amount of Kshs.3,157,011,991 is facility improvement fund utilized as AIA by health facilities totalling to Kshs.1,499,756,915 spent at source by level 4 and 5 hospitals. However, the spending of the revenue at source had not been authorized by way of legislation and the hospitals had not prepared separate financial statements as provided for under paragraph 2.2.3.1 of the National Treasury and Planning Circular AG.4/16/3 VOL.II (66) of 6 July, 2022.

Further, other grants and transfers included an amount of Kshs.279,891,046 incurred on salaries, compensation to casual workers and contracted professional services in the health facilities which had not been charged to compensation of employees.

### **677.3 Conditional Grants Transfer to Village Polytechnics Fund Account**

Included in other grants and transfers amount is conditional grants transfer to Village Polytechnics Fund Account totalling to Kshs.61,035,855. The amount includes disbursements totalling to Kshs.43,212,400 paid to seventeen (17) institutions for 2,135 students. However, the disbursements exceeded the approved subsidy entitlement at Kshs.13,814 per student resulting to an overpayment of Kshs.13,719,510. Further, disbursements totalling to Kshs.17,315,560 paid to 16 other institutions for 2,284 students was less than the entitlement of Kshs.31,551,176 resulting to under disbursements of Kshs.14,235,616. No explanation was provided for the over/under- disbursement of the funds.

### **677.4 Other Capital Grants**

Included in other capital grant totalling to Kshs.87,151,641 and as disclosed in Note 8 to the financial statements is an expenditure totalling to Kshs.27,377,650 for the supply of sports kitty and empowerment items. However, the criteria for identifying the beneficiaries and signed distribution list were not provided for audit review. Further, distribution of the items to the public was not supported by any legislation.

### **677.5 Accuracy of Kenya Devolution Support Programme (KDSP)**

Included in other grants and transfers is an expenditure on Kenya Devolution Support Programme totalling to Kshs.111,558,895. However, the amount differs with the balance of Kshs.120,374,189 paid into the Programme resulting to unreconciled variance of Kshs.8,815,294.

Further, the expenditure includes an amount of Kshs.12,001,150 paid to various firms for consultancy services. However, procurement documents, including proposals for the consultancy services were not presented for audit review. The terms of reference for the services could therefore not be confirmed.

In the circumstances, the accuracy and propriety of other grants and transfer could not be confirmed.

## **678. Acquisitions of Assets**

The statement of receipts and payments reflects acquisition of assets expenditure totalling to Kshs.3,721,716,188 and as disclosed in Note 10 to the financial statements. Review of the expenditure revealed the following anomalies:

### **678.1 Construction of Buildings**

The acquisition of assets expenditure includes construction of buildings amount totalling to Kshs.640,817,888 out of which a transfer of Kshs.31,262,065 was made to a power generating company for construction of proposed out-patient block at Naivasha level 5 hospital. The County Executive entered into an agreement with the power generating company to construct an out-patient block at Naivasha level 5 hospital as part of the later corporate social responsibility (CSR). The County Executive was supposed to contribute part funding. Though the County Government made its contribution, the project file and the joint financing agreement of the project were not provided for audit verification and it was therefore not possible to confirm the status of the project. In addition, the funds were not budgeted for by the County Executive.

Further, the construction of buildings balance includes an amount of Kshs.87,179,496 in respect of construction of office of the Governor Block Annex. Review of documents revealed that the County Executive entered into a contract for the construction of office of the Governor Block Annex at a contract sum of Kshs.288,557,450 with effect from 18 November, 2020. The construction works commenced on 12 February, 2021. No explanation was provided for the delayed commencement of the project. A total of Kshs.87,179,496 was paid for certificates 1 to 5 during the year. However, the certificates were not supported by measurements of work done and certified by the inspection and acceptance committee. This was contrary to Clause 6 of the contract signed on 18 November, 2020 between the County Executive and the contractor which states that all payments shall be based on measured work done.

Field verification done on 20 September, 2022 revealed that the project had stalled and the contractor was not on site. The contractor also made a claim amounting to Kshs.16,199,428 through certificate 1 contrary to clause 6 of the contract which required the contractor to have completed at least 10% of the contract sum or Kshs.28,885,745 before lodging any claim.

## **678.2 Purchase of Specialized Plant, Equipment and Machinery**

The expenditure further includes purchase of specialized plant, equipment, and machinery amounting to Kshs.325,890,158 which includes hire of motor grader, excavator and dozers for road construction works totalling to Kshs.103,128,101. However, the daily equipment utilization schedule indicating daily odometer readings at start and end for each equipment and downtime were not provided for audit verification.

## **678.3 Unsupported Expenditure on Rehabilitation of Water Projects**

Construction and civil works balance of Kshs.1,114,687,232 includes expenditure totalling to Kshs.13,429,326 incurred on repairs and rehabilitations of water projects, boreholes, existing water pipeline works, water tanks and intake work. However, the rehabilitation works were not supported with the pre post inspection reports, and bills of quantities. The nature and extent of the repairs and rehabilitation works could therefore not be confirmed.

In the circumstances, the accuracy and propriety of acquisition of assets expenditure of Kshs.3,721,716,188 could not be confirmed.

## **679. Cash and Cash Equivalent – Unreconciled Balances**

The statement of assets and liabilities reflects cash and cash equivalents balance of Kshs.4,431,637,923 and as disclosed in Note 14 to the financial statements. The following anomalies were noted:

### **679.1 Revenue Fund Account Held at Central Bank of Kenya**

Included in the reconciling items is a receipt in the cash book but uncredited in the bank totalling to Kshs1,042,089,307. However, receipt vouchers in support of the receipts were not provided for audit verification. The amount had also not been cleared in the subsequent months.

### **679.2 Nakuru County Primary Health Care-Central Bank Account**

Bank reconciliation statement for the month of June, 2022 reflected receipts in cash book amounting to Kshs.11,533,279 which were not banked dating back to 30 June, 2021. However, no explanation was provided for failure to bank the money for over twelve months.

### **679.3 Naivasha Hospital-Kenya Commercial Bank Account**

The statement of assets and liabilities and as disclosed in Note 14 to the financial statements indicates a balance of Kshs.46,907,633 held at the hospital bank account. However, the cash book in support of the balance was not provided for audit verification.

#### **679.4 Molo Sub-County Hospital- National Bank of Kenya**

The bank reconciliation statement for the month of June, 2022 reflects receipt in bank statement not yet recorded in cash book amounting to Kshs.1,032,637 described as NHIF deposits. However, there was no schedule provided to support the amount. Further, the bank reconciliation statement reflected receipts in cash book not yet recorded in bank statement amounting to Kshs.202,902 which was not supported.

#### **679.5 PGH Main Account-National Bank of Kenya**

The bank reconciliation statement for the month of June, 2022 reflected payments in cash book but not recorded in bank statements totalling to Kshs.91,734,275. The amount includes stale cheques amounting to Kshs.4,203,419 which have not been reversed in the cash book.

Further, the bank reconciliation statement reflects payments recorded in bank statement not yet recorded in cash book totalling to Kshs.12,428,645 which have not been investigated or explained.

In addition, the reconciliation statement reflects unreceipted credits amounting to Kshs.68,822,114 which have not been explained, out of which receipts amounting to Kshs.1,684,080 date back to 4 August, 2020.

#### **679.6 Nakuru Municipality Urban Development Grant Account (UDG)-I&M Bank**

Bank reconciliation statement for the month of June, 2022 reflects receipts in the cash book but unrecorded in bank statement amounting to Kshs.369,962,536 described as funds received on 13 May, 2022 which were not supported.

In the circumstances, the accuracy and completeness of cash and cash equivalents balance of Kshs.4,431,637,923 could not be confirmed.

#### **680. Unaccounted for Imprest**

The statement of receipts and payments reflects total payments of Kshs.18,444,366,382 out of which an amount of Kshs.25,527,596 was imprests expensed directly at the point of issue and not after surrender by the imprest holders.

In the circumstance, the propriety and occurrence of the expenditure amounting to Kshs.25,527,596 could not be confirmed.

#### **681. Inaccuracy of Prior Year Adjustment**

The statement of assets and liabilities reflects prior year adjustments amounting to Kshs.1,201,546,593 as further disclosed in Note 18 to the financial statements. The amount relates to adjustment of bank account balances for project accounts. However, the amount includes opening (2020/2021) balance of Kshs.1,201,546,593 which vary with



the audited balance of Kshs.1,188,393,903 resulting to unexplained variance of Kshs.13,152,690.

Further, included in the Agriculture Sector Development Support Account (ASDSP) opening balance adjustment are two payments totalling Kshs.902,500 described as refund of borrowed money which was not supported. In addition, the Donor Fund Account opening balance of Kshs.1,370,000 relate to unspent imprest issued to various officers on diverse dates within the year under review. However, the balance was not supported by imprest warrants and imprest register. Further, the unspent imprest of Kshs.1,370,000 relates to the year under review and therefore could not be a prior year adjustment.

In the circumstances, the accuracy of the prior year adjustment amount of Kshs.1,201,546,593 could not be confirmed.

## **682. Unsupported Payment in the Integrated Financial Management Information System (IFMIS)**

Review of transaction in IFMIS revealed the following anomalies:

<b>Description</b>	<b>Amount (Kshs)</b>	<b>Remarks</b>
Voided payments	625,295,777	i) 448 transactions were voided ii) Request to void payments, voided payment vouchers, National Treasury approval and exchequer requisitions from the Controller of Budget were not provided for audit review iii) The voided payments have not been disclosed as pending bills under pending accounts payable iv) The utilization of funds meant for the voided transaction could not be ascertained as no documentation was provided.
Payments in excess of Local Purchase Order	51,263,347	Payments in IFMIS amounting to Kshs.51,263,347 were made which were higher than the corresponding local purchase and service orders amount totalling Kshs.21,558,858.
Payments not in IFMIS	8,070,665,467	Twelve thousand eight hundred and twenty-eight (12,828) transactions valued at Kshs.8,070,665,467 were effected in the internet banking (IB) but were not recorded in IFMIS.
Payments without Local Purchase Orders	74,458,486	Payments amounting to Kshs.74,458,486 were made through forty-four (44) invoices without the corresponding local purchase and service orders

<b>Description</b>	<b>Amount (Kshs)</b>	<b>Remarks</b>
Irregular charge of expenditure	453,261,908	Payments totalling Kshs.453,261,908 which were irregularly charged to various expenditure items

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

### **683. Variance Between Financial Statement Amount and Supporting Schedules**

The statement of receipts and payments reflects use of goods and services balance of Kshs.3,845,940,577 and as disclosed in Note 5 to the financial statements. However, supporting schedules for three expenditure items differed with the financial statement balances as detailed below:

<b>Particulars</b>	<b>Financial Statement (Kshs.)</b>	<b>Supporting Schedule (Kshs.)</b>	<b>Variance (Kshs.)</b>
Routine Maintenance-vehicles and other Transport Equipment	727,787,363	63,294,367	664,492,996
Fuel, Oil and Lubricants	63,294,367.01	139,343,387.35	(76,049,020.35)
Other Operating Expenses	139,343,387	727,787,363	(588,443,976.40)

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

### **684. Unsupported Lease of Medical Equipment**

Review of the Project Implementation Status Report for the County Executive revealed that the County Executive and National Government through the Ministry of Health signed a Memorandum of Understanding (MoU) on the provision of medical equipment and related services referred to as the Managed Equipment Services (MES) in 2015. However, the lease agreement as well as the list of equipment leased was not provided for audit.

Further, the lease payments are reflected in the CARA as a conditional grant for leasing of medical equipment. However, expenditure amounting to Kshs.153,297,872 made in the year under review were not disclosed in the financial statements. The County Executive has paid cumulative lease amounting to Kshs.904,468,086 as at 30 June, 2022. In the absence of proper costing and details of equipment respective values, the County Executive may exorbitantly pay for equipment, some of which may not have been delivered. The ownership of the equipment could also not be confirmed.

In the circumstance, the propriety and accuracy of the expenditure could not be confirmed.

#### **685. Unsupported Procurement of Revenue System Hardware Equipment**

A company was paid an amount of Kshs.8,763,750 for the supply and delivery of revenue system hardware equipment vide payment voucher number 10022469 dated 6 July, 2021. The equipment included 350 11A Samsung Dual phone and 100 Thermos printers. However, the goods were received and recorded in counter receipt voucher dated 21 December, 2020 which was earlier than the local purchase order date of 12 February, 2021.

Further, the user requisition raised on 16 November, 2020 did not give specifications of the smart phones and thermos printers requisitioned. The distribution list of the recipients was also not provided for audit verification.

In addition, tender advertisement, bids, appointment letters to tender opening and evaluation committee, tender evaluation minutes or scores, professional opinion, inspection and acceptance report were not provided for audit verification.

In the circumstances, the propriety of the expenditure on the purchase of the revenue system hardware equipment could not be confirmed.

#### **686. Irregular Purchase of Land**

As previously reported, the County Executive through the Department of Lands Housing and Physical Planning procured 5 acres of land in respect of Umoja Lanet Health Centre at a cost of Kshs.95,000,000. Whereas, the user department had sought for undeveloped land size of one to two acres without encumbrance, Management purchased a developed five acres land with 3,000,000 encumbrances. During the year under review, a payment of Kshs.30,000,000 was made to a payee other than the real owner or seller.

Further, Management paid total amount of Kshs.127,753,335 for purchase of various pieces of land. However, no requisitions from user departments and title deeds for the purchased land were provided for audit verification. Physical verification of the purchased land conducted on 22 and 25 September, 2022 revealed that the County Executive had not taken possession of the three parcels of land in Dondori, Kihingo market and Kamara market costing Kshs.95,000,000, Kshs.13,000,000 and Kshs.9,800,000 respectively which are still being occupied by the sellers. In particular, the Kihingo market parcel and another one in Kaptembwa costing Kshs.6,000,000 had also not been demarcated.

In the circumstances, the valuation and ownership of the purchased parcels of land could not be confirmed

#### **687. Construction of Proposed Electrical and Mechanical Works at Out Patient Department at Rift Valley Provincial General Hospital**

The statement of receipts and payments and as disclosed in Note 10 to the financial statements reflects construction of building expenditure amounting to Kshs.640,817,888. The expenditure includes an amount of Kshs.140,554,073 which was

paid to a contractor for construction of proposed electrical and mechanical works at outpatient department in Rift Valley Provincial General Hospital at a contract sum of Kshs.160,988,441. However, tender documents such as copy of the advertisement, bid documents, bills of quantities, appointment letters for opening and tender committee, copy of the tender opening and evaluation committee report, evaluation committee minutes, professional opinion and contract agreement were not provided for audit verification.

Further, a sight inspection visits on 15 September, 2022 revealed that the project was about 85% complete.

In the circumstances, the propriety of the expenditure of Kshs.140,554,073 could not be confirmed.

#### **688. Utilities, Supplies and Services**

The statement of receipts and payments and as disclosed in Note 5 to the financial statements reflects utilities, supplies and Services expenditure amounting to Kshs.188,861,024. Included in this expenditure is an amount of Kshs.12,570,000 paid to three banks for the supply of murram and gravel. However, payment vouchers, user requisitions, tender evaluation minutes, tender award, professional opinion, delivery note, and inspection and acceptance reports in support of the expenditure were not provided for audit verification. Further, Management has not provided any explanation on the circumstances under which the banks were contracted to supply murram and gravel.

In the circumstances, the propriety of the expenditure amounting to Kshs.12,570,000 could not be confirmed.

#### **689. Unsupported Consultancy Services**

The County Executive procured consultancy services for rapid review assessment and end term assessment of County Integrated Development Plan of 2018-2022 at a contract sum of Kshs.19,832,520. The contract was for a period of three months ending 25 March, 2022. The consultant had been paid an amount of Kshs.15,465,946 as at 30 June, 2022. However, the expenditure was not budgeted for and the user requisition, tender advertisement, bids, appointment letters to tender opening and evaluation committee, tender evaluation minutes or scores, professional opinion, and inspection and acceptance report were not provided for audit verification.

In the circumstances, the propriety of the expenditure amounting to Kshs.15,465,946 incurred could not be confirmed.

#### **690. Unsupported Supply and Delivery of Seedlings to Farmers**

The County Executive incurred an expenditure on supply and delivery of seedlings for distribution to farmers valued at Kshs.52,993,824. However, the user requisition, tender advertisement, bids, appointment letters to tender opening and evaluation committee,

tender evaluation minutes or scores, professional opinion, inspection and acceptance report and distribution list were not provided for audit verification.

In the circumstances, the propriety of the expenditure amounting to Kshs,52,993,824 could not be confirmed.

#### **691. Unsupported Supply and Delivery of Revenue System Laptops and Accessories**

During the year under review, Management paid an amount of Kshs.9,059,765 for the supply and delivery of revenue system equipment and installation of internet at Sub-county revenue offices. The supplied equipment were three Laptops, one server, one UPS, three smart phones and connectivity of internet at Sub-county revenue offices. However, user requisition, tender advertisement, bids, appointment letters to tender opening and evaluation committee, tender evaluation minutes or scores, professional opinion, inspection and acceptance report were not provided for audit verification.

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

#### **Other Matter**

#### **692. Budgetary Control and Performance**

The statement of comparison of budget and actual amount - recurrent and development combined reflects budgeted receipt and actual amounts on comparable basis of Kshs.23,513,986,580 and Kshs.22,350,505,102 respectively, resulting to under funding amounting to Kshs.1,163,481,478 or 6% mainly contributed by undercollection of other receipts. Similarly, the County Executive had an approved expenditure budget amount of Kshs.23,513,986,580 against the actual expenditure amount of Kshs.18,443,366,382 resulting to an under expenditure of Kshs.5,070,620,198 or 22%.

The budget under performance 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**

#### **693. Legal Expenses**

During the year under review, a law firm was paid legal fee totalling to Kshs.12,049,000 for reviewing pending legal claims against the County. This is contrary to Section 5(1)(d) of the Nakuru County Attorney Act, 2017 which requires the County Attorney to represent the County Government in any legal proceedings arising from county legislation or any other legislation which the County Government is party to or has interest. The letter of engagement was dated 29 May, 2019 but was signed a year later. The contract provided

for payment of instruction fees amount of Kshs.2,000,000 on execution of the engagement letter and 5% performance fees of the amount saved. However, record of the amount saved was not provided for audit verification and therefore it was not possible to determine the amount paid.

Further, review of records provided for audit revealed that legal fees totalling to Kshs.439,852,209 to four hundred and seventeen (417) law firms for the provision of legal services have not been paid. This is contrary to Section 5(1)(d) of the Nakuru County Attorney Act, 2017 which provides that the County Attorney shall represent the County Government in any legal proceedings arising from county legislation or any other legislation which the county Government is party to or has interest, other than criminal proceedings. Further, no record of services provided by the law firms was provided for audit verification.

In addition, the law firms were directly procured. However, the services were not urgent and reason for using direct procurement was not provided.

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

#### **694. Lack of Staff Establishment**

The County Executive does not have an approved staff establishment. This is contrary to Policy B.2 (1) of the Human Resource Policies and Procedures Manual for the Public Service, 2016 which requires every Ministry and State Department to prepare Human Resource Plans to support achievement of goals and objectives in their Strategic Plans. The plans shall be based on comprehensive job analysis and shall be reviewed every year to address emerging issues and needs.

Further, review of personnel records revealed that 472 employees have served the County Executive for more than six (6) months but were yet to be confirmed to permanent and pensionable terms or their probation period extended. This is contrary to Policy B.18 (1) of the Human Resource Policies and Procedures Manual for the Public Service of May, 2016 which provides that an officer appointed to the service in a probationary post will be confirmed in appointment and admitted into the permanent and pensionable establishment on completion of probationary period of six (6) months of satisfactory service. Further, sixty-five (65) employees on probation were promoted and no explanation was provided for promoting officers on probation.

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

#### **695. Non-Compliance with Implementation of E-procurement**

Review of procurement records revealed that the County Executive procured goods, works and services totalling Kshs.868,592,308. However, the procurement was not undertaken through e-Procurement. This is contrary to Executive Order No.2 of 2018 on procurement of public goods, works and services by public entities that requires all procurement be undertaken through e-Procurement.



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

#### **696. Irregular Procurement of Conference Facilities and Services**

The County Executive incurred expenditure amounting to Kshs.4,152,448 on the provision of conference and accommodation services. However, direct procurement method was used to procure the services despite the fact that they were not urgent and no satisfactory reason was given for use of this method. This is contrary to Regulation 90(1)(a) of the Public Procurement and Asset Disposal Regulations, 2020 which requires the Accounting Officer to record reasons upon which a determination that the relevant conditions for Direct Procurement set out in Section 103 of the Public Procurement and Asset Disposal Act, 2015 have been satisfied. Further, no documentary evidence was provided in support of prior approval of the direct procurement, appointment of evaluation committee, negotiation by evaluation committee, market survey, signed contract and reporting of the procurement to the Public Procurement Regulatory Authority. Invitation letters to participants and signed attendance register were also not provided for audit review.

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

#### **697. Irregular Supply and Delivery of Market Umbrellas**

The County Executive procured 1997 umbrellas from a supplier at a cost of Kshs.8,387,500 which was paid on 24 June, 2022. However, the expenditure was not budgeted for while the user department requisition, tender advertisement, bids, appointment letters to tender opening and evaluation committee, tender evaluation minutes or scores, professional opinion, inspection and acceptance report and distribution list were not provided for audit verification.

In the circumstances, the propriety of the expenditure totaling to Kshs.8,387,500 could not be confirmed.

#### **698. Supply of ENT Microscope and Accessories**

Expenditure totalling to Kshs.5,200,000 was incurred on the supply and delivery of ENT Microscope and accessories. However, the procurement was split into two, purchase of the microscopes and accessories at amounts of Kshs.3,000,000 and Kshs.2,200,000 respectively. This is contrary to Regulation 43(1) of Public Procurement and Asset Disposal Regulations, 2020 which states that a procuring entity shall not split or structure its contracts for the purpose of avoiding the use of a procurement procedure except where unbundling of categories is allowed under preference and reservation schemes.

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

#### **699. Proposed Improvement of Electrical Lighting and Repair Works Accessories**

The Nakuru Municipality entered into a contract for the proposed improvement of electrical lighting and repair works accessories at KFA, Kwa Jack Matatu Stage and Nakuru Central Business District at a contract sum of Kshs.7,940,100. However, the contract was awarded to the second lowest bidder who had not provided a tender security. Further, the award of tender did not give preference to the citizens in the County. This is contrary to Regulation 151 of Public Procurement and Asset Disposal Regulation, 2020 which gives exclusive preference and reservation to resident contractor when participating in procurement using funds from County Government except where it is established that the local capacity is not available.

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

#### **700. Irregular Supply and Delivery of Acaricides**

The County Executive incurred an expenditure on supply and delivery of acaricides for distribution to farmers totalling to Kshs.22,512,959 which exceeded the approved budgeted amount of Kshs.20,000,000 resulting to an over-expenditure of Kshs.2,512,959. However, the user requisition, tender advertisement, bids, appointment letters to tender opening and evaluation committee, tender evaluation minutes or scores, professional opinion, inspection and acceptance report and distribution list were not provided for audit verification.

In the circumstances, the propriety of the expenditure totalling to Kshs.22,512,959 could not be confirmed.

#### **701. Irregular Supply and Delivery of Pesticides**

A company was paid an amount of Kshs.8,735,410 for the supply and delivery of pesticides for distribution to farmers which exceeded the approved budget amount of Kshs.7,000,000 resulting to an over-expenditure of Kshs.1,735,410. However, the user requisition, tender advertisement, bids, appointment letters to tender opening and evaluation committee, tender evaluation minutes or scores, professional opinion, inspection and acceptance report and distribution list were not provided for audit verification.

In the circumstances, the propriety of the expenditure totalling to Kshs.8,735,410 could not be confirmed.

#### **702. Irregular Supply and Delivery of Fertilizers**

The County Executive incurred expenditure on supply and delivery of fertilizer for distribution to farmers amounting to Kshs.34,778,000 which was not budgeted for. Further, the user requisition, inspection and acceptance report and the criteria for the identifying the beneficiaries were not provided for audit verification. In addition, the basis for distributing the fertilizer to the farmers is not provided for in law.

In the circumstances, the propriety of the expenditure totalling to Kshs.34,778,000 could not be confirmed.

### **703. Establishment of Subsidiaries**

The County Executive Established Molo and Gilgil Municipalities during the year under review. However, the Boards for the two Municipalities were yet to be constituted as at the time of the audit. The applications for conferment of towns to Municipal status for Molo and Gilgil were therefore, not done by the Board. This is contrary to Section 8(1) of the Urban Areas and Cities Act, 2011 which requires the Board of a Municipality/town to apply to the County Executive Committee for consideration for the conferment of municipality/city status. Further, charters granted by the Governor for the municipalities as provided in Section 9(1) of the Urban Areas and Cities Act, 2011 were not provided.

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

### **704. Failure to Recover Retention Money**

The County Executive entered into a contract with various contractors for drilling of boreholes at a cost of Kshs.39,343,026 which was fully paid. However, retention money totalling Kshs.3,050,446 was not recovered from the payments. This is contrary to clause 46.1 of the conditions of contracts for drilling boreholes which stipulates that 10% and or 5% of payment be retained as retention money to be paid after the defect's liability period of 180 days.

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

### **705. Non-Compliance with Deduction and Remittance of Statutory Dues**

Review of documents provided for audit revealed that the County Executive owed an amount of Kshs.305,686,362 to National Social Security Fund (NSSF) which comprise of outstanding contributions of Kshs.98,957,200 and penalties amount of Kshs.206,729,162. However, Management has not made any effort to clear the outstanding amount which continue to attract penalties. Further, Pension deductions and contributions amounting to Kshs.50,893,238 which have attracted interest amounting to Kshs.652,855,400 have also not been remitted. Records supporting deduction and remittance of NHIF and PAYE for employees were not provided for audit review. In addition, the IPPD system does not deduct NSSF for staff on contract and those on Lap Trust Pension Scheme.

In the circumstances, the County continues to incur nugatory expenditure in form of interest and penalties due to ineffective management of public funds.

### **706. Irregular Construction of the Treasury Building**

The County Executive entered into a contract for the construction of County Treasury building at a contract sum of Kshs.886,630,339. A total amount of Kshs.327,979,213 had

been paid to the contractor out of which an amount of Kshs.142,006,035 relate to 2021/2022 financial year. However, the certificates of completion were not supported with joint measurements or measured work done and certified by the inspection and acceptance committee. This is contrary to Regulation 35(6) of the Public Procurement and Asset Disposal Regulations, 2020 which requires the Inspection and Acceptance Committee to prepare and issue a report, interim or completion of inspection and acceptance certificate. Further, the architectural drawings of the building had not been approved and therefore, the validity of the bills of quantities for the building could not be confirmed.

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

#### **707. Direct Procurement of Non-Pharmaceuticals**

Nakuru County Executive Department of Health spent total amount of Kshs.11,910,633.65 on the supply and delivery of medical gas. The gas was directly procured. However, no explanation was provided for failure to competitively procure the gases from the prequalified suppliers. This is contrary to Regulation 90 (1) (a) of the Public Procurement and Asset Disposal Regulations, 2020 which requires the Accounting Officer to record the reasons upon which a determination that the relevant conditions for Direct Procurement set out in section 103 of the Public Procurement and Asset Disposal Act, 2015 have been satisfied.

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

#### **708. Domestic Public Non-Financial Enterprises**

The statement of receipts and payments and as disclosed in Note 10 to the financial statements reflects an expenditure on domestic public non-financial enterprises amounting to Kshs.263,009,388. The expenditure included an expenditure of Kshs.5,743,798 paid to a contractor for certificate number 2 for construction of market shed, pit latrine, fencing and gate house at Lemurine market at a contract sum of Kshs.11,307,634. The contract was scheduled to start on 16 April, 2019 and to be completed on 30 June, 2019. However, it was noted that the project was behind schedule. Further, as at the time of issuing the second interim certificate for Kshs.5,743,798 dated 12 May, 2021, only 80% of the work had been certified while Kshs.10,959,684 or 97% of the contract sum had been paid. No explanation was given for the overpayment and the delayed completion of the project.

In the circumstances, the County Executive did not receive value for money incurred on the project.

#### **709. Irregular Donation of Business Items to the Public**

The specialized materials and services expenditure amounting to Kshs.1,419,256,054 as disclosed in Note 5 to the financial statements includes an expenditure amounting to Kshs.187,113,416 in respect of purchase and supply of tents, chairs, boda-boda umbrellas, motor bikes, shaving machines, school uniforms, hair driers, UV gel, public

address system, car wash machines, water tanks, welding machines and milk coolers. The items were donated to members of the public in the County for free. However, the donations are not within the mandate of the County Government. This is contrary to the Fourth Schedule of the Constitution. Further, requisitions, criteria of identifying the beneficiaries, evidence of acknowledgement letters of receipt by the beneficiaries were not provided for audit verification.

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

#### **710. Fuel, Oil and Lubricants**

The statement of receipts and payments reflects use of goods and services totalling to Kshs.3,845,940,577 and as disclosed in Note 5 to the financial statements. The amount includes an expenditure amounting to Kshs.63,294,367 for the supply of fuel, oil, and lubricants to the various County Departments and other operating expenses amount of Kshs.139,343,387 where some fuel expenditure was charged. However, review of documents provided for audit revealed that an expenditure amounting to Kshs.67,708,348 was incurred on fuel purchased from suppliers other than the authorized. This was contrary to Office of the President Circular referenced OP/CAP.9/108 of 30 April, 2015 which required all Government Ministries, agencies to liaise and negotiate with the National Oil Corporation for supply of fuel. Further, tender documents such as user requisition, the tender document, tender opening minutes, tender evaluation minutes, professional opinion and contract award, signed contract were not provided for audit verification.

In addition, payment for fuel was made in advance. However, the advance payments were not secured. Further, fuel register and supplier statements were not provided for audit review. It was therefore not possible to confirm whether the fuel paid for was fully utilized.

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

#### **711. Research, Studies, Project Preparation, Design and Supervision**

The statement of receipts and payments and as disclosed in Note 10 to the financial statements reflects research, studies, project preparation, design and supervision expenditure amounting to Kshs.94,476,199. The amount includes an expenditure totalling to Kshs.31,976,730 which was incurred on the supply and delivery of non-pharmaceutical goods. Direct procurement method was used in the procurement. However, the procurement did not meet the conditions for direct procurement as prescribed by the Public Procurement and Asset Disposal Regulations, 2020. The procurement had also been split by issuing multiple local purchase orders. This is contrary to Regulation 43(1) of Public Procurement and Asset Disposal Regulations, 2020 which requires a procuring entity not to split or structure its contracts for the purpose of avoiding the use of a procurement procedures.

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

#### **712. Grounded Motor Vehicles and Machinery**

Review of records provided for audit revealed that twelve (12) County Executive motor vehicles and machinery were grounded. However, the County has not prepared an annual disposal plan of items declared as unserviceable, surplus, or obsolete, obsolescence stores, asset or equipment. This is contrary to Regulation 176(1) of the Public Procurement and Asset Disposal Regulations, 2020 which requires an Accounting Officer to ensure that an annual assets disposal plan is prepared of items declared as unserviceable, surplus or obsolete, obsolescence stores, asset or equipment. Further, ownership documents for the grounded motor vehicles and machinery were not provided for audit verification.

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

#### **713. Consultancy Services for Topographical Mapping and Preparation of Nakuru Spatial Development Plan**

The County Executive procured consultancy services for digital topographical mapping at a contract sum of Kshs.314,657,600. The contract was to take 18 months and the commencement date was 22 June, 2015. The amount paid to the consultant as at 30 June, 2022 amounted to Kshs.285,490,929. During the year under review, an amount of Kshs.21,500,316 was paid to the consultant. However, the project had not been completed as at 30 June, 2022 and no extension of the contract period had been granted. Further, the County was yet to claim for any liquidated damages from the consultant. In addition, an incremental Local Service Order (LSO) dated 21 January, 2020 of Kshs.36,500,316 was issued to the contractor and paid. Management has not provided explanation for issuing an additional LSO for the contracted project.

In the circumstances, the County Executive did not receive value for money incurred.

#### **714. Integrated Revenue Collection Management System Contract**

The County Executive contracted a vendor for supply, installation configuration and commissioning of an integrated revenue collection management system at a contract sum of Kshs.34,510,000. The contractor was to be paid 4.3% of the revenue collected in the subsequent years as service charge based on the improvement in revenue collection. During the year under review, the supplier was paid an amount of Kshs.70,710,933 being 4.3% of the total revenue collected during the year under review. However, review of revenue collections records revealed that the County has not realized any major improvement in revenue collection since the inception of the system.

Further, review of records revealed that the County Executive had not collected revenue totalling to Kshs.4,658,774,627 despite the existence of the revenue collection system.

In the circumstances, the County Executive did not receive value for money incurred on the system.



#### **715. Delayed Completion of Water Projects**

The County Executive incurred expenditure amounting to Kshs.89,567,521 on water works that were to be completed within 90 days as per clause 5 of the contracts' agreement. There was however variation of the contract period that was not procedurally approved and Management did not notify the contractors of the non-performance. This is contrary to clause 6 of the contract agreement which requires the employer to give a notice of not more than 7 days to the contractor in case of non-performance or delays or any other reason.

In the circumstances, County Executive did not receive value for money incurred on the project.

#### **716. Construction of Njoro Market**

The County Executive signed contract for the construction of market sheds, water tanks and electrification of Njoro market at a contract sum of Kshs.9,800,000 from 3 January, 2022 to 28 February, 2022. The contractor has been fully paid. However, a field verification conducted on 19 September, 2022 revealed that the market has not been put into use since its completion and the fence around the market has fallen apart. No explanation has been provided for failure to put the market into use.

In the circumstances, the County Executive did not receive value for money incurred on the project.

#### **717. Proposed Construction of Out Patient Department Block at Molo Level 4 Hospital**

Construction of buildings expenditure amounting to Kshs.640,817,888 and as disclosed in Note 10 to the financial statements includes expenditure amount of Kshs.100,399,458 in respect of construction of outpatient block at Molo Level 4 Hospital. The contract was awarded at a contract sum of Kshs.150,095,777. The project was planned to be completed within 40 weeks of commencement (26 April, 2021 to 26 February, 2022). A site visit in October, 2022 and review of completion certificates revealed that the project was at approximately 50% completion level. However, the interim certificates issued were not supported by inspection and acceptance committee joint measurements against the Bills of Quantities. Further, the payments to the contractor amounting to Kshs.100,399,458 represented 67% of the contact price which was 17% more than the actual work done.

In the circumstances, the County Executive did not receive value for money incurred on the project.

#### **718. Proposed Construction of Maternity Wing at Elberton Hospital**

The statement of receipts and payments and as disclosed in Note 10 to the financial statements reflects construction of buildings amounting to Kshs.640,817,888. The expenditure includes an amount of Kshs.5,691,406 paid for the construction of Maternity

Wing at Elberton Hospital at a contract sum of Kshs.38,075,070. The contract was signed on 18 June, 2019 for a duration of 80 weeks with a completion date of December, 2020. The completion date was however extended to 5 April, 2021 with the contractor having been paid an amount totalling to Kshs.35,442,883. Physical verification of the project on 21 September, 2022 revealed that the project was incomplete and the contractor was not on site. Further, there were no materials on site.

In the circumstances, the County Executive did not receive value for money.

#### **719. Proposed Construction of Out-Patient and In-Patient - Njoro Level 4 Hospital**

The statement of receipts and payments and as disclosed in Note 8 to the financial statements reflects Kenya Devolution Support Programme expenditure amounting to Kshs.111,558,895. The expenditure includes an amount of Kshs.68,904,017 paid to a contractor for proposed construction of outpatient and in-patient Njoro level 4 hospital in Njoro Sub-county at a contract sum of Kshs.147,538,940. The contract duration was to run for 38 weeks with a completion date of November, 2021. The contractor sought for an extension period of 13 weeks to 22 February, 2022 vide letter dated 12 November, 2021 which was not granted. So far, a total amount of Ksh.99,175,865 or 67% of the contract sum has been paid to the contractor.

Further, the performance bond for the project which was valid for 48 weeks expired on 15 January, 2022 and was not renewed and no damages have been claimed from the contractor contrary to Clause 27.1 of the tender document which provides for liquidated damages amounting to Kshs.100,000 per week in case of delays in execution of intended works.

In the circumstances, the County Executive did not receive value for money.

#### **720. Project Implementation Status**

During the year under review, the County Executive had an approved budget amount of to Kshs.14,340,651,975 to be spent on four thousand two hundred and thirty-seven (4,237) projects and the full amount was disbursed to the projects. Six hundred and eighty-six (686) of the projects with a budgetary allocation amount of Kshs.2,156,468,529 were yet to start. Another four hundred and seventy-four (474) projects with a budgetary allocation amount of Kshs.3,628,619,100 were incomplete, while one thousand seven hundred and eighty-one (1781) projects with a budgetary allocation of Kshs.4,957,715,506 had stalled. Only one thousand two hundred and ninety-six 1,296 projects with a budgetary allocation amount of Kshs.4,957,715,506 were completed as at 30 June, 2022. Further, the project implementation status report budget amount of Kshs.14,340,651,975 differs with the development vote final budget amount of Kshs.8,012,074,839 resulting to unexplained variance of Kshs.6,328,577,136.

In the circumstances, the County Executive did not receive value for money already incurred on the projects.

### **721. Incomplete Boreholes**

The County Executive signed contracts for drilling and equipping of boreholes at a cost of Kshs.29,095,575 which was fully paid. However, the boreholes have neither been equipped nor electricity or solar panels installed. Further, ownership documents for the boreholes and approvals from relevant government agencies were not provided for audit verification.

In the circumstances, the County Executive did not receive value for money.

### **722. Lack of Nakuru City Integrated Development Plan**

Nakuru Municipality was upgraded to city status during the year under review. However, the city does not have an approved City Integrated Development Plan. This is contrary to Section 5(b) of the Urban Areas and Cities Act, 2011 which stipulates that one of the criteria for classification of an urban area as a city is having an integrated urban area or city development plan.

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

### **723. Unpaid Court Awards**

Review of documents provided for audit revealed that the Chief Magistrates Court in Nakuru, civil suit No. 2728 of 2003 ordered the County Executive to pay an amount of Kshs.5,000,000 to the plaintiffs for their rightful, retirement benefits payable as at 31 December, 2002 and all the plaintiffs' gross salary per month commencing 1 January, 2003. However, the order was not honored and in the circumstances, the County Executive has since accrued extra penalties on the unpaid amount of Kshs.39,614,552. No explanation has been provided for failure to pay the amount awarded by the court.

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

## **REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE**

### **Basis for Conclusion**

### **724. Land Rates**

The County Executive does not maintain a valuation roll for land owned within the County. No explanation has been provided for failure to maintain an updated valuation roll. Therefore, the County Executive does not have legal document to enforce land rate collections.

In the circumstances, existence of control mechanisms on land rates could not be confirmed.

#### **725. Lack of Approved Risk Management and Fraud Policy**

The County Executive does not have an approved risk management and fraud policies in place. This is contrary to the provisions of Section 158(1) of the Public Finance Management (County Governments) Regulations, 2015 which requires the Accounting Officer to develop risk management strategies which include fraud prevention mechanism and internal control that builds robust business operations.

In the circumstances, existence of an effective risk management could not be confirmed.

## **COUNTY EXECUTIVE OF NAROK - NO.33**

### **REPORT ON THE FINANCIAL STATEMENTS**

#### **Basis for Adverse Opinion**

##### **726. Inaccuracies in the Financial Statements**

The statement of receipts and payments reflects total expenditure of Kshs.3,434,162,137 in respect to twenty (20) items. However, the Integrated Financial Management Information System (IFMIS) ledgers reflects a total amount of Kshs.2,767,482,940 for respective items resulting to unreconciled variances as detailed in Appendix 1. No reconciliations were provided to account for the variances.

Further, the statement of receipts and payments reflects transfers to other Government units amount of Kshs.1,100,441,728 which, as disclosed in Note 5 to the financial statements, includes an amount of Kshs.849,941,728 transferred to the County Assembly. However, the financial statements of the County Assembly for the year ended 30 June, 2022 reflects total receipts from the County Executive of Kshs.812,941,728 resulting to an unexplained and unreconciled variance of Kshs.37,000,000.

In the circumstances, the accuracy and completeness of the statement of receipts and payments could not be confirmed.

##### **727. Use of Goods and Services**

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects use of goods and services expenditure of Kshs.4,016,912,801. The following observations were made:

###### **727.1 Unaccounted for Transfers to Other Departments**

The expenditure includes an amount of Kshs.1,833,788,773 transferred to other departments and charged against various expenditure items. However, the actual expenditure returns, payment vouchers, journal vouchers and bank statements on how the funds were spent were not provided for audit.

###### **727.2 Unsupported Expenditure**

The expenditure includes an amount of Kshs.5,359,757; Kshs.11,192,863; Kshs.149,894,917 and Kshs.34,419,887 in respect to foreign travel and subsistence, training expenses, legal fees and drugs and non-pharmaceuticals expenses all totalling Kshs.200,867,424. However, supporting documents including copies of boarding passes and passports, invoices, delivery notes, distribution lists, training needs assessments and locations of trainings, legal fees notes and inspection and acceptance certificates were not provided for audit.

### **727.3 Unaccounted Transfers to Mara Conservancy**

The expenditure includes an amount of Kshs.278,339,020 for printing, advertising and information supplies and services expenditure which further includes an amount of Kshs.40,000,000 transferred to Mara Conservancy Operation Bank account. However, the expenditure returns for the expenditure of Kshs.40,000,000 were not provided for audit. Further, the receiver of revenue statement for the year under review did not reflect any revenues collected by the Conservancy.

### **727.4 Unconfirmed Service Fees**

The expenditure includes an amount of Kshs.1,364,228,846 incurred on specialized materials and services which further includes an amount of Kshs.1,364,228,846 which further includes an amount of Kshs.50,000,000 or 6.5% service fees paid to Kenya Airport Parking Services (KAPS) for revenue collection services at Maasai Mara Game Reserve. However, the agreement between KAPS and the County Executive, the operator's bank account statements and revenue collection reports were not provided for audit.

In the circumstances, the propriety, accuracy and completeness of use of goods and services expenditure of Kshs.2,124,656,197 could not be confirmed.

## **728. Unsupported Acquisition of Assets**

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflects acquisition of assets amount of Kshs.1,272,926,446. The following observations were made:

### **728.1 Referral Hospital Block**

The expenditure includes construction of buildings amount of Kshs.973,558,334. Included in the amount is an advance payment of Kshs.245,000,000 in respect of provision of mechanical, electrical engineering services and associated works for new County Referral Hospital block at a contract value of Kshs.469,614,655. Although certificate No.4 for certified works of Kshs.287,797,960 was provided in support of the payments, no works had commenced as at 01 September, 2022 and the project was not in the approved budget.

Further, a detailed schedule indicating description of building, land reference number, contract number, contract value and proof of land ownership were not provided for audit. In addition, the building cost has not been reflected as work in progress in the asset register.

### **728.2 Construction of Roads**

Included in the expenditure is an amount of Kshs.53,829,268 incurred on maintenance of County roads. However, the County Executive did not maintain an inventory of public roads specifying the roads in respect of classification, road names and length by surface and therefore, details indicating the number of kilometres of road works done could not



be confirmed. In addition, the road assets amount omits the value of roads funded by Road Maintenance Levy Fund during the year under review.

### **728.3 Purchase of Specialized Plant, Equipment and Machinery**

Included in the expenditure is an amount of Kshs.62,741,380 incurred on purchase of specialised plant, equipment and machinery. However, supporting documents including purchase invoices and detailed schedules indicating the model, serial numbers, description and function were not provided for audit.

### **728.4 Consultancy Services**

The expenditure includes construction of buildings amount of Kshs.952,904,195 which further includes an amount of Kshs.19,721,494 and Kshs.14,412,718 in respect of consultancy services and research studies for project preparation, design review and supervision of various projects respectively, both totalling to Kshs.34,134,212. However, the payments were not supported by reports prepared by the consultancy firm as an indication that the services were actually delivered. Further, the contracts signed on 10 March, 2020 between the consultancy firm and the County did not indicate the terms of reference, expected milestones and timelines.

In the circumstances, the propriety, accuracy and completeness of the above expenditure all totalling to Kshs.395,704,860 could not be confirmed.

### **729. Unconfirmed Cash and Bank Balances**

The statement of financial position and as disclosed in Note 8A to the financial statements reflects a bank balance of Kshs.265,850,678. However, the statement of cash flows reflects an amount of Kshs.268,329,309 resulting to an unreconciled variance of Kshs.2,478,631. Further, the statement of cash flows reflects an opening cash bank balance of Kshs.1,078,934,153 while the previous year's statement of cash flows reflected a closing balance of Kshs.1,113,386,503 resulting to an unreconciled variance of Kshs.34,452,350.

In addition, the statement of assets and liabilities reflects cash and cash equivalents balance of Kshs.265,850,678 which includes an amount of Kshs.150,821,425 in respect to seventeen (17) bank accounts. However, the bank reconciliation statements, cashbooks, certificate of bank balances and Board of Survey reports were not provided for audit.

In the circumstances, the accuracy, completeness and existence of the bank balance of Kshs.265,850,678 could not be confirmed.

### **730. Unconfirmed Outstanding Imprests and Advances**

The statement of assets and liabilities and as disclosed in Note 9 to the financial statements reflects outstanding imprest advances balances of Kshs.4,597,224.

However, a detailed schedule indicating opening balances, imprest issued and surrenders during the year under review was not provided for audit.

In the circumstances, the accuracy, completeness and existence of outstanding imprest and advances balance of Kshs.4,597,224 could not be confirmed.

### **731. Unsupported Deposits and Retentions**

The statement of assets and liabilities and as disclosed in Note 10 to the financial statements reflects deposits and retentions balance of Kshs.2,118,592. However, the cash book reflected a balance of Kshs.42,903,563 resulting to an unreconciled variance of Kshs.40,784,971. Further, the certificate of bank balance reflected an amount of Kshs.17,497,571 resulting to an unreconciled variance of Kshs.15,378,979. In addition, the bank reconciliation statements includes an amount of Kshs.44,024,569 and Kshs.28,645,590 reflected as unrepresented cheques and uncredited receipts respectively whose details were not provided. Further, completion of works certificates were not provided for audit to support how the opening balance of Kshs.45,535,150 was refunded to contractors.

In the circumstances, the accuracy and completeness of deposits and retention balance of Kshs.2,118,592 could not be confirmed.

### **Other Matter**

### **732. Budgetary Control and Performance**

The statement of comparison of budget and actual amounts reflects final budgeted receipts and actual amount on a comparable basis of Kshs.13,352,112,889 and Kshs.9,835,681,949 respectively, resulting to receipts shortfall of Kshs.3,516,430,939 or 26% of the budget. Similarly, the County Executive spent Kshs.10,646,286,793 against an approved budget of Kshs.13,352,112,889 resulting to under-expenditure of Kshs.2,705,826,096 or 20% of the budget. Reasons for the receipts shortfall and the under expenditure were not provided.

The receipts shortfall and under expenditure impact negatively on the delivery of services to the residents of Narok County.

### **733. Pending Accounts Payables**

Annex 4 of the financial statements reflects pending accounts payables amounting to Kshs.415,304,050 due to suppliers of goods, works and services. Further, Annex 5 of the financial statements reflects pending staff payables amounting to Kshs.210,597,267 resulting to total pending bills of Kshs.625,901,317. However, the pending bills of Kshs.415,304,050 due to suppliers of goods, works and services were not supported with aging analysis, contract agreements, local purchase orders /local service orders, invoices, delivery notes, Inspection and Acceptance Committee reports.

In the circumstances, the accuracy and completeness of the pending bills payable of Kshs.415,304,050 could not be confirmed.

### **734. Unresolved Prior Year Matters**

Several prior year audit issues remained unresolved as at 30 June, 2022. Management did not provide reasons for the delay in resolving the prior year audit issues.

## **REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

### **Basis for Conclusion**

### **735. Failure to Prepare County Entities' Financial Statements**

The County Treasury did not prepare and submit for audit financial statements for Narok and Kilgoris Municipalities, Facility Improvement Fund and Level Four Hospitals within the County as prescribed by the Public Sector Accounting Standards Board (PSASB) and The National Treasury. This is also contrary to Section 164 of the Public Finance Management Act, 2012 which requires an Accounting Officer for a county government entity to prepare and submit to the Auditor-General for audit financial statements in respect of the entity in formats prescribed by the Public Sector Accounting Standards Board within three months after the end of each financial year.

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

### **736. Retention of Staff beyond the Mandatory Retirement Age**

The statement of receipts and payments and as disclosed in Note 3 to the financial statements reflects compensation of employees amount of Kshs.3,761,884,987 which includes an amount of Kshs.53,855 paid to thirty-two (32) officers who had reached the mandatory retirement age of 60 years but were retained in service without any justification. This was contrary to Section D.21 of the Human Resource Policies and Procedures Manual for the Public Service, which 2016, provides that all officers shall retire from service on attaining the mandatory age of 60 years and 65 years for persons with disability and/or as may be prescribed by government from time to time.

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

### **737. Excess Transfers to the County Assembly**

The statement of receipts and payments reflects transfers to other Government units amount of Kshs.1,100,441,728 which, as disclosed in Note 5 to the financial statements, includes an amount of Kshs.849,941,728 transferred to the County Assembly and accounts for eight percent (8%) of the total county revenue amounting to Kshs.9,835,681,949. This was contrary to Regulation 25(1)(f) of the Public Finance Management (County Governments) Regulations, 2015 which states that the approved expenditures of a County Assembly shall not exceed seven per cent of the total revenues of the County Executive or twice the personnel emoluments of that County Assembly, whichever is lower.

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

### **738. Irregular Funding of National Government Projects**

The statement of receipts and payments and as disclosed in Note 5 to the financial statements reflects transfers to other Government entities amount of Kshs.1,100,441,728 which includes an amount of Kshs.199,500,000 spent on scholarships and other educational benefits. Included in the expenditure is an amount is Kshs.105,050,000 irregularly transferred to various primary and secondary schools for the construction of classrooms, dormitories and libraries which is a mandate of the National Government.

Further, there were no confirmations from the respective institutions that they received the funds and utilized them for the intended purpose.

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

### **739. Irregular Payments to the Council of Governors**

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects use of goods and services amount of Kshs.4,016,912,801 which includes rentals of produced assets amount of Kshs.15,210,192 out of which an amount Kshs.1,380,000 was paid to the Council of Governors. This was contrary to Section 37 of the Intergovernmental Relations Act, 2012 which states that the operational expenses in respect of the structures and institutions established by the 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.

### **740. Non-Operationalization of County Healthcare Services Improvement Fund**

The County Assembly of Narok passed the County Healthcare Services Improvement Fund Act, 2017 on 24 June, 2017 to facilitate the establishment and administration of a Fund to manage Level 4 health facilities through the appointment of a Health Services Board. The functions of the Fund and Board would include guiding the collection and banking of hospital fees and management of waivers and exemptions in the Level 4 health facilities. During the year under review, the hospitals collected an amount of Kshs.28,070,700 in fees and also granted waivers and exemptions amounting to Kshs.1,834,850. However, at the time of audit in August, 2022 the County Executive had not appointed a Board to manage these facilities.

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

### **741. Irregular Operation of Commercial Bank Accounts**

Review of records revealed that the County Treasury operated nineteen (19) commercial bank accounts during the year under review. This was contrary to Regulation 82(1)(a) and (b) of the Public Finance Management (County Governments) Regulations, 2015 which states that all county exchequer accounts shall be opened at the Central Bank of Kenya except for imprest bank accounts for petty cash.

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

## **742. Re-Deployment of Revenue Collection Staff**

The statement of receipts and payments and as disclosed in Note 3 to the financial statements reflects compensation of employees amount of Kshs.3,761,884,987 which includes an amount of Kshs.255,222,960 paid to three hundred and forty-one (341) staff members who were re-deployed from revenue collection to other departments as a result of outsourcing the revenue collection functions to an agent. However, no staffing needs assessment was carried out to effectively utilise the human resource asset and specify the duties, job description and performance measurement of the officers in their new workstations.

In the circumstances, no value for money may have been obtained from the annual salary payments of Kshs.255,222,960 to staff who may have been unproductive or idle during the year under review.

## **743. Non-Recovery of Salary Paid to Absentee Employees**

Review of records revealed that the County Public Service Board had recommended recovery of salaries of Kshs.7,928,454 paid to thirteen (13) staff members who were absent from work without leave or lawful cause for durations ranging between two months to three and a half years. However, no evidence was provided to prove that the directives were effected and the payments were recovered. Further, although the Board recommended that the officers be surcharged for the salary received, clause 9.8 of the County Human Resource Policies and Procedures Manual recommends dismissal from service for such cases.

In the circumstances, the propriety and value for money totalling to Kshs.7,928,454 paid to absentee employees could not be confirmed.

## **744. Project Implementation**

### **744.1 Irregular Variation of Works**

Review of records revealed that the County Executive contracted contractors for the construction of a new Referral Hospital Block and Mortuary at a cost of Kshs.558,795,435 and construction of the Narok County Medical School, Hostel and Associated Works at a sum of Kshs.288,850,043. However, the works certified amounting to Kshs.613,843,697 differed from the Bills of Quantities amount of Kshs.510,547,633 resulting to an explained variation of Kshs.103,295,764.

### **744.2 Duplication of Works**

The County Executive entered into contracts for the construction of a new Referral Hospital and Narok Medical Training Center (MTC) at a contract sum of Kshs.558,795,435 and Kshs.288,850,043 respectively. The contracts included both structural and electrical works.

However, towards the end of the contracts, Management entered into another contract for provision of electrical and mechanical works at a contract sum of Kshs.469,614,655

for the Referral Hospital and Kshs.118,918,917 for MTC respectively. The new contract was with a different contractor but for the same buildings thereby increasing the total cost for the two projects by Kshs.588,533,572 as detailed below:

<b>Project</b>	<b>Original Contract (Kshs)</b>	<b>New Contract (Kshs)</b>	<b>Total Cost (Kshs)</b>
Narok Referral Hospital	118,918,918	469,614,655	588,533,573
Narok Medical School Hostel and Associated Works	93,450,000	118,918,917	212,368,917
<b>Total</b>	<b>212,368,918</b>	<b>588,533,572</b>	<b>800,902,490</b>

Management did not provide explanation for the new contracts issued in respects of works which were ongoing.

#### **744.3 Irregular Award of Road Works to an Unqualified Contractor**

Management awarded a contract for repair and rehabilitation of Nairegie-Enkare Road and completion of Narok Township roads to a contractor at a cost of Kshs.132,014,797 on 15 February, 2022. As at 30 June, 2022 a total of Kshs.10,000,000 had been paid. However, records provided for audit, indicated that the company awarded the contract, did not have specific construction experience, schedule of major items of plant, proof of ownership/lease agreements of plant and equipment held and list of equipment holding required to complete the task as specified in the tender document.

Further, as at 1 September, 2022 the company had only completed Garage Loop-CBD road measuring 0.4 Km yet the contract period of six months had lapsed. Works on Lenana area-1.2 Km, Masaai Mara University road-1.7 Km, Prisons loop roads-1.7 Km, Junction B7 to Nairegi-Enkare town road 5.5 Km and Nairegi-Enkare Market loop road - 1 Km, had not begun upon the contract lapse putting doubt on the competency of the contractor to undertake the works.

#### **744.4 Delayed Completion of Capital Projects**

Review of records provided for audit on project implementation status as at 5 August, 2022 revealed that fifteen (15) projects with a contract value of Kshs.1,978,691,605 and cumulative payments of Kshs.1,336,422,227 were behind the completion dates as indicated in Appendix II.

Further, no appropriate action has been taken by Management to address obligations not met by the contractors.

In the circumstances, failure to implement the above projects as planned may have negatively impacted on delivery of goods and services to the public.



#### **745. Project Verification**

During the year under review, twelve (12) projects with a contract value of Kshs.1,003,336,431 were verified in the month of October, 2022, and anomalies noted are as detailed in Appendix III.

In the circumstances, the public may have failed to obtain value for money spent on the projects cumulatively valued at Kshs.718,935,671.

#### **746. Unaccounted Payments on Narok Town Bus Terminus**

The County Executive contracted a contractor on 27 October, 2020 for the construction of Narok Town Bus Terminus at a cost of Kshs.131,431,939 out of which an amount of Kshs.20,750,000 was in respect of provisional sums, out of which an amount of Kshs.12,250,000 was paid cumulatively totalling to Kshs.116,663,461 in respect of works certified to date as indicated in certificate No. 5 of 9 May, 2022, without the employer's written instructions or authorisation. Further, physical site verification done on 1 September, 2022 revealed that the automated access gates, electrical works and other associated works and the overhead water storage, underground water tank and plumbing works had not been done although partly paid for. In addition, the project completion date was extended from 24 April, 2021 to 31 August, 2022 without following due process in breach of Section 139(2) of the Public Procurement and Asset Disposal Act, 2015.

In the circumstances, the propriety and value for money for the payments of Kshs.12,250,000 for provisional sums could not be confirmed.

#### **747. Unsupported Funds Withheld at Source on Managed Equipment Service**

Review of records provided for audit revealed that Kshs.153,295,744 was withheld at source in respect of servicing lease rentals for medical equipment supplied through Managed Equipment Services (MES) agreement between the Ministry of Health and the 47 County Governments that took effect from February 2015 for a period of 7 years. Further, the medical equipment's were supplied to County Governments under the categories listed below: Theatre equipment, Theatre, Central Sterile Stores Department (CSSD) equipment, Laboratory equipment (Category 1), Laboratory equipment (Category 2), Renal Equipment, Intensive Care Unit Equipment and Radiology Equipment. However, no records were provided for audit as indication of delivery and receipt of equipment in the County. In addition, the signed Memorandum of Understanding (MoU) between the County and Ministry of Health, list of beneficiary hospitals against equipment supplied, Inspection and Acceptance Committee certificates, equipment invoices and updated assets register were not provided for audit.

In the circumstances, the propriety and value of lease rentals of Kshs.153,295,744 could not be confirmed.

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

### **Basis for Conclusion**

#### **748. Internal Audit Function**

Review of records provided for audit revealed that the County Internal Audit Department did not have an approved Internal Audit Charter, approved annual audit plan and independent budget or authority to incur expenditure. Further, the Audit Committee Members' terms of office expired on 02 June, 2022 and had not been renewed as at the time of audit.

In the circumstances, the effectiveness of the Internal Audit Function could not be confirmed.

#### **749. Lack of a Risk Management Policy**

The County Executive did not have a Risk Management Policy in place and therefore, had no approved processes and guidelines on how to mitigate operational, legal and financial risks. This was contrary to Regulation 158 of the Public Finance Management (County Governments) Regulations, 2015 which states that the Accounting Officer should ensure that the County Government entity develops risk management strategies, which include fraud prevention mechanism; and develops a system of risk management and internal control that builds robust business operations. Further, the County Executive lacks a Disaster Recovery Plan or Business Continuity Plan which outlines how it will continue operating during an unplanned disruption in service.

In absence of an approved Risk Management Policy, it is not clear how the County Executive identifies and mitigates emerging risks in its day-to-day operations.

#### **750. Summary of Fixed Assets Register**

Annex 3 to the financial statements reflects total assets amounting to Kshs.46,015,104,287. However, the County Government did not provide a detailed schedule with specific descriptions, identification number and value of the assets for audit. Further, the amount of Kshs.46,015,104,287 includes land valued at Kshs.30,094,354,739 whose ownership documents were not provided for audit. In addition, and as previously reported, there are twenty (20) bonded vehicles whose value could not be ascertained and Management has not indicated how to dispose them. Further, there are twelve (12) motor vehicles valued at Kshs.19,838,000 which were grounded and Management has not indicated how to repair them.

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

## Appendix I: Inaccuracies in the Financial Statements

No	Expenditure Item	Financial Statements Balances (Kshs.)	IFMIS Ledger Balances (Kshs.)	Variance (Kshs.)
1	Refurbishment of Buildings	17,921,254	51,109,772	(33,188,518)
2	Construction of buildings	973,558,334	1,199,447,831	(225,889,497)
3	Construction of roads	53,829,268	132,032,389	(78,203,121)
4	Specialized Equipment	62,741,380	44,680,820	18,060,560
5	Acquisition of Land	54,994,039	-	54,994,039
6	Construction and Civil Works	32,355,705	100,414,391	(68,058,686)
7	Purchase of Office Furniture and General Equipment	6,376,944	4,426,000	1,950,944
8	Research Studies	14,412,718	6,869,775	7,542,943
9	Other Operating Cost	267,464,424	428,997,844	(161,533,420)
10	Hospitality Expenses	586,650,506	235,324,700	351,325,806
11	Domestic travel and accommodation	124,700,336	51,531,215	73,169,121
12	Foreign travel	5,359,757	509,400	4,850,357
13	Communication and Supply Services	364,309,425	-	364,309,425
14	Advertising Printing and Information Supply Services	278,339,020	52,983,316	225,355,704
15	Training Expenses	119,275,795	22,635,375	96,640,420
16	Utilities, Supplies and Services	50,349,806	29,889,729	20,460,076
17	Routine Maintenance Vehicles and Transport Equipment	204,555,696	176,637,490	27,918,205
18	Fuel Oil and Lubricants	178,000,000	-	178,000,000
19	Rental of Produced Assets	15,210,192	131,699,617	(116,489,425)
20	Insurance Costs	23,757,538	98,293,276	(74,535,738)
	<b>Total</b>	<b>3,434,162,137</b>	<b>2,767,482,940</b>	

## Appendix II: Delayed Completion of Projects

Project No.	Project Description/ Details	Contract Amount (Kshs.)	Amount Paid (Kshs.)	Expected Completion Date	% of Completion
1	Proposed New Hospital Block and Mortuary at Narok County Referral Hospital.	558,795,432	511,634,304	09 Aug, 2021	90%
2	The Mechanical, Electrical, Engineering Services and Associated Works for New Narok County Referral Hospital Block	469,614,655	245,000,000	18 July, 2022	65%
3	Proposed Construction of a New Narok County Medical School (MTC), hostels and Associated Works	288,850,043	221,528,196	31 Dec, 2021	90%
4	The Mechanical, Electrical, Engineering Services and Associated Works for New Narok County Medical School (MTC)	47,954,637	0	18 July, 2022	45%
5	Construction and Upgrading of Lolgorian Health Centre to a Standard Level 4 Hospital (phase 1).	160,353,602	144,252,149	05 June, 2021	86%
6	Proposed Expansion Works at Nairegie Enkare Sub -county Hospital	105,406,405	20,000,000	24 Jan, 2023	40%
7	Proposed Expansion Works at Emurua Dikirr Sub -county Hospital	44,300,238	29,895,992	24 Jan, 2023	40%
8	Proposed Expansion Works at Lolgorian Sub -county Hospital	89,539,451	20,000,000	24 Jan, 2023	60%
9	Ololulunga Covid 19 Isolation Center Phase 2 & Associated Works	99,655,497	85,640,308	02 Aug, 2021	85%
10	Construction of a Standard Dispensary at Oloshaiki-narok East	10,552,474	10,059,000	24 June, 2022	95%
11	Construction of a Standard Health Centre	50,310,940	23,073,468	24 June, 2022	45%

<b>Project No.</b>	<b>Project Description/ Details</b>	<b>Contract Amount (Kshs.)</b>	<b>Amount Paid (Kshs.)</b>	<b>Expected Completion Date</b>	<b>% of Completion</b>
	at Nkararo-transmara West				
12	Construction of A Standard Health Center at Inkoirienito-narok East	25,803,086	10,000,000	24 June, 2022	40%
13	Construction of Various Health Facilities: Ositete, Olkoroi, Olposimoru Mara And Naromoru Dispensary	9,353,574	9,620,002	09 Feb, 2017	90%
14	Construction of Various Health Facilities: Chemamit, Kapsasain, Kiribwet, Kabolecho and Salgas Dispensaries	11,451,874	3,031,094	09 Feb, 2017	70%
15	Construction of Various Health Facilities: Kamaget, Sosiana and Mogor Dispensaries	6,749,697	2,687,714	09 Feb, 2017	40%
	<b>Total</b>	<b>1,978,691,605</b>	<b>1,336,422,227</b>		

### Appendix III: Project Verification

No.	Project	Contract Value (Kshs.)	Cumulative Payments (Kshs.)	Observations
1	Construction of Narok Medical School, Hostel and Associated Works	288,850,043	200,030,905	Construction works totalling to Kshs.131,620,940, still pending
2	Construction of Various Health Facilities: Ositete, Olkoroi, Olposimoru Mara and Naromoru dispensary	9,353,574	9,620,002	At 90% ; Completion date was 9 February 2017
3	Construction of Various Health Facilities: Chemamit, Kapsasain, Kiribwet, Kabolecho and Salgaa Dispensaries	11,451,874	3,031,094	At 70%; Completion date was 9 February, 2017
4	Construction of Various Health Facilities: Kamaget, Sosiana and Mogor Dispensaries	6,749,697	2,687,714	At 70%; Completion date was 9 February, 2017
5	Construction and Upgrading of Lolgorian Health Centre to a Standard Level 4 Hospital (phase 1).	160,353,602	160,353,602	Completed on 19 March, 2021 but Theatre, Radiology, Kitchen, Laundry, Female ward, Male Ward and Mortuary block not in use
6	Construction of Twin Theatre & Radiology at Nairegie Enkare Hospital	19,521,594	19,521,594	Completed 5 June, 2021 but Twin Theatre block, Radiology Block not in use
7	Upgrading of Emurua Dikirr Health Centre to Level 4 Hospital	128,295,606	128,295,606	Completed on 24 January, 2022 Maternity, Theatre, Radiology, Kitchen, Laundry, Female ward, Male Ward and Mortuary block
8	Lolgorian Market	39,858,850	39,858,850	Not in Use
9	Proposed Expansion Works at Lolgorian Sub -county Hospital	89,539,451	20,000,000	Works valued at Kshs.16,532,091 paid for but not done
10	Expansion Works at Nairegie Enkare Sub -county Hospital	105,406,405	20,000,000	Works valued at Kshs.26,553,669 paid for but not done



<b>No.</b>	<b>Project</b>	<b>Contract Value (Kshs.)</b>	<b>Cumulative Payments (Kshs.)</b>	<b>Observations</b>
11	Expansion Works at Emurua Dikirr Sub -county Hospital	44,300,238	29,895,995	Works valued at Kshs.15,999,434 paid for but not done
12	Ololulunga Sub County Hospital	99,655,497	85,640,309	Works valued at Kshs.59,085,194 paid for but not done
	<b>Total</b>	<b>1,003,336,431</b>	<b>718,935,671</b>	

## COUNTY EXECUTIVE OF KAJIADO - NO.34

### REPORT ON THE FINANCIAL STATEMENTS

#### **Basis for Qualified Opinion**

##### **751. Variances between the Financial Statements and Ledger Balance**

The statement of receipts and payments and as disclosed in Note 3 to the financial statements reflects transfers from other Government entities amount of Kshs.416,999,017 while the ledger reflects an amount of Kshs.212,951,940 resulting in an unexplained difference of Kshs.204,047,077.

Further, as disclosed in Note 7 to the financial statements, transfers to other Government units amount of Kshs.1,305,888,492 is in variance with the ledger amount of Kshs.2,070,696,873. The difference of Kshs.764,808,380 has not been explained.

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

##### **752. Unsupported Cash and Cash Equivalents**

The statement of assets and liabilities and as disclosed in Note 14 A to the financial statements reflects bank balances of Kshs.386,643,971. However, the Management did not provide a Board of cash survey report as at 30 June, 2022. Further, review of the cashbooks, bank reconciliation statements, bank statements and certificate of bank balances revealed various anomalies as noted below:

###### **752.1 Agriculture Sector Development Support Program II KCB A/C**

Note 14 A to the financial statements reflects account bank balance of Kshs.1,492,745 while the bank reconciliation statement reflects a reconciled balance of Kshs.1,330,545. Resulting to an unexplained variance of Kshs.162,200.

###### **752.2 Kajiado County ASDSP II-CBK A/C**

Note 14 A to the financial statements shows a nil balance for the account while the bank statement and certificate of bank balance show a balance of Kshs.12,355,587. It was also noted that the County Executive did not maintain a cashbook for the account.

###### **752.3 Kajiado County Climate Smart Agriculture Grants-CBK A/C**

Note 14A to the financial statements reflects a bank balance of Kshs.42,751 while the certificate of bank balance and the cash book show a balance of Kshs.43,522,587 and Kshs.42,751 respectively. However, bank reconciliation statement was not provided in support of the balance.

#### **752.4 Kenya Climate Smart Account -KCB A/C**

Note 14A to the financial statements reflects a bank balance of Kshs.176,318,333. However, the cashbook, certificate of balance, bank statement and bank reconciliation statement reflects a balance of Kshs.145,750,094. In addition, the cashbook reflects cash in hand balance of Kshs.22,182,670 which was not reported in the financial statements.

#### **752.5 Bank Account Balances Erroneously included in the Financial Statements**

Note 14 A to the financial statements includes bank balances for accounts, relating to five (5) entities established under various Acts amounting to Kshs.15,074,455 and which should be reported separately in the respective financial statements.

#### **752.6 Account Balances not Disclosed in the Financial Statements**

Accounts and bank balances for four (4) bank accounts amounting to Kshs.47,524,027 were either omitted or not disclosed in the financial statements.

#### **752.7 Kajiado County Primary Health Care-CBK A/C**

Note 14 A to the financial statements reflects account bank balance of Kshs.1,098,375. However, the certificate of bank balance, bank statement and bank reconciliation statement reflect a balance of Kshs.9,135,000.

#### **752.8 Kajiado County Department of Health Grants-CBK A/C**

Note 14 A to the financial statements reflects a bank balance of 16,847,333 which is at variance with the cashbook and the bank reconciliation balance of Kshs.16,720,248. Further, the bank reconciliation statement shows payments in cashbook not recorded in bank statement (unpresented cheques) totalling to Kshs.17,714,016, which includes stale cheques totalling to Kshs.205,716 and which was not recorded in the cashbook.

In addition, a cheque for Kshs.75,229 drawn in favour of a dispensary on 30 June, 2022 was not recorded in the cashbook.

#### **752.9 County Health Management Team-KCB A/C**

Note 14 A to the financial statements reflects a bank account balance of Kshs.650,332. However, the bank reconciliation statement and cashbook reflected a balance of Kshs.603,523. Further, the bank reconciliation statement showed unpresented cheques of Kshs.46,809 which were not supported with a schedule.

#### **752.10 Kajiado County Nutrition Funds-CBK A/C**

Note 14 A to the financial statements, cashbook and bank reconciliation statement reflects bank balance of Kshs.756,300 while the cashbook shows balance of Kshs.4,014,900 that was not disclosed in the financial statements.

### **752.11 Kajiado County KE Devolution Support Program Bank A/C**

Note 14 A to the financial statements reflects a bank balance of Kshs.97,971,408 while the certificate of bank balance shows a balance of Kshs.77,272,933. The cashbook and bank reconciliation statement were however, not provided for audit review.

### **753. Unsupported Compensation for Casuals**

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects compensation of employees amount of Kshs.3,125,482,350. Included in the amount are basic wages and personal allowances of Kshs.38,524,979 and Kshs.1,572,000 respectively paid as reimbursement without supporting schedules. Further, basic wages amount of Kshs.38,524,979 was at variance with the IFMIS payment details amount of Kshs.21,000,619 by Kshs.17,524,360.

In the circumstances, the accuracy and completeness of the compensation of employees amount of Kshs.3,125,482,350 could not be confirmed.

### **754. Expenditure Charged to Wrong Accounts**

The statement of receipts and payments and as disclosed in Notes 5 and 10 to the financial statements reflects use of goods and services and acquisition of assets amount of Kshs.1,262,610,751 and Kshs.1,476,842,751 respectively. The expenditure includes amounts of Kshs.131,011,114 and Kshs.23,474,717 respectively, irregularly charged to wrong accounts as indicated below;

	<b>Account Charged</b>	<b>Correct Account</b>	<b>Amount Kshs.</b>
1	Domestic travel and subsistence	Casuals, electricity and hire of equipment	103,239,944
2	Foreign travel and subsistence	Others	11,321,400
3	Training Expenses	Casual wages and Subscription	5,420,000
4	Routine maintenance- motor vehicle	Various Items	3,524,020
5	Utilities supplies and services	Motor vehicle maintenance	1,000,000
6	Insurance Cost	Basic wages of temporary employees	1,693,750
7	Insurance Cost	Basic wages of temporary employees	1,693,250
8	Insurance Cost	Basic wages of temporary employees	3,118,750
		<b>Total</b>	<b>131,011,114</b>

Further, an amount of Kshs.23,474,717 was wrongly charged to construction of roads instead of courier services.

In the circumstances, the accuracy of the balance of Kshs.154,485,831 charged to incorrect accounts could not be confirmed.

#### **755. Unrecorded Expenditure**

The statement of receipts and payments reflects use of goods and services amount of Kshs.1,262,610,751 which include other operating expenses of Kshs.104,085,378 as disclosed in Note 5 to the financial statements out of which an amount of Kshs.21,566,000 was not recorded in the ledger.

In the circumstances, the accuracy and completeness of other operating expenses of Kshs.21,566,000 could not be confirmed.

#### **756. Unsupported Expenditure**

The statement of receipts and payments reflects acquisition of assets amount of Kshs.1,476,842,751 which include unsupported expenditure from seven (7) items amounting to Kshs.343,530,231.

Further, the statement also reflects transfers to other Government entities of Kshs.1,305,888,492 which includes amounts transferred to undisclosed entities totalling to Kshs.170,750,048 as disclosed in Note 7 to the financial statements.

In the circumstances, the accuracy and completeness of the acquisition of assets and transfers to other Government entities amounts of Kshs.343,530,231 and Kshs.170,750,048 respectively could not be confirmed.

#### **757. Non-disclosure of Accounts Payable (Deposits and Retentions) Balance**

The statement of assets and liabilities and as disclosed in Note 16 to the financial statements reflect a nil account payables balance, being deposits and retention monies balances. The trial balance and retention monies schedule, however, reflected balances of Kshs.136,627 and Kshs.86,518,801 respectively. In addition, Note 14 A to the financial statements on cash and cash equivalents reflects a deposit account balance of Kshs.136,628.

In the circumstances, the accuracy and completeness of the nil balance in receipt of accounts payable could not be confirmed.

#### **758. Non-disclosure of Pending Bills/Account Payables**

The schedules for pending bills, under other important disclosures reflects nil balances for pending accounts payable, pending staff payables and other pending payables. Further, Annexure 2,3 and 4 reflect nil balances for the three accounts. However, the financial statements for the previous financial year, reflected pending bills totalling to Kshs.1,732,181,257 whose settlement has not been supported.

In the circumstances, the opening accounts payable of Kshs.1,732,181,257 and nil balances could not be confirmed.

#### **759. Unsupported Prior Year Adjustment Balance**

The statement of assets and liabilities reflects prior year adjustment balance of Kshs.264,690,574 being adjustments to bank account balances as disclosed in Note 18 to the financial statements. The adjustments have not however, been supported by records to support the corrections carried out and to which bank account.

In the circumstances, the accuracy and completeness of the prior year adjustment balance of Kshs.264,690,574 could not be confirmed.

#### **760. Unconfirmed Insurance Costs**

The statement of receipts and payments reflects use of goods and services amount of Kshs.1,262,610,751, which includes insurance costs of Kshs.89,684,620 as disclosed in Note 5 to the financial statements. Out of the amount, Kshs.45Million was paid to National Hospital Insurance Fund, being premium for the financial year 2021/2022. However, confirmation of the amount received by the Fund revealed that an amount of Kshs.72 Million was received from the County Executive.

In the circumstances, the accuracy and completeness of the reported insurance cost of Kshs.45 Million could not be confirmed.

#### **Other Matter**

#### **761. Budgetary Control and Performance**

The statement of comparison of budget and actual amounts reflects final receipts budget and actual amounts on a comparable basis of Kshs.11,022,090,439 and Kshs.7,489,421,574 respectively resulting to an under-funding of Kshs.3,532,668,865 or 32% of the budget. Similarly, the County Executive spent Kshs.7,720,371,344 against an approved budget of Kshs.11,022,090,439 resulting to an under-expenditure of Kshs.3,301,719,095 or 30% of the budget.

The underfunding 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**

#### **762. Non-Compliance with the Law on Staff Ethnic Composition**

Review of human resource records revealed that during the financial year, the County Executive had 3727 employees out of whom, 2499 or 67% were from the dominant community in the County. This was contrary to Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 which stipulates that all public establishments shall



seek to represent the diversity of the people of Kenya in the employment of staff, and 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.

#### **763. Non-Compliance with the Fiscal Responsibility Principles – Wage Bill**

The statement of receipts and payments reflects compensation of employees amount of Kshs.3,125,482,350 representing 42% of the total revenue of Kshs.7,489,421,574 realized during the financial year. The amount exceeded the set threshold as required by Regulation 25(1) (b) of the Public Finance Management (County Governments) Regulations, 2015 which sets the limit at 35% of the County Government's total revenue.

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

#### **764. Non-Compliance with One Third Basic Pay Rule**

Review and analysis of the payroll revealed that one hundred and nine (109) employees received net salaries below one third of their basic salary. This is contrary to the provisions of Section 19(3) of the Employment Act 2007, which requires that an employee's salary should not be deducted beyond two thirds of their basic salary.

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

#### **765. Irregular Bursary Issuance Process**

The County Executive had a budget of Kshs.150,000,000 for scholarship and other educational benefits. Out of the amount, Kshs.4,500,000 or (3%) was allocated to administration cost and the balance of Kshs.145, 500,000 was to be distributed to the Wards equally as per the Kajiado County Bursary Fund Act, of 2015 where each Ward was to receive Kshs.5,820,000. However, the issuance of bursary for an amount of Kshs.116,400,000 could not be confirmed, as the minutes and lists of beneficiaries from 15 Wards were not provided for audit review.

Further, analysis of the vouchers for bursaries disbursement revealed that beneficiaries identified at the Wards level were later replaced with other students. This was contrary to the principles of Section 10 of Kajiado County Bursary Fund Act, 2015 on fairness in allocation of monies, equitable distribution of allocation of monies to all parts of the Ward, inclusivity and non-discrimination in distribution of bursary fund.

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

#### **766. Non-Compliance with Contract Terms**

The County Executive awarded contract for upgrade of various Kiserian Market Roads to cabro standards at a sum of Kshs.62,327,588. Audit inspection carried out in 19 July, 2022 revealed that the street lighting and installation valued at Kshs.2,450,000

had not been executed yet they were included in the contract and the roads did not have proper road signage for users direction.

Further, a tender for upgrade of Juanco-Olepolos Road to bitumen standards was awarded at a contract sum of Kshs.57,378,472. The tender specifications required bidders to have Access to Government Procurement Opportunities (AGPO) certificate but the contracted tenderer did not have AGPO Certificate.

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

#### **767. Project Implementation-Noongabolo- Ereteti Road**

The statement of receipts and payments reflects acquisition of assets amount of Kshs.1,476,842,751, which includes expenditure on projects undertaken during the period under review. A contract for grading, gravelling and drainage works including culverts for Noongabolo- Ereteti Road was awarded to a contractor at a contract sum of Kshs.21,556,036. Physical verification carried out on the project during the month of July, 2022 revealed that only earthworks were done.

In the circumstances, the public may not get value for money from the funds expended on the project.

#### **768. Stalled Project-Construction of Out-Patient Department at Emotoroki Dispensary**

The County Executive awarded a contract for the construction of Phase 1 of Out-Patient Department at Emotoroki Dispensary on 30 April, 2021 at a contract sum of Kshs.1,997,984 and signed on 11 May, 2021 for a period of 60 days. The Bill of Quantities indicated Phase 1 of the project was to be done up to the superstructure roofing level. The project implementation status report indicated that the project was 75% complete. However, site inspection report from public works dated 22 June, 2021 indicated that the construction of the substructure was complete, materials on site (walling and roofing) and a recommendation to pay the contractor the first payment was given. The County made payment of certificate No.1 of Kshs.1,504,775 on 29 December, 2021.

Physical verification conducted on 19 July, 2022 revealed that only the slab/ substructure was complete, no materials were on site and the contractor was also not on site while the project had stalled. Further, the balance of Kshs.700,000 of the contract sum is inadequate to complete the project.

In the circumstances, the residents of Kajiado may not get value for money from the funds spent on the project.

#### **769. Failure to Prepare County Revenue Fund Financial Statements**

Management did not prepare and submit for audit County Revenue Fund financial statements contrary to Section 167 of the of the Public Finance Management Act, 2012 which requires the county public fund administrator to prepare financial statements for the fund for each financial year in a form prescribed by the Public Sector Accounting Standards Board.

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

#### **770. Failure to Comply with the Public Sector Accounting Standards**

The financial statements prepared and presented for audit were not in conformity with the financial reporting template prescribed by the Public Sector Accounting Standards Board and contained various errors.

In the circumstances, Management did not comply with the financial reporting template prescribed by the Public Sector Accounting Standards Board of Kenya.

### **REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE**

#### **Basis for Conclusion**

#### **771. Lack of an Approved Staff Establishment**

Review of the personnel records revealed that the County Executive had no approved staff establishment as prescribed by Section 55(b) and (c) of the County Governments Act, 2012 that requires the County Government to ensure staff requirements are kept at optimum levels for efficient, quality and productive services for the People of the County.

In the circumstances, the County Executive may not operate at optimum staffing level hence affecting service delivery, and possibility of unsustainable wage bill.

#### **772. Lack of a Human Resource Plan**

Review of the Human Resource records revealed that the Human Resource plan including a recruitment plan was not in place thus, it was not possible for the County Public Service Board to know the recruitment needs and fill the vacancies as required.

In the circumstances, optimum delivery of the services and achievement of the County Executive objectives may not be possible.

#### **773. Lack of Imprest Register**

Review of payment records revealed that imprests were issued to staff for various assignments during the year under review. The imprests were however not recorded in the imprest register as the Management did not maintain one for recording imprests details including staff name, date of issuance, staff number, imprest warrant number and due date for ease of managing and controlling of imprests.

In the circumstances, the County Executive Imprest management is poor and accountability of the same is doubtful.

#### **774. Use of Manual Payroll**

The statement of receipts and payments reflects an amount of Kshs.3,014,499,152 in respect of compensation of employees as disclosed in Note 4 to the financial statements.

Included in the expenditure is an amount of Kshs.12,276,565 paid through a manual payroll. This was contrary to Section (6)(7)(6) of the County financial Accounting and Reporting Manual which requires that all payments for personnel services should be paid through the payroll system.

In the circumstances, the existence of effective internal controls in the Management of Manual payroll could not be confirmed.

## COUNTY EXECUTIVE OF KERICHO - NO.35

### REPORT ON THE FINANCIAL STATEMENTS

#### Basis for Qualified Opinion

##### 775. Inaccuracies in the Financial Statements

Review of the financial statements presented for audit revealed the following anomalies;

##### 775.1 Variances Between the Integrated Financial Management Information System (IFMIS) Records and Financial Statements

Comparison of the financial statements balances against IFMIS records revealed variances as detailed below:

Description	Financial Statements Kshs.	IFMIS Records Kshs.	Variance Kshs.
Total Payments	7,552,817,987	6,992,790,175	560,027,812
Basic Salaries	984,941,864	1,645,041,509	(660,099,645)
Casual Workers	-	1,446,920	(1,446,920)
Other Operating Expenses	96,936,053	23,506,060	73,429,993
Transfer to Other Government Entities	1,695,442,400	1,709,868,326	(14,425,926)
Transfers to Polytechnics	11,433,082	23,614,330	(12,181,248)
Utilities, Supplies and Services	41,341,690	59,505,094	(18,163,404)

Management did not provide reconciliation of the two sets of records.

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

##### 775.2 Unreconciled Own Generated Revenue

The statement of receipts and payments reflects County own generated revenue of Kshs.693,663,276 while the County Revenue Fund financial statements reflects own source revenue of Kshs.562,828,005 resulting in an unreconciled variance of Kshs.130,835,271.

In the circumstances, the accuracy and completeness of own generated revenue of Kshs.693,663,276 could not be confirmed.

### **775.3 Unsupported Pending Payables Balance**

Note 3 of other important disclosure reflects nil other pending payables. However, the balance as at 30 June, 2021 was Kshs.21,500,000 and there was no additions or payments during the year.

In the circumstances, the accuracy of the other pending bills nil balance could not be confirmed.

### **776. Compensation of Employees**

The statement of receipts and payments reflects compensation of employees expenditure of Kshs.2,624,354,948, which as disclosed in Note 11 to the financial statements includes an amount of Kshs.984,941,864 in respect of basic pay for permanent employees, and Kshs.406,733,411 in respect of basic pay for temporary employees. The payments for the permanent employees and the temporary employees in the current year compared to prior year was a decrease of Kshs.402,749,387 for permanent employees and an increase of Kshs.376,751,668 for temporary employees. No explanation was provided for the variances in the two basic pays without corresponding changes in the number of staff under each payroll by Management.

In addition, salaries amounting to Kshs.535,996,742 were paid outside of the IPPD. Although Management explained that payments outside of the IPPD was occasioned by lack of personal numbers for the employees, no explanation was provided for the delay in obtaining personal numbers.

In the circumstances, the completeness and accuracy of the compensation of employees expenditure totalling to Kshs.2,624,354,948 could not be confirmed.

### **777. Use of Goods and Services**

The statement of receipt and payments reflects use of goods and services expenditure of Kshs.943,770,780 and as disclosed in Note 12 to the financial statements. Review of records revealed the following unsatisfactory matters:

#### **777.1 Unsupported Domestic Travel, Subsistence Allowance and Other Operating Expenses**

Note 12 to the financial statements reflects domestic travel and subsistence allowances expenditure of Kshs.223,798,735 and other operating expenses of Kshs.92,936,053. Included in the expenditure are payments amounting to Kshs.240,043,495 paid to one hundred and six (106) members of staff for local travel and subsistence. Although Management explained that these were single imprests issued to officers for further disbursement to other officers and non-officers on official duty, the amounts disbursed to staff were not adequately supported.

Further, Management paid an amount of Kshs.25,161,661 to 161 staff members between 22 June, 2022 and 30 June, 2022. However, details of the activities undertaken and the



dates of the activities were not provided. Although Management explained that the amount paid was not an imprest, and were claims as at year end, no documentary evidence was provided to confirm the nature of the claim.

In the circumstances, the completeness and accuracy of the domestic travel and subsistence allowance and other operating expenses amounting to Kshs.265,205,156 could not be confirmed.

## **777.2 Training Expenses**

Note 12 to the financial statements reflects training expenses of Kshs.78,066,222. Review of records revealed payments amounting to Kshs.7,607,778 not related to training were charged to the training expense item. In addition, the details of trainings carried out procurement records and activities work plan were not provided for audit.

In the circumstances, the completeness and accuracy of the expenditure on training amounting to Kshs.78,066,222 could not be confirmed.

## **777.3 Hospitality Supplies and Services**

Note 12 to the financial statements reflects an amount of Kshs.54,332,545 incurred on hospitality supplies and services. Included in the expenditure is an amount of Kshs.1,835,000 paid to the Council of Governors and an amount of Kshs.11,624,964 paid to some officers for entertainment during the year. However, no documentation or explanation was provided to support the payments.

In the circumstances, the propriety and accuracy of the expenditure of Kshs.13,459,964 on hospitality supplies and services cannot be confirmed.

## **777.4 Unsupported Internet Connectivity**

Note 12 to the financial statements reflect an amount of Kshs.943,770,780 relating to use of goods and services. Review of documents provided revealed that the Department of Information, Communication Technology and e-Government spent an amount of Kshs.3,498,373 on procurement of internet connection and services. However, Management did not provide procurement records, including requisition from the user department, tender documents, tender evaluation reports, inspection and acceptance report and local service order to the supplier for audit review.

In the circumstances, the accuracy and completeness of the expenditure on internet connectivity of Kshs.3,498,373 could not be confirmed.

## **778. Unsupported Transfers to Other Government Entities**

The statement of receipts and payments reflects transfers to other Government entities of Kshs.1,695,442,400 and as disclosed under Note 14 to the financial statements. Review of the expenditure records under the item revealed that included in this

expenditure is an amount of Kshs.122,728,924 transferred to level 2 and level 3 hospitals which was incurred on procurement of drugs and other specialised materials on behalf of the health centres. However, no confirmation of receipt of the said drugs and specialised materials by the health centres was provided.

Further, the amount includes transfers to seven hospitals totalling to Kshs.495,528,381, which vary with the amounts disclosed in the respective hospitals' financial statements totalling to Kshs.11,807,512 resulting to an unexplained variance of Kshs.483,720,869.

Although, Management explained that the amounts described as transfers to hospitals relate to procurements made on behalf these hospitals, no acknowledgements of any receipts from the hospitals were provided. In addition, the balance includes an amount of Kshs.17,550,215 in respect of transfers to Transformative Healthy System (THS) for Universal Care Project to support Universal Health Care (UHC) while IFMIS records reflects total transfers to the project of Kshs.72,195,151. No reconciliation was provided for the variance of Kshs.54,644,936 between the financial statements and IFMIS records.

The balance also includes an amount of Kshs.11,807,165 relating to capital grants to polytechnics. However, review of IFMIS records reflects that an amount of Kshs.23,614,330 was transferred to these polytechnics resulting to a variance of Kshs.11,807,165. Although Management explained that this arose due to an error in the IFMIS records, the error was not corrected and supporting documents from these polytechnics were not presented to support how the funds were utilised.

In addition, included in the transfers to other Government entities are payments totalling to Kshs.375,243,786. Review of IFMIS records revealed the payments were made to suppliers and staff and irregularly charged to transfers to other Government entities. Further, the statement of financial performance reflects nil transfers to the County's Emergency Fund. However, IFMIS payment records indicated that the County transferred funds amounting to Kshs.78,200,013 to the County Emergency Fund. The variance was not explained or reconciled.

In the circumstances, the accuracy and completeness of transfers to other Government entities amounting to Kshs.1,695,442,400 could not be confirmed.

#### **779. Unsupported Accounts Payables – Retentions**

Note 23 to the financial statements reflects a nil balance in respect to retentions. Review of records provided by Management indicated that the County Executive signed contracts with contractors for various projects out of which retentions totalling to Kshs.103,427,224 was deducted. In addition, an amount of Kshs.48,853,468 in respect of retentions was paid to the contractors during the year under review. However, no outstanding amounts were disclosed in the financial statements. Further, supporting records such as deposit registers, cash book, bank statement and deposit register were not provided for audit review.

In the circumstances, it was not possible to confirm the accuracy and completeness of the nil retentions reported in the financial statements.

#### **780. Variance Between the LPO Amount and Invoice Amount**

The statement of receipts and payments reflects total payments amounting to Kshs.7,552,817,987. An analysis of the LPOs/LSOs processed in IFMIS against the invoices generated revealed that included in the expenditure were twenty (20) invoices amounting to Kshs.14,309,270 that were billed, however, the amount was greater than the LPOs/LSOs amount totalling to Kshs.8,968,734 resulting to a variance of Kshs.5,340,536.

In the circumstances, the accuracy of the expenditure amounting to Kshs.14,309,270 could not be confirmed.

#### **781. Incomplete Summary of Non-Current Asset Register**

Annex 3 to the financial statements on summary of non-current assets register reflects assets balance of Kshs.13,711,527,134 as at 30 June, 2022 which comprise of historical cost balance brought forward from 2020/2021 of Kshs.11,665,138,928 and additions during the year amounting to Kshs.2,045,727,326. However, audit review of the asset register maintained revealed that land valued at Kshs.122,476,000 and buildings and structures valued at Kshs.3,259,172,269 were excluded.

In addition, the non-current assets balance of Kshs.13,711,527,134 as at 30 June, 2022 as disclosed in the summary of non-current assets register is reported to include non-current assets inherited from the defunct local authorities. However, no documentary evidence was provided for audit confirming the existence and valuation of these assets as the exercise has not been finalized by the entities assigned the responsibility.

In the circumstances, the accuracy, completeness and ownership of non-current assets could not be confirmed.

#### **782. Unsupported Voided Transactions**

The statement of receipts and payments reflects total payments amounting to Kshs.7,552,817,987. Review of expenditure analysis obtained from the Integrated Financial Management Information Systems (IFMIS) revealed 478 payment transactions with a total expenditure of Kshs.416,317,296 had been voided during the year under review. Although Management explained that the transactions were voided due to insufficient funds or postings into the wrong accounts, there was no documentary evidence provided to support authorization for voiding of the transactions which had been approved and funded by the Controller of Budget. In addition, the details of the payments made in place of those that were voided together with approvals from Controller of Budget were not provided for audit review.

In the circumstances, the accuracy and completeness of payments made during the year could not be confirmed.

## **Other Matter**

### **783. 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.8,404,004,168 and Kshs.6,841,426,418 respectively, resulting to an under-funding of Kshs.1,562,577,750 or 19% of the budget. Similarly, the County Executive spent an amount of Kshs.7,552,817,987 against an approved budget of Kshs.8,404,004,168 resulting to an under-expenditure of Kshs.851,186,181 or 10% of the budget.

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

### **784. Delay in Disbursement of Exchequer Releases**

The statement of receipts and payments reflects exchequer releases totalling to Kshs.5,916,211,733 as further disclosed in Note 1 to the financial statements. However, exchequer releases totalling to Kshs.531,465,463 was received into the County Revenue Fund bank account from The National Treasury in July, 2022 after the end of the financial year.

The delayed receipt of the exchequer releases delayed implementation of the County Executive's projects and activities for the year under review.

### **785. Prior year Matters**

In the previous year, there were several issues reported. However, Management has not resolved the issues or given an explanation for failure to resolve them.

## **REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

### **Basis for Conclusion**

### **786. Budget Allocation to the County Assembly**

During the year, the County Assembly of Kericho had an approved budget of Kshs.747,795,857 which was equivalent to 8.8 % of the total revenue of the County Government of Kshs.8,404,004,168. This was 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 seven per cent of the total revenue of the County Government or twice the personnel emoluments of that County Assembly, whichever is lower.

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

## **787. Compensation of Employees**

### **787.1 Non-Compliance with the Law on Staff Ethnic Composition**

Review of the payroll for the month of June, 2022 revealed that the County Executive had 2530 permanent employees out of whom 2280 or approximately 90% were from the local dominant community. This was contrary to Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 which stipulates that all public establishments shall seek to represent the diversity of the people of Kenya in the employment of staff, and 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.

### **787.2 Non-Compliance with the One Third of Basic Salary Rule**

Review of the County Executive payroll revealed that, sixty-five (65) employees in the month of June, 2022 earned a net salary of less than a third (1/3) of their basic salary. This is contrary to Section C.1(3) of the County Public Service Human Resource Manual, 2013 and Section 19(3) of the Employment Act, 2007. Management has not provided an explanation for the failure to comply with the policy. This may expose the staff to pecuniary embarrassment.

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

### **787.3 Non-Compliance with the Law on Fiscal Responsibility Principles- Wage Bill**

The statements of receipts and payments reflects compensation of employees and social security benefits expenditure of Kshs.2,624,354,948 and Kshs.162,703,533 respectively all amounting to Kshs.2,787,058,481 representing 41% of the total receipts of Kshs.6,841,426,418. This is contrary to the provisions of Regulation 25(1) (a) and (b) of the Public Finance Management (County Governments) Regulations, 2015.

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

## **788. Unconfirmed Utilization of Leased Medical Equipment**

Note 9 to the financial statements on other important disclosures notes to the financial statements reflects an amount of Kshs.153,297,872 in respect of leasing of medical equipment and which was deducted at source. However, no records detailing their location, the working status of the equipment and the utilization report were provided for audit review.

In the circumstances, it was not possible to confirm if the public obtained value for money on the leased medical equipment.

## **789. Legal Expenditure**

Note 12 to the financial statements reflects an amount of Kshs.96,196,423 relating to other operating expenses, which includes an amount of Kshs.12,893,100 spent on legal fees. Review of case files and payments revealed that the amount was paid to various law firms for provision of legal services reported to have been provided to the County Executive. However, the amount paid could not be agreed with the approved rates in Schedule 6 of the Advocates Remuneration Order, 2014, which sets out the fees for instructions in suits.

In the circumstances, the public may not have obtained value for money on the resources amounting to Kshs.12,893,100 spent in the year on legal services.

## **790. Incomplete Works at Kapkatet Sub-county Hospital**

The statement of receipts and payments reflects acquisition of assets expenditure of Kshs.2,045,727,326 and as disclosed under Note 17 to the financial statements. The expenditure includes an amount of Kshs.164,730,425 incurred on construction of buildings out of which a payment of Kshs.6,966,606 was in respect of construction of a medical store at Kapkatet Sub-county Hospital. However, physical verification of the project in the month of November, 2022 revealed that various works had not been completed as provided for in the Bill of Quantities yet they had been paid for. The incomplete works included supply and fixing of wash hand basin, fixing the terrazzo floor, shelves, ceiling of fridge area, plumbing works and electrical works. In addition, construction of the ram, loading area, access road with a gate and walk ways leading to work areas had not been completed yet they had already been paid for. No explanation on the measures taken to ensure the contractor completes the outstanding works as per the terms of contract was provided by Management.

In the circumstances, the public may not obtain value for their resources in this project.

## **791. Construction of Surgical Ward at Roret Hospital**

Note 17 to the financial statements reflects construction of buildings expenditure of Kshs.164,730,425 out of which a payment of Kshs.3,902,795 was made towards a contract awarded to a firm at a contract sum of Kshs.7,805,790 for the proposed construction of surgical ward at Roret Hospital. Review of expenditure records and physical verification carried out in the month of November, 2022, revealed that a provisional and prime cost of Kshs.300,000 provided for as contingencies was not supported with a bill of quantities and utilization was not based on the engineers' site instructions. Further, the manholes cover and frames were not done, and there was no septic tank in place for use by the occupants of the new building.

In addition, the bill of quantities approved box profile sheets of gauge 28 which are pre-painted while roofing was done using 30-gauge iron sheets and not 28-gauge iron sheets as per the Bills of Quantities.



In the circumstances, the County Executive may not have obtained value for money in respect of Kshs.3,902,790 paid to the firm.

#### **792. Pending Bills**

As disclosed in Annex 2 to the financial statements, the County had pending bills amounting to Kshs.515,053,809 as at 30 June, 2022 which is an increase of Kshs.47,434,118 compared to Kshs.467,619,691 as at 30 June, 2021. However, according to the supporting schedule provided, some of the pending bills have been outstanding since 2017 and only an amount totalling to Kshs.16,893,689 was paid during the year under review. No reason was provided for failure to settle the pending bills. This is contrary to Regulation 41(2) of the Public Finance Management (County Governments) Regulations, 2015 which states that pending bills are to form the first charge to the subsequent period budget.

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

#### **793. Implementation of e-Procurement System**

During the period 2021/2022, the County Government tendered for supply of goods, works and services. However, the procurement department did not provide for audit a report on tenders awarded on the e-procurement system. This was contrary to the Presidential Directives on e-procurement.

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

#### **794. Unserviceable Vehicles**

Review of the motor vehicles registers revealed that sixty-eight (68) motor vehicles and twenty-three (23) motorcycles with an undetermined value were grounded due to various mechanical defects. In addition, there was no indication of whether there were plans to repair or dispose the unserviceable vehicles.

In the circumstances, the County Executive did not obtain value from the unserviceable vehicles.

#### **795. Failure to Construct Governor's and Deputy Governor's Houses**

The County Executive was required to allocate funds and prioritize construction of houses for the Governor and Deputy Governor on public land in accordance with the specifications therein, before the stated deadline. However, at the time of audit in August, 2022, the County Executive had not constructed the Governor's and Deputy Governor's houses. In addition, review of the development budget for the financial years 2019/2020, 2020/2021 and 2021/2022 revealed that there were no budgetary provisions for the construction of Governor's and the Deputy Governor's houses. This was contrary to SRC Circular Ref. No. SRC/TS/COG/6/61/48 VOL.II (64) of 20 May, 2019 and is likely to continue incurring expenditure on house rent for the Governor and the Deputy Governor.

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

#### **796. Irregular Expenditure on Workshops and Retreats**

Review of records revealed that an expenditure totalling to Kshs.3,741,750 was incurred on accommodation allowances and conference facilities for workshops to review CEC minutes in Kisumu; consultative meeting on budget in Mombasa and an ad hoc committee meeting in Nairobi that was discussing the collapse of an apartment that had collapsed in Kericho. This is contrary to Treasury Circular No.20/2015, Ref.No.ES 1/3 “J” (79) of 4/11/2015 paragraph 12 on workshops and retreats which requires that all workshops and retreats with majority participants drawn from one duty station, be held within the precincts of the duty station.

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

#### **797. Irregular Funding of Council of Governors**

During the year under review, the County Executive spent an amount of Kshs.943,770,780 in respect of use of goods and services which includes an amount of Kshs.2,839,500 relating to a transfer to the Council of Governors. Although Management explained that the amount paid was to cater for participants attending devolution conferences as registration fees, the expenditure was incurred in contravention of Section 37 of the Intergovernmental Relations Act, 2012 which stipulates that the Council’s budget 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.

### **REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE**

#### **Basis for Conclusion**

#### **798. Un-Approved Policies and Guidelines**

Review of the County Executive’s governance environment, revealed that although the disciplinary manual, training policy, anti-corruption policy and the inter-county transfer policy have been formulated, drafted and validated through a stakeholders meeting, these policies have not been approved and published for implementation;

In the circumstances, the effectiveness of internal control policies could not be confirmed.

#### **799. Weak Controls on Fuel, Oil and Lubricants**

The statement of receipts and payments reflects use of goods and services expenditure of Kshs.943,770,780 which includes payments totalling to Kshs.32,565,542 incurred on purchase of fuel, oil and lubricants. Although monthly statements of accounts were received from the supplier, some departments did not maintain a fuel register against

which the statements are reconciled and balances determined. Further, the purchase orders and invoices attached did not indicate how much fuel was paid for.

In the circumstances, effectiveness of controls on purchase and use of fuel could not be confirmed.

#### **800. Weak Controls on Cash and Bank**

Review of cash and bank records established that entries to the manual cash book were incomplete as particulars of the payments, voucher numbers, and allocations were not indicated.

In the circumstances, the internal controls over cash and bank records were not effective.

#### **801. Lack of Current Status on Returned Payments**

Review of the payment transactions revealed that payments totalling to Kshs.52,168,191 were returned back to the County accounts as a result of missing information from the payees. However, the status of the returned amounts was not provided.

In the circumstances, effectiveness of controls over payments could not be confirmed.

## **COUNTY EXECUTIVE OF BOMET - NO.36**

### **REPORT ON THE FINANCIAL STATEMENTS**

#### **Basis for Qualified Opinion**

##### **802. Understated Exchequer Releases**

The statement of receipts and payments reflects exchequer releases (transfers from CRF) amounting to Kshs.6,155,811,191. However, the amount excludes income received from lease of medical equipment amounting to Kshs.153,297,872 as disclosed under other important disclosures at Note 8 to the financial statements which was recovered at source by The National Treasury. Further, the lease agreement and list of the leased equipment were not provided for audit review.

In the circumstances, the accuracy and completeness of exchequer releases (transfers from CRF) amounting to Kshs.6,155,811,191 could not be confirmed.

##### **803. Misclassification of Foreign Travel and Subsistence**

The statement of receipts and payments and as disclosed in Note 5 to the financial statements reflects foreign travel and subsistence expenditure amounting to Kshs.25,268,634. The expenditure includes payments made to local hotels amounting to Kshs.8,114,300. However, the expenditure did not relate to foreign travel and subsistence in nature.

In the circumstances, the accuracy and completeness of foreign travel and subsistence expenditure of Kshs.8,114,300 could not be confirmed.

##### **804. Unsupported Legal Dues/Fees, Arbitration and Compensation**

The statement of receipt other operating expenses amounting to Kshs.283,015,068 as disclosed in Note 5 to the financial statements. The expenditure includes legal dues/fees, arbitration and compensation expenditure amounting to Kshs.5,980,400. However, review of the legal documents and current status of legal matters revealed that the cases were still pending in courts. However, the pending cases have not been disclosed in the financial statements as contingent liabilities contrary to paragraph 100 IPSAS 19 which states that unless the possibility of any outflow in settlement is remote, an entity shall disclose, for each class of contingent liability at the reporting date, a brief description of the nature of the contingent liability and, where practicable an estimate of its financial effect.

In the circumstances, the accuracy, completeness and disclosure of legal fees amounting to Kshs.5,980,400 could not be confirmed.

## **805. Transactions after the Reporting Period**

The statement of receipts and payments reflects total payments of Kshs.7,814,437,956. However, the amount includes payments made after 30 June, 2022 amounting to Kshs.273,015,458. This is contrary to the International Public Sector Accounting Standards (Cash Basis) reporting framework and Regulation 97(1) of the Public Finance Management (County Governments) Regulation, 2015 which states that the accounts of County Government entities shall record transactions which take place during the financial year running from 1 July to 30 June.

In the circumstances, the accuracy and completeness of payments amounting to Kshs.273,015,458 could not be confirmed.

## **806. Unsupported Pending Accounts Payables**

Disclosure 1 under other importance disclosures to the financial statements reflects pending accounts payable balance of Kshs.874,731,953. However, the pending bills were not supported with invoices, delivery notes, aging analysis and signed contracts. Further, the balance includes pending accounts payable amounting to Kshs.842,392,069 relating to 2020/2021 and earlier years which have not been paid. This is 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 and the Accounting Officer shall ensure this is done to the extent possible that the county government does not default on debt obligations.

In the circumstances, the accuracy and existence of pending accounts payable balance of Kshs.874,731,953 could not be confirmed.

## **807. Inaccuracies of the Financial Statements**

### **807.1 Transfer to County Assembly**

Note 7 to the financial statements reflects transfers to County Assembly of Bomet totalling to Kshs.731,128,005. However, the amount is at variance with the amount of Kshs.721,128,005 reflected both at Disclosure 5 under other importance disclosures and Annex 7 to the financial statements resulting to an unreconciled and unexplained variance of Kshs.10,000,000.

In the circumstances, the accuracy and completeness of transfers to County Assembly of Bomet totalling to Kshs.731,128,005 could not be confirmed.

### **807.2 Scholarships and Other Educational Benefits**

The statement of receipts and payments and as disclosed Note 8 to the financial statements reflects scholarships and other educational benefits totalling Kshs.134,026,107. The expenditure includes an amount of Kshs.91,916,005 transferred to Bomet County Bursary Fund. However, the transfer was not reported under transfers to other government entities and disclosed as related party transaction in Disclosure 5 under other importance disclosure to the financial statements. Further, the transfer is at

variance with the bursary fund transfers totalling to Kshs.39,250,698 as reflected in Annex 7 to the financial statements resulting to an unreconciled and unexplained variance of Kshs.52,665,307.

In the circumstances, the accuracy and completeness of transfers to Bomet County Bursary Fund totalling to Kshs.91,916,005 could not be confirmed.

### **807.3 Variances Between Financial Statements Amounts and Integrated Financial Management Information System (IFMIS) Records**

A comparison of the financial statements figures and IFMIS records revealed the following anomalies:

#### **i) Variances with IFMIS Payments**

The statement receipts and payments reflects total payments of Kshs.7,814,437,956 which vary with IFMIS total payments of Kshs.7,535,000,459 resulting to an un-explained and unreconciled variance of Kshs.279,437,497.

#### **ii) Duplicated Payments**

The statement of receipts and payments reflects total payments of Kshs.7,814,437,956. Review of IFMIS records revealed duplicated payments amounting to Kshs.2,272,162,523. However, no explanation was provided for the duplicated payments.

#### **iii) Voided Payments**

Review of IFMIS records revealed that three thousand and six (3,006) transactions in IFMIS amounting to Kshs.2,108,031,630 were voided. However, supporting documents such as the voided payment vouchers, request to void payments, National Treasury approval and Exchequer requisitions from the Controller of Budget were not provided for audit review. Further, the voided payments were not disclosed as pending accounts payable. The utilization of funds meant for voided transaction was also not confirmed.

#### **iv) Payments Billed Higher than Local Purchase Orders and Local Service Orders**

Payments in IFMIS amounting to Kshs.19,925,559 were billed higher than the corresponding local purchase orders'/local service orders' amount totalling to Kshs.17,567,435. No explanation was provided for the over invoicing amounting Kshs.2,358,124.

#### **v) Payments in Internet Banking not in IFMIS**

Three hundred and forty-five (345) payments amounting to Kshs.593,326,428 were reflected in the internet banking (IB) but were not in IFMIS payment details.



#### **vi) Unexplained Cash Payments**

IFMIS records reflects cash payments for two hundred and ninety-seven (297) transactions amounting to Kshs.463,592,951 which were not explained or justified.

#### **vii) Payments without Invoices**

IFMIS records indicate that payments amounting to Kshs.96,139,223 were made without invoices. The basis for the payments could therefore not be confirmed.

#### **viii) Unsupported Adjustments of Financial Statements**

The financial statements presented for audit were adjusted. However, the revised financial statements were not supported with approved journal entries. Further, the adjusted trial balance was not provided for audit.

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

#### **Other Matter**

#### **808. Budgetary Control and Performance**

The statement of comparison of budget and actual amounts reflects a final receipts budget of Kshs.8,803,243,742 against actual receipts of Kshs.7,197,378,557 resulting to budget under funding of Kshs.1,605,865,185 or 18% of the budget. Similarly, the statement reflects a final expenditure budget of Kshs.8,803,243,742 against the actual expenditure of Kshs.7,814,437,956 resulting to under absorption of Kshs.988,805,785 or 11% of the budget.

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

#### **809. Progress on Follow up of Auditor Recommendations**

The County Executive has not submitted a report on how it has addressed the Senate and County Executive recommendations and findings of audit reports for the years 2013/2014 to 2019/2020. This is contrary to Section 31(1) (a) of the Public Audit Act, 2015 which states that within three months after Parliament has debated and considered the final report of the Auditor General and made recommendations, a state organ or a public entity that had been audited shall, as a preliminary step, submit a report on how it has addressed the recommendations and findings of the previous year's audit. Further, Management has not disclosed how prior year audit matters were resolved.

## REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

### **Basis for Conclusion**

#### **810. Delayed Remittance of Statutory Salary Deductions**

Review of statutory salary deductions records revealed that the County Executive made salary deductions for Pay as You Earn (PAYE), National Social Security Fund (NSSF), National Hospital Insurance Fund (NHIF) and Provident Fund. However, the deductions were not remitted within the prescribed timelines as detailed below:

##### **810.1 National Social Security Fund**

The statement of receipts and payments reflects compensation of employees totalling to Kshs.3,074,957,402 as detailed under Note 4 to the financial statements. The amount includes Kshs.3,686,840 out of which Kshs.346,068,174 was paid to National Social Security Fund. However, review of documents provided for audit revealed that National Social Security Fund deductions amounting to Kshs.17,312,400 were made from the employees out of which Kshs.3,686,840 was remitted leaving a balance Kshs.13,625,560.

##### **810.2 National Hospital Insurance Fund**

The statement of receipts and payments reflects compensation of employees amounting to Kshs.3,074,957,402 as detailed under Note 4 to the financial statements. The amount includes Kshs.8,379,200 paid to National Hospital Insurance Fund out of total deduction of Kshs.19,469,250 made from the employees resulting to unremitted balance of Kshs.11,090,050.

In addition, account statements for NSSF, NHIF and Provident Fund were not provided for audit review.

##### **810.3 Outstanding Pay As You Earn**

The Kenya Revenue Authority (KRA) I-Tax general ledger of the County Executive reflected outstanding PAYE amount of Kshs.1,851,905,012 for the years 2016 to 2022 which has attracted penalties amounting Kshs.662,957,689. No effort has been made to clear or negotiate on how the total outstanding PAYE inclusive of penalties of Kshs.2,514,862,702 will be repaid without incurring further penalties.

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

#### **811. Irregular Maintenance of Human Resource Information System**

The County Executive maintains both Integrated Personnel Payroll Data (IPPD) and Human Resource Information System Payroll. The Human Resource Information System

Payroll is maintained for 2080 employees. This is contrary to 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 maintaining the two payroll systems.

Further, gross salary amounting to Kshs.897,809,831 was processed through Human resource information system in the year under review. However, the system did not reflect the essential employee information details such as the designation, identity card (ID) number, KRA PIN, date of birth, date of employment, gender, ethnic code, job group and job scale.

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

#### **812. Lack of County Human Resource Plans and Performance Management System**

The County Performance Management Committee (MPMC) has not developed and implemented an internal performance monitoring, evaluation and reporting system. Further, the performance of all employees was not evaluated and feedback on performance reported at the end of the year. This is contrary to Policy A.17 of the Human Resource Policies and Procedures Manual, 2017 of the County Government of Bomet which requires the County Performance Management Committee (MPMC) to ensure that the performance of all officers is evaluated and feedback on performance is relayed in writing at the end of the year, and develop and implement the internal monitoring, evaluation and reporting system. The employee performance and achievement of intended results for the organization may not be enhanced.

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

#### **813. Irregular Recruitment of Employees**

Review of the Human resource information system payroll revealed that gross salary amounting Kshs.18,098,349 was paid to one hundred and nine (109) employees who were recruited during the year. However, review of personnel records revealed the following anomalies:

- i) The vacancies were not declared by the authorized officer to the County public service Board. This is contrary to Policy B.3 (1) of the County government of Bomet Human Resource Policies and Procedures Manual, 2017. Departmental annual recruitment plans for the year were also not provided for audit review.
- ii) The newly recruited employees were issued with appointment letters and reported to work before signing the employment contracts letters. This is contrary to Policy B.7 (1) of the County government of Bomet Human Resource Policies and Procedures Manual, 2017 which requires persons appointed to any office to be

issued with appropriate letter of offer on appointment, which must be signed before commencement of duties.

- iii) Newly recruited fifty-seven (57) employees had served on probation for more than 6 months. However, they had not been confirmed into the permanent and pensionable establishment. This is contrary to Policy B.20 of the County Government of Bomet Human Resource Policies and Procedures Manual, 2017.
- iv) Appointment letters for the position of political advisor and gender advisor were signed by the Governor contrary to Section 63(1) of the County Government Act, 2012 which gives the County Public Service Board absolute power to make appointments and promotions in respect of the offices in the county public service.

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

#### **814. Irregular Staff Promotions**

The statement of receipts and payments reflects compensation of employee's expenditure of Kshs.3,074,957,402 which includes Kshs.276,588,120 paid to one hundred and ninety-two (192) employees who had been promoted. However, the promotions were not based on performance appraisals, staff establishment, needs assessment, vacancy advertisement and conduction of interviews. Further, employee records of the promoted employees were not provided for audit review. The effective date of promotion, previous job groups of the promoted employees and their qualifications were therefore not confirmed.

In addition, promotion letters were signed by the County Secretary instead of the Secretary to the County Public Service Board.

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

#### **815. Over Expenditure on Compensation of Employees**

The statements of receipts and payments reflects compensation of employees' expenditure amounting to Kshs.3,074,957,402. However, the expenditure is approximately 43 % of the County Executive revenue amounting Kshs.7,197,378,557. This is contrary to Regulation 25 (1)(b) of the Public Finance Management (County Governments) Regulations, 2015 which recommends a limit of 35%.

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

#### **816. Irregular Salary Deductions**

The statement of receipts and payments reflects compensation of employees amounting to Kshs.3,074,957,402. Review of the payroll revealed that one hundred and forty-two (142) employees earned net salaries less than a third of their basic pay. This is 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.

#### **817. Non-Compliance with the Law on Staff Ethnic Composition**

Review of the County Executive staff establishment revealed that out of the 4,358 employees, 4,260 (or 98%) belong to the dominant ethnic community. This is contrary to Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 which stipulates that in selecting candidates for appointment, the County Public Service Board shall consider the need to ensure that at least thirty percent of the vacant posts are filled by candidates who are not from the dominant ethnic community in the county.

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

#### **818. Non-Compliance on Effectiveness of Citizen Participation**

Note 5 to the financial statements reflects other operating expenses totalling to Kshs.283,015,068. The amount includes expenditure amounting Kshs.144,683,875 incurred by the County Executive on public participation. However, records of the number of public participation meetings held for budget preparation were not provided for audit verification. Further, the County Executive did not have a Public Participation Policy. This is contrary to Section 11 of the Bomet County Public Participation Act, 2019 which states that the Department of Public Participation shall include development of a County Executive policy on public participation and constantly review it to ensure that it meets the needs of the County, maintain database of stakeholder from which County departments and organs can tap when conducting public participation and prepare an annual report on public participation in accordance with the County Governments Act.

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

#### **819. Unauthorized Expenditure**

Included in the total payments of Kshs.7,814,437,956 reflected in the statement of receipts and payments is expenditure amounting Kshs.5,987,237,926 on various expenditure items which exceeded the approved budget of Kshs.2,077,105,496 resulting to unauthorized expenditure of Kshs.3,910,132,430. However, approval of the County Assembly was not sought. This is contrary to Regulation 112 of the Public Finance Management (County Governments) Regulations, 2015 which requires the Accounting Officer to seek County Assembly approval for the excess vote.

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

## **820. Transfers to the County Assembly**

The statement of receipts and payments reflects transfers to other government entities amounting to Kshs.1,030,121,131. The amount includes transfers to County Assembly of Bomet amounting to Kshs.731,128,005 (or approximately 10%) of the total County revenue amounting to Kshs.7,197,378,557. However, the amount exceeds seven percent (7%) limit provided for in Regulation 25(1) of the Public Finance Management (County Governments) Regulations, 2015 which states that the approved expenditures of a County Assembly shall not exceed seven per cent of the total revenues of the County Government or twice the personnel emoluments of that County Assembly, whichever is lower

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

## **821. Uncollected Property Rent and Rates**

Review of documents provided for audit revealed that the County Executive collected property rent amounting Kshs.4,777,093 during the year under review. However, property rates arrears amounting Kshs.344,782,935 had not been collected. No explanation was provided for failure to collect the arrears. Further, the collection of property rates arrears amounting Kshs.344,782,935 was not budgeted for in the year under review.

Failure to collect revenue as envisaged affects implementation of services to the public.

## **822. Delayed Implementation of Projects**

Audit inspection conducted in October, 2022 revealed that twenty (27) projects implemented at a cost of Kshs.44,408,803 had not been completed as expected. Further, the contractors were not on site. Management did not provide explanation for the delays and measures being taken to ensure completion of the projects. In addition, a report on the status of development projects was not provided for audit review.

## **823. Delayed Construction of Bomet Stadium**

The construction of Bomet Stadium at a contract sum of Kshs.257,498,105 had not been completed by the expected completion date of 29 June, 2021. Review of the project's documents and physical inspection on 27 October, 2022, revealed that the construction stalled with only 1.5% of works completed. The total payments to the contractor amounted to Kshs.14,013,380 (or 5.4%) of the agreed contract sum, which exceeded the 1.5% value of works completed. Further, records provided for audit indicate that the stadium land belongs to Bomet University College. Management did not provide explanations for these anomalies.

In the circumstances, value for money may not be realized from the public funds committed to the project.



#### **824. Delayed Implementation of the County Integrated Hospital Management Information System**

Review of documents revealed that the County Executive through the Department of Finance and Economic Planning incurred an expenditure of Kshs.1,728,400 for supply, delivery, testing and commissioning of County Integrated Hospital Information System. The contract agreement was signed on 23 June, 2020 between Bomet County Government and the supplier at a contract sum of Kshs.9,981,220 with an implementation period of six (6) months. However, as at the time of audit, in the month of October, 2022 the modules for radiology, health records, procurement and stores had not been fully implemented.

Failure by the supplier to fully implement and commission the system as per the contract agreement may lead to breach of the contract and also hamper service delivery to the public.

#### **REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE**

##### **Conclusion**

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

## **COUNTY EXECUTIVE OF KAKAMEGA - NO.37**

### **REPORT ON THE FINANCIAL STATEMENTS**

#### **Basis for Qualified Opinion**

##### **826. Variances between the Financial Statements and IFMIS Records**

The statement of receipts and payments reflects total receipts and total payments of Kshs.12,922,896,868 and Kshs.14,314,195,379 respectively. However, the amounts are at variance with the corresponding amounts of Kshs.12,861,280,187 and Kshs.11,812,282,965 respectively shown by the IFMIS records. No explanation or reconciliations were provided for the variances of Kshs.61,616,681 and Kshs.2,501,912,414 respectively.

In the circumstances, the accuracy and completeness of the statement of receipts and payments could not be confirmed.

##### **827. Variances in Exchanger Releases**

The statement of receipts and payments reflects an amount of Kshs.11,669,211,966 in respect of exchequer releases as disclosed in Note 1 to the financial statements. However, records maintained at the County Revenue Fund, including bank statements, reflect total exchequer releases amounting to Kshs.12,462,510,034 resulting in unexplained and unreconciled variance of Kshs.793,298,068.

In the circumstances, the accuracy and completeness of exchequer releases amounting to Kshs.11,669,211,966 could not be confirmed.

##### **828. Other Grants and Transfers**

###### **828.1 Unsupported Subsidies to Small Businesses, Cooperatives and Self-employed**

The statement of receipts and payments reflects an amount of Kshs.1,669,734,711 in respect of other grants and transfers which, as disclosed in Note 8 to the financial statements, includes Kshs.17,700,000 relating to subsidies to small businesses, co-operatives and self-employed. However, schedules and other documents in support of the amount were not provided for audit review.

In the circumstances, the accuracy and completeness of the transfers totalling to Kshs.17,700,000 could not be confirmed.

###### **828.2 Variances in Transfers to Maternal Child Health and Family Planning Fund**

The statement of receipts and payments reflects an amount of Kshs.1,669,734,711 in respect of other grants and transfers which, as disclosed in Note 8 to the financial

statements, includes Kshs.50,443,800 relating to transfers to Maternal Child Health and Family Planning Fund (Linda Afya ya Mama na Mtoto). However, the statement of receipts and payments for the Maternal Child Health and Family Planning Fund for the year ended 30 June, 2022 indicates that an amount of Kshs.70,000,000 was received from the County Executive, resulting in an unexplained and unreconciled variance of Kshs.19,556,200.

In the circumstances, the accuracy and completeness of the transfers to the Maternal Child Health and Family Planning Fund totalling Kshs.50,443,800 could not be confirmed.

#### **829. Variances in Transfers to Other Government Units**

The statement of receipts and payments reflects transfers to other government entities of Kshs.1,506,793,071 which, as disclosed in Note 7 to the financial statements, includes transfers to Kakamega County Dairy Development Corporation amounting to Kshs.66,084,464. However, the financial statements of Kakamega County Dairy Development Corporation for the year ended 30 June, 2022 reflect receipts from the County Executive amounting to Kshs.68,561,156, resulting in unexplained and unreconciled variance of Kshs.2,476,692.

In the circumstances, the accuracy and completeness of the amount of Kshs.1,506,793,071 in respect of transfers to other government units could not be confirmed.

#### **830. Variances in Cash and Cash Equivalents**

The statement of assets and liabilities reflects a balance of Kshs.681,648,219 in respect of cash and cash equivalents which, as disclosed in Note 12A to the financial statements, relates to balances held in fifty-five (55) bank accounts maintained by the County Executive. However, the balance of Kshs.681,648,219 includes balances in eleven (11) bank accounts totalling to Kshs.210,342,397 which are at variance with balances totalling Kshs.912,114,385 shown in the respective bank reconciliation statements. The variances of Kshs.701,771,988 have not been explained or reconciled.

Further, the balance of Kshs.681,648,219 in respect of cash and cash equivalents excludes balances totalling to Kshs.31,394,692 held in another fifty-seven (57) bank accounts maintained by various Sub-County units.

In the circumstances, the accuracy and completeness of the cash and cash equivalents balance of Kshs.681,648,219 could not be confirmed.

#### **831. Unsupported Pending Bills**

Note 1 to the financial statements on other important disclosures reflects a balance of Kshs.1,277,690,723 in respect of pending accounts payable as disclosed in Annex 2 to the financial statements. However, a register of pending bills in support of the amounts was not provided for audit review.

In the circumstances, the accuracy and completeness of the pending bills balance of Kshs.1,277,690,723 could not be confirmed.

## **Other Matter**

### **832. Budgetary Control and Performance**

The statement of comparison of budget and actual amounts indicates that the County Executive had a final receipts budget and actual receipts of Kshs.16,400,238,995 and Kshs.12,922,896,868 respectively. No explanation was provided for the shortfall of Kshs.3,477,342,127, representing 21% of the approved budget.

The under-funding 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**

### **833. Outstanding Imprests**

The statement of assets and liabilities reflects a balance of Kshs.31,681,180 in respect of outstanding imprests and advances which, as disclosed in Note 13 to the financial statements, relates to government imprest. Review of the supporting schedule revealed that imprests amounting to Kshs.30,833,235 have been outstanding for more than one year contrary to Regulation 93(5) of the Public Finance Management (County Governments) Regulations, 2015 which states that a holder of 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

### **834. Delayed Construction of Bukhungu Stadium Phase II**

The statement of receipts and payments reflects an amount of Kshs.2,977,021,601 in respect of acquisition of assets which, as disclosed in Note 9 to the financial statements, includes Kshs.1,063,248,211 relating to construction of buildings. Included is an amount of Kshs.385,787,185 paid to a local contractor during the year under review for construction of Bukhungu Stadium Phase II. The contract was awarded at a contract sum of Kshs.2,927,721,199 and was to be completed by 30 December, 2021.

However, field inspection carried out in July, 2022, revealed that the project had not been completed as some works were still pending like moat and RC wall, walkway at stadium frontage, ground floor column steel fixing and concrete casting, ground floor terraces concreting, shattering (beam and slab), slab and beam fixing and concreting beam and slab.

In the circumstances, value for money on the total expenditure of Kshs.385,787,185 on the uncompleted project could not be confirmed.

## **835. Human Resource Management**

### **835.1 Failure to Adhere to the One-third Rule on Salary Deductions**

Analysis of the Integrated Payroll and Personnel Database (IPPD) for the year under review revealed that during the year under review, some members of staff earned net salaries that were less than a third of their basic salaries, contrary to Section 19(3) of the Employment Act, 2007 which provides that total deductions from salaries of employees shall not exceed two-thirds of their respective basic salaries.

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

### **835.2 Use of Manual Payroll**

Review of documents revealed that the Management processed staff salaries using two (2) parallel payrolls: the Integrated Payroll and Personnel Database (IPPD) and a manual payroll. Out of the total expenditure of Kshs.5,384,185,763 on compensation of employees, an amount of Kshs.381,672,626 was processed through the manual payroll.

No explanation was provided for using two parallel payrolls contrary to Section 6.3 of the County Financial Accounting and Reporting Manual which provides that the salaries, allowances and or arrears of County Executive employees should be processed through Integrated Payroll and Personnel Data (IPPD).

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

## **836. Irregular Procurement of Fencing of Marama/Shinamwenyuli/1456 Plot**

The County Executive awarded a contract to a local contractor on 6 July, 2021 for fencing of Marama/Shinamwenyuli plot at a contract sum of Kshs.1,992,228. During the year under review, the contractor was paid an amount of Kshs.1,507,014. However, no evidence was provided to show that the tender was advertised, opened and evaluated as required by law, contrary to Section 78 (11) of the Public Procurement and Assets Disposal Act, 2015, which requires keeping of minutes as true reflection of the proceedings held.

Further, ownership documents were not provided to confirm ownership of the land by the County Executive, contrary to Regulation 104(1) of the Public Finance Management (County Governments) Regulations, 2015 which requires that all receipts and payments be properly supported by the appropriate authority and documentation.

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

### **837. Excess Wage Bill**

The statement of receipts and payments reflects an amount of Kshs.5,384,185,763 in respect of compensation of employees as disclosed in Note 4 to the financial statements. The amount constitutes 42% of the total receipts of Kshs.12,922,896,868 realized by the County Executive during the year under review. This is contrary to Regulation 25(1)(b) of the Public Finance Management (County Governments) Regulations, 2015 which provides that a County Executive should not spend more than 35% of total revenues on personnel emoluments.

In the circumstances, Management was in breach of the law

### **838. Irregular Payments to Council of Governors**

Review of records maintained by the County Executive indicated that the Management made payments totalling to Kshs.3,000,000 to the Council of Governors. However, the nature and purpose of the payments was not explained. This is contrary to Section 37 of the Inter-Governmental Relations Act, 2012 which requires that operational expenses of the Council 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.

### **839. Acquisition of Assets - Acquisition of Land**

The statement of receipts and payments reflects an amount of Kshs.2,977,021,601 in respect of acquisition of assets which, as disclosed in Note 9 to the financial statements, includes an amount of Kshs.8,890,122 relating to acquisition of land. The amount of Kshs.8,890,122 was incurred on acquisition of eight (8) parcels of land in various parts of the County. However, title deeds for the land acquired were not provided for audit review.

In the circumstances, ownership of the parcels of land could not be confirmed.

### **840. Budget Over-Expenditure**

The County Executive realized actual receipts of Kshs.12,922,896,868 while expenditure amounted to Kshs.14,314,195,379 resulting in an unexplained over-expenditure of Kshs.1,391,298,511. No explanation was provided on how the excess expenditure of Kshs.1,391,298,511 was financed or whether it was approved by the County Assembly in line with Section 131(3)(a) of the Public Finance Management Act, 2012 which provides that any increase in expenditure in a proposed appropriation is balanced by a reduction in expenditure in another proposed appropriation.



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

### **Conclusion**

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

## COUNTY EXECUTIVE OF VIHIGA - NO.38

### REPORT ON THE FINANCIAL STATEMENTS

#### Basis for Qualified Opinion

#### 842. Use of Goods and Services

The statement of receipts and payments reflects an amount of Kshs.775,322,727 under use of goods and services. Review of records provided for audit revealed the following unsatisfactory matters: -

#### 842.1 Unauthorised Reallocation and Irregular Charge of Expenditure

The statement of receipts and payments and as disclosed in Note 5 to the financial statements reflects an amount of Kshs.775,322,727 in respect of use of goods and services. The expenditure on use of goods and services further includes an amount of Kshs.17,793,245 which was reallocated without the necessary authority from the County Assembly and the National Treasury as analysed below:

Expenditure Item Charged	Amount (Kshs.)	Correct Account
Refined Fuels, Lubricants, and Other Fuels	3,069,800	Construction of Buildings
Hospitality, Supplies and Services	2,500,000	Printing, Advertisement, and Information Supplies Services
Foreign Travel and Subsistence	6,648,325	Domestic Travel and Subsistence
Printing, Advertisement, and Information Supplies Services	976,420	Domestic Air Travel
	816,500	Motor Vehicle Maintenance
	3,782,200	Departmental Surrenders and Transfers
<b>Total</b>	<b>17,793,245</b>	

No reason was provided for the arbitrary reallocation. The County Executive was therefore in breach of the law.

#### 842.2 Failure to Meet Insurance Contractual Obligations

The statement of receipts and payments reflects use of goods and services expenditure amount of Kshs.775,322,727 which, as disclosed in Note 5 to the financial statements includes an expenditure amount of Kshs.18,200,000 in respect of insurance expenses. Review of the documents provided revealed that a contract for provision of insurance services for motor vehicles, plant machines, motorcycles and trucks was signed between the County Government of Vihiga and an Insurance Company at a contract price of Kshs.14,307,161 on 10 May, 2022. The contract was for a period of one year covering the period between 11 May, 2022 and 12 May, 2023 and payments were to be made within sixty (60) days upon execution of the agreement. However, it was noted that as at

the time of audit (December, 2022), the insurer had been paid an amount of Kshs.9,000,000 which was far less than the contract provisions.

In the circumstances, the County may not get compensation in case of an accident due to failure to adhere to the contractual terms and conditions and therefore the expenditure amounting to Kshs.9,000,000 already incurred could be a waste of public resources.

### **842.3 In accuracy in Domestic Travel and Subsistence Allowances**

The statement of receipts and payments and as disclosed in Note 5 to the financial statements reflects domestic travel and subsistence allowance amount of Kshs.238,648,657. Included in this amount is an amount of Kshs.30,008,743 indicated as disbursed to four (4) officers for further disbursement to other members of staff while on official duties. However, schedules presented for audit in support of this amount differed with the disclosed amounts as detailed below:

<b>No.</b>	<b>Details</b>	<b>Financial Statements Amount in Kshs.</b>	<b>Supporting Schedules Amount Kshs.</b>	<b>Variance Kshs.</b>
1.	Bulimo Mwanje	12,646,443	12,420,263	226,180
2.	Colman Wesonga	9,390,500	9,390,800	(300)
3.	Kennedy Adagala	3,193,300	3,923,655	(730,355)
4.	Walter Mwavali	4,778,500	5,101,480	(322,580)
	<b>Total</b>	<b>30,008,743</b>	<b>30,836,198</b>	

In the circumstance, the accuracy and completeness of the disclosed amount of domestic travel and subsistence allowance could not be confirmed.

### **842.4 Misclassified and Unsupported Other Operating Expenses**

The statement of receipts and payments and as disclosed in Note 5 to the financial statements reflects an amount of Kshs.88,711,507 in respect of other operating expenses. Included in the amount is Kshs.23,313,781 relating to five expenditure items erroneously charged to operating expenses account. Further, the expenditure was not adequately supported. The misclassified expenditures items are as analysed below:

<b>No.</b>	<b>Details</b>	<b>Amount in Kshs.</b>
1.	I-Phones	2,280,000
2.	Adjustment for Departmental Transfers	7,586,250
3.	Daily Allowances	11,672,056
4.	Airline Services	1,122,975
5.	Catering Services	652,500
	<b>Total</b>	<b>23,313,781</b>

In the circumstances, the accuracy and propriety of the expenditure amount of Kshs.88,711,507 could not be confirmed.

#### **842.5 Unexplained expenditure on Refined Fuels, Lubricants and Other Fuels**

The statement of receipts and payments and as disclosed in Note 5 to the financial statements reflects an amount of Kshs.38,246,472 in respect of refined fuels, lubricants and other fuels, which includes an amount of Kshs.2,424,000 incurred on charcoal and firewood. It is not clear, and it has not been explained how such a large amount of money could have been incurred on charcoal and firewood at the County Executive.

In addition, a review of a payment vouchers and a Local Purchase Orders (LPOs) for supply of fuel totalling to Kshs.3,300,000 indicated that a supplier was awarded the contract dated 27 January, 2022 through a Request for Quotation procurement method. However, this is contrary to Regulation 91(1) of the Public Finance Management (County Governments) Regulations, 2015 which provides that a procuring entity that procures using the Request for Quotations method pursuant to Section 105 of the Act, shall be subject to the procurement threshold in the Second Schedule which provides for a maximum amount of Kshs.3,000,000 per quotation under this method.

In the circumstances, the propriety of the expenditure amounting to Kshs.2,424,000 incurred on charcoal and firewood could not be confirmed. In addition, value for money incurred on procurement of fuel amounting to Kshs.3,300,000 could not be confirmed.

#### **843. Unsupported Compensation of Employees**

The statement of receipts and payments reflects an amount of Kshs.2,695,739,587 in respect of compensation of employees. However, the following amounts were unsupported:-

##### **843.1 Basic Wages of Temporary Employees**

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects basic wages of temporary employees' amounting to Kshs.630,412,747. A review of the expenditure revealed that basic wages of temporary employees amount of Kshs.630,412,747 increased by Kshs.318,238,826 from the previous year's balance of Kshs.312,173,921. This was partly attributed to employment of additional 735 temporary employees during the year under review. However, the Management did not provide evidence to show that recruitment of these temporary employees was approved by the Public Service Board and that the expenditure budget was approved by the County Assembly.

In the circumstances, it could not be confirmed whether the additional expenditure incurred on recruitment of temporary employees amounting to Kshs.318,238,826 gave value for money to the County Government.

### **843.2 Payment of Kenya Revenue Authority PAYE Arrears**

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects KRA PAYE arrears paid amount of Kshs.291,017,805 out of the accumulated PAYE arrears amounting to Kshs.403,356,636 as indicated on annex 3 to the financial statements. Management did not indicated how they intends to address the delay in remittance of the PAYE to avoid nugatory expenses in form of interest and penalties.

In the circumstances, the County is exposed to losses of funds.

### **844. Acquisition of Assets**

The statement of receipts and payments reflects an amount of Kshs.445,047,046 under acquisition of assets. The following anomalies were noted :-

#### **844.1 Irregular Funding of Amatsi Water and Sanitation Company**

The statement of receipts and payments reflects expenditure amount of Kshs.445,047,046 in respect to acquisition of assets which, as disclosed in Note 10 to the financial statements includes expenditure on rehabilitation and renovation of plant, machinery and equipment amounting to Kshs.97,327,275. Included in this expenditure is an amount of Kshs.989,350 incurred by the Water Department on behalf of Amatsi Water and Sanitation Company which was incorporated on 24 April, 2007 under the Companies Act Cap 486 laws of Kenya. Review of payments made on behalf of the Company were in respect to rehabilitation of water pumps, bore holes, water schemes and allowances for supervision of these services. However, Management did not provide satisfactory explanation as to why the payments were made on behalf of the Company, which is a separate entity.

In the circumstances, the regularity of the expenditure amount of Kshs.989,350 could not be confirmed.

#### **844.2 Irregular Payment for Construction of ECD Classroom**

The statements of receipts and payments and as disclosed in Note 10 to the financial statements reflects an amount of Kshs.20,076,924 paid for construction of buildings which include an amount of Kshs.287,124 paid to a Company in respect of an under payment in the construction of an ECD classroom at Cheptoror Primary School in the financial year 2018/2019. However, no documents were provided to justify the underpayment and it was not clear why the underpayment had remained outstanding for four years without being given priority to form the first charge in the succeeding financial years.

In the circumstances, the authenticity of the payment of Kshs.287,124 could not be confirmed.

#### **845. Long Outstanding Salary Advances**

The statement of assets and liabilities reflects an amount of Kshs.17,334,668 in respect of accounts receivables which, as disclosed in Note 15 to the financial statements includes salary advances totalling to Kshs.1,775,438 issued to ten (10) members of staff, out of which, nine (9) were issued in 2015 and one (1) in 2017. Further, five of the employees with advances totalling Kshs.1,151,603 are no longer in service at the County Executive while an amount of Kshs.21,333 was owing from a deceased former member of staff. No efforts had been made to recover these outstanding amounts.

In the circumstances, the recoverability of the salary advances amounting to Kshs.1,775,438 is doubtful.

#### **Other Matter**

#### **846. Budgetary Control and Performance**

The summary statement of appropriation - recurrent and development combined reflects final revenue budget amount and actual amount on comparable basis of Kshs.5,738,304,185 and Kshs.4,471,161,499 respectively resulting into underfunding amount of Kshs.1,267,142,686 or 22% of the budget. Similarly, the County Executive expended an amount of Kshs.4,496,344,715 against an approved budget amount of Kshs.5,738,304,185 resulting to under expenditure of Kshs.1,241,959,470 or 22% of the budget.

Further, the statement reflects compensation of employees, transfers to other government units and social security benefits which exceeded the final budget amounts by a total amount of Kshs.326,348,346. The approval of the expenditure beyond the budgeted amount was not provided for audit review.

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

#### **847. Late and Undisbursed Exchequer Releases**

The statement of receipts and payments reflects Exchequer Releases amount of Kshs.4,471,161,499 out of the expected releases amounting to Kshs.5,738,304,185. An amount of Kshs.1,738,027,190 or approximately 38% of the total receipts was received in the last quarter as analyzed in the table below;

<b>Receipts</b>	<b>Recurrent Kshs.</b>	<b>Development Kshs.</b>	<b>Other Funds Kshs.</b>	<b>Total Kshs.</b>
First Quarter	656,397,156	-	7,000,000	667,397,156
Second Quarter	1,125,683,415	-	125,000,000	1,250,683,415
Third Quarter	607,166,728	211,886,960	-	819,052,688
Fourth Quarter	1,365,041,740	360,985,450	12,000,000	1,738,027,190
<b>Total</b>	<b>3,754,289,089</b>	<b>572,872,410</b>	<b>144,000,000</b>	<b>4,471,161,499</b>

Further, an amount of Kshs.1,267,142,686 was not received during the year under review.



This is contrary to Section 14 of the second schedule of the Public Finance Management Act, 2012 which provides that cash disbursements to the County Government shall be on quarterly basis and in accordance with the transfer of functions to the County Governments. This had an effect of inability by the County Government to meet the financial obligations in rendering services to the residents of Vihiga County.

#### **848. Pending Bills**

Annex 2 to the financial statements reflects pending accounts payable totalling to Kshs.1,254,980,509 which is an increase amount of Kshs.564,400,569 or 81% from the previous year balance of Kshs.690,579,940. Management explained that the bills increased due to failure to receive exchequer releases as had been proposed in the budget. However, no satisfactory reason was provided for the failure by Management to operate within their available resources. The County Executive risks incurring additional losses in form of interest and penalties arising from continued delay in the settlement of bills. In addition, failure to settle bills during the year in which they relate to distorts the financial statements and adversely affects the budgetary provisions to the subsequent year as they form a first charge.

#### **849. Unresolved Prior Year Matters**

Various prior year audit issues remained unresolved as at 30 June, 2022 and Management has not provided reasons for the delay in resolving the same. Further, not all of the unresolved prior year issues are disclosed under the progress on follow up of auditor's recommendations section of the financial statements as required by the Public Sector Accounting Standards Board.

### **REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

#### **Basis for Conclusion**

#### **850. Delay in Construction of Governor's and Deputy Governor's Residences**

The statement of receipts and payments reflects acquisition of assets amount of Kshs.445,047,046 which as disclosed in Note 10 to the financial statements includes construction of buildings amount of Kshs.20,076,924. This amount in turn includes an amount of Kshs.6,000,000 incurred in the construction of the Governor's and the Deputy Governor's houses. The contract agreement dated 20 February, 2019 was entered into between the County Government of Vihiga and a building contractor for the construction of Governor's and Deputy Governor's houses at a contract sum of Kshs.148,526,625. The construction commenced on 28 March, 2019 and was expected to run for 78 weeks with expected completion date of 28 September, 2020. In January, 2022 the Management indicated that the Governor's house was at 56.6% and Deputy Governor's at 55.5% completion when the contractor requested for another extension of 32 weeks to complete the project which was granted. A physical verification carried out in November, 2022 revealed that the work was still in progress, and there was no indication that the contract

period was extended. Further, the performance bond had not been renewed thus casting doubt on the legality of the contract and the commitment towards the completion of the project.

Further, as previously reported, the Salaries and Remuneration Commission (SRC) Circular, issued on 29 April, 2020 had put a ceiling to the construction of the houses for Governor and Deputy Governor's residence at amounts of Kshs.45,000,000 and Kshs.35,000,000 respectively totalling to Kshs.80,000,000. The contract entered into, therefore, exceeded the set limit of Kshs.80,000,000 by an amount of Kshs.68,526,625 or approximately 86% of the approved amount and the Management did not provide any explanation or documentary evidence on how the over expenditure would be regularised.

In the circumstances, Management was in breach of the law and there is risk of loss of public funds through cost escalation and penalties due to delays.

#### **851. Delay in Construction of Six Storey 160 Bed Capacity Plaza at the County Referral Hospital**

As previously reported, the County Government entered into a contract with a building contractor towards the construction of a six storey 160 bed capacity plaza at the Vihiga County Referral Hospital on 14 October, 2015 for a contract sum of Kshs.250,000,000, contract period of 24 months and expected completion date of 18 October, 2017 which was later extended by 12 months to 16 October, 2018 on request by the contractor. Examination of records provided revealed that, through a letter dated 11 June, 2020, the County Government advised the contractor to prepare a hand over report within fourteen days due to continuous delay, non renewal of the contract period, and failure to adhere to the provisions of the contract. On 08 April, 2020, the Ag. Director of Medical Services requested the Chief Officer to terminate the contract as the contract period had lapsed and the contract was terminated on 16 April, 2020.

As at the time of audit in November, 2022 the contractor had been paid an amount totalling to Kshs.187,287,023 while the project had stalled when the building was approximately 78% complete.

Information available indicate that the County Government invited a tender for the completion of the hospital through an advertisement done on the Government website on 18 January, 2021 and the bids were to be received by 26 January, 2021. On 26 March, 2021, a new contract was entered into with another company at a new contract sum of Kshs.395,172,567, which was more than the original contract by an amount of Kshs.145,172,567.

In the circumstances, the propriety and value for money for amount of Kshs.187,287,023 already incurred on the project could not be confirmed.

#### **852. Irregular Payment to Council of Governors**

The statement of receipts and payments reflects use of goods and services expenditure amount of Kshs.775,322,727 which includes hospitality supplies, and services

expenditure amount of Kshs.110,573,256 as disclosed in Note 5 to the financial statements. This expenditure in turn includes an amount of Kshs.2,000,000 which was paid by the County Government of Vihiga to the Council of Governors during the annual devolution conference which was held in Makueni County between 23 and 26 November, 2021. Although the Management has explained that amount paid was to cater for Governor and Deputy Governor's registration and accommodation costs, registration of Members of County Assembly among others, this was contrary to Section 37 of the Inter-Governmental Relations Act, 2012 which states that the operational expenses of the Council of Governors should be provided for in the annual estimates of the revenue and expenditure of the National Government.

In the circumstances, the propriety of the expenditure amount of Kshs.2,000,000 could not be confirmed and Management was in breach of the law.

#### **853. Irregular Funding of Members of County Assembly**

The statement of receipts and payments reflects use of goods and services amount of Kshs.775,322,727 which includes hospitality supplies and services expenditure amount of Kshs.110,573,256 as disclosed in Note 5 to the financial statements. Included in the hospitality supplies and services expenditure are two payments of Kshs.991,200 and Kshs.1,981,300 respectively. Review of documents revealed that an amount of Kshs.991,200 was paid to a staff member in respect to per diem for three (3) days for fourteen (14) Members of County Assembly (MCAs), Clerk, Deputy Clerk and other County Assembly staff member, during interrogation of the County 2<sup>nd</sup> supplementary budget for 2021/2022. Further, another payment amounting to Kshs.1,981,300 being per diem allowances was paid to Members of County Assembly (MCAs) who were engaged in the same budget interrogation and Joint Vihiga Executive and Assembly self-audit meeting held in Mombasa. However, there were no payment schedules and report on the review of the Joint self-audit meeting held in Mombasa. It is therefore not clear why the MCAs were being facilitated by the County Executive to perform their duties and yet the expenditure is budgeted for by the County Assembly.

In the circumstances, the propriety of the total expenditure amount of Kshs.2,972,500 could not be confirmed. Further, Management was in breach of the law.

#### **854. Delayed Supply, Delivery, Installation and of Commissioning Incinerator**

The statement of receipts and payments reflects expenditure amount of Kshs.328,770,983 in respect to other grants and payments which, as disclosed in Note 8 to the financial statements includes payments totalling to Kshs.323,730,783 in respect to other capital grants and transfers. Other grants and transfers in turn includes an amount of Kshs.11,423,360 paid to a supplier that had entered into an agreement with the County Government on 29 August, 2021 for the supply, delivery, installation, and commissioning of incinerator for Vihiga County Referral Hospital (VCRH) at a contract sum of Kshs.14,279,200. The contract period was six (6) months with expected completion date of 28 February, 2022. An audit review revealed that the contractor supplied the incinerator and placed it in an open roofed incomplete house. The Management explained that the

roofing of the incinerator house was suspended to allow the incinerator to be put into the house through the open roof because of its size. However, it has taken an inordinate long time for the incinerator house to be roofed. Further, no installation and commissioning of the incinerator had been done by the time of audit in November, 2022.

In the circumstances, the value for money paid amounting to Kshs.11,423,360 could not be confirmed.

#### **855. Incomplete Proposed Construction of a Funeral Home**

The renovation and rehabilitation of civil works expenditure balance of Kshs.114,054,297 as disclosed in Note 10 of the financial statements include an amount of Kshs.31,602,486 in respect of proposed construction of a funeral home. The County Government of Vihiga entered into an agreement with a construction firm on 20 February, 2021 for the construction and commissioning of a modern funeral home at Vihiga County Referral Hospital at a contract sum of Kshs.96,593,784 and at contract duration of twelve (12) months. Examination of records provided revealed that the contractor had been paid an amount of Kshs.31,602,486 and the contract period had lapsed. Further, the performance bond had expired and had not been renewed. Physical verification carried out in November, 2022 revealed that the contractor was still on site, but the construction works were yet to be completed. Although the Management has explained that the contract implementation team accepted the contractors' extension request, no formal extension and renewed performance bond were provided for audit review.

In the circumstances, the value for money incurred amounting to Kshs.31,602,486 could not be confirmed.

#### **856. Lack of Land Ownership Documents**

The statement of receipts and payments reflects acquisition of assets expenditure amounting to Kshs.445,047,046 and which, as disclosed in Note 10 to the financial statements includes an amount of Kshs.907,177 spent on acquisition of land. However, no valuation and search reports for the piece of land measuring 0.04 hectares were provided for audit verification. Although the preparation of transfer documents was in progress, the County Government is yet to complete the process and obtain a title deed for the piece of land.

In the circumstances, the ownership of land measuring 0.04 hectares could not be confirmed.

#### **857. Unremitted Statutory Deductions**

The statement of assets and liabilities reflects an amount of Kshs.98,947,675 in respect to accounts payables - deposits and retentions and which, as disclosed in Note 16 to the financial statements includes an amount of Kshs.6,867,981 in respect of statutory (IPPD) deductions which had not been remitted.

In the circumstances, the County is exposed to loss of funds due to nugatory expenses inform of penalties charged.

#### **858. Staff not existing in IPPD Master Data (Compliment)**

Review of the IPPD staff extract against the payroll revealed that a number of old and new staff did not exist in the IPPD compliment as at 30 June, 2022. It is not clear why they were not defined in the IPPD compliment contrary to Regulation 120(3) of the Public Finance Management (County Governments) Regulations, 2015 which stipulates that at least once every month, the Accounting Officer shall certify the correctness of the payroll. In the circumstances, Management was in breach of the law.

#### **859. Non-Compliance with the Law on Staff Ethnic Composition**

During the year under review, the total number of employees of the County Executive was one thousand eight hundred and thirteen (1813) out of which one thousand six hundred and sixty (1660) or 92 % of the total numbers 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.

#### **860. Non-Compliance with the One-Third of Basic Salary Rule**

During the year ended 30 June, 2022, fifty-six (56) 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 which states that Public officers shall not over-commit their salaries beyond two thirds (2/3) of their basic salaries and Heads of Human Resource Units should ensure compliance.

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

### **REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE**

#### **Basis for Conclusion**

#### **861. Lack of Annual Recruitment Plan and Staff Establishment**

Review of documents revealed that the County Executive did not have annual recruitment plan and staff establishment for the period under review and as such it could not be confirmed what guided the recruitments of E.C.D.E teachers and one hundred and fifty-four (154) waste management staff undertaken for the period under review contrary to Section B(2)(1) of the Human Resource Policies and Procedures Manual for the Public Service of May, 2016 which requires every Ministry/State Department to prepare Human Resource Plans to support achievement of goals and objectives in their Strategic plans and that the plans shall be based on comprehensive job analysis and shall be reviewed every year to address emerging issues and needs.

In the circumstances, the Management may over or under employ officers which may negatively affect operations of the County.

#### **862. Failure to Reconcile Electricity Bills**

The statement of receipts and payments and as disclosed in Note 5 of the financial statement reflects utility supplies and services amounting to Kshs.45,525,975. The expenditure includes various payments amounting to Kshs.8,990,727, made to Kenya Power and Lighting Company Limited on account of electricity bills during the year under review. However, it was noted that no reconciliations were done before making payments which may result in double payments.

In the absence of effective internal controls and monthly electricity bills reconciliations, Management may have overpaid Kenya Power and Lighting Company Limited.



## **COUNTY EXECUTIVE OF BUNGOMA - NO.39**

### **REPORT ON THE FINANCIAL STATEMENTS**

#### **Basis for Qualified Opinion**

#### **863. Inaccuracies in the Financial Statements**

##### **863.1 Variance Between the Financial Statements and Integrated Financial Management Information System (IFMIS) Records**

As disclosed in Note 4 to the financial statements, the statement of receipts and payments reflects an amount of Kshs.2,037,798,793 in respect to use of goods and services which includes domestic travel and subsistence allowances amount of Kshs.472,971,099. However, review of Integrated Financial Management Information System (IFMIS) payment details revealed that temporary imprest of Kshs.822,490,935 was issued to staff during the year under review which is at variance with the domestic travel and subsistence amount of Kshs.472,971,099 resulting to an unreconciled and unexplained variance of Kshs.349,519,836.

In the circumstances, the accuracy and completeness of the domestic travel and subsistence allowances amount of Kshs.472,971,099 could not be confirmed.

##### **863.2 Variance in Exchequer Releases**

As disclosed in Note 1 to the financial statements, the statement of receipts and payments reflects an amount of Kshs.10,614,043,797 in respect to exchequer releases (transfers from the CRF). However, the County Revenue Fund bank statements reflect exchequer releases of Kshs.10,621,565,597 resulting to an unexplained and unreconciled variance of Kshs.7,521,800.

In the circumstances, the accuracy and completeness of the exchequer releases amount of Kshs.10,614,043,797 could not be confirmed.

#### **864. Anomalies in Cash and Cash Equivalents**

The statement of assets and liabilities reflects a balance of Kshs.631,768,735 in respect of cash and cash equivalents which, as disclosed in Note 10A to the financial statements, comprise of balances in seventeen (17) bank accounts maintained by the County Executive. However, bank reconciliation statements for five (5) bank accounts reflect receipts in cash book not recorded in bank statements totalling to Kshs.530,243,870. No explanation was provided on why the receipts had not been banked as at 30 June, 2022.

In addition, Note 10A to the financial statements indicates that in 2020/2021, the County Executive had forty-three (43) active bank accounts with balances. No explanation was provided on the circumstances under which the bank accounts reduced from forty-three

(43) in 2020/2021 to seventeen (17) in the year under review and the fate of the balances in the twenty six (26) accounts not disclosed.

In the circumstances, the accuracy and completeness of the cash and cash equivalents balance of Kshs.631,768,735 could not be confirmed.

#### **865. Long Outstanding and Inaccurate Pending Bills**

Note 1 under other important disclosures reflects a balance of Kshs.1,199,306,316 in respect of pending accounts payable as disclosed in Annex 2 to the financial statements. The balances comprise of balance brought forward of Kshs.438,603,086, additions during the year of Kshs.1,039,275,422 and payments during the year of Kshs.277,532,150. However, no explanation was provided for failure to clear the long outstanding bills brought forward, which relate to the years between 2015/2016 and 2020/2021.

Further, a recalculation of the balance brought forward, additions during the year and payments during the year gives a total balance of Kshs.1,200,346,358 instead of the balance of Kshs.1,199,306,316. The variance of Kshs.1,040,000 was not explained or reconciled.

In the circumstances, the accuracy and correct valuation of the pending accounts payable balance of Kshs.1,199,306,316 could not be confirmed.

#### **866. Anomalies in Fixed Assets**

Records maintained by the County Executive indicate that during the years between 2017/2018 and 2021/2022, the County Executive purchased a total of thirty-five (35) parcels of land valued at Kshs.18,700,000. Although the parcels of land had all been paid for as at 30 June, 2022, the County Executive had not obtained title documents for them as at the time of audit in January, 2023.

Further, Annex 4 to the financial statements on summary of non-current assets register reflects additions during the year amounting to Kshs.1,780,973,782 which is at variance with the corresponding amount of Kshs.1,609,935,884 shown in the statement of cash flows. The variance of Kshs.171,037,898 has not been explained or reconciled.

In addition, the Management did not provide an updated asset register with details relating to: nature or type of asset, date of purchase, cost, supplier, unique identification number, current value, current location, user, accumulated depreciation and net book value.

In the circumstances, the accuracy, completeness and ownership of the non-current assets valued at Kshs.22,891,249,443 could not be confirmed.

#### **867. Omitted Transfers to Other Government Entities**

As disclosed in Note 5 to the financial statements, the statement of receipts and payments reflects an amount of Kshs.962,742,192 in respect to transfers to other Government

entities. However, the amount excludes amounts of Kshs.44,273,433 and Kshs.75,717,730 transferred to Bungoma and Kimilili Municipalities respectively, reflected in IFMIS payment details.

In the circumstances, the accuracy and completeness of transfers to other Government entities of Kshs.962,742,192 could not be confirmed.

#### **868. Misallocation of Other Grants and Transfers**

As disclosed in Note 6 to the financial statements, the statement of receipts and payments reflects other grants and payments amount of Kshs.1,304,180,080 which includes an amount of Kshs.754,180,080 in respect of other capital grants and transfers. However, the amount includes an amount of Kshs.95,315,640 relating to development of roads. No explanation was provided on the misallocation of the expenditure.

In the circumstances, the accuracy and completeness of the expenditure on other grants and transfers of Kshs.754,180,080 could not be confirmed.

#### **869. Unsupported Social Security Benefits**

As disclosed in Note 7 to the financial statements, the statement of receipts and payments reflects an amount of Kshs.44,019,521 in respect of social security benefits. However, supporting schedules were not provided for audit review.

In the circumstances, the accuracy and completeness of the social security benefits amount of Kshs.44,019,521 could not be confirmed.

#### **870. Unsupported Facilitation of Members of County Assembly (MCAs)**

As disclosed in Note 4 to the financial statements, the statement of receipts and payments reflects use of goods and services amount of Kshs.2,037,798,793 which includes an amount of Kshs.377,187,730 in respect of hospitality supplies and services, out of which an amount of Kshs.3,717,200 was incurred in facilitating (MCAs) of the County Assembly for various activities carried out by the County Executive. However, supporting documents like invitation letters, letter from the speaker of the County Assembly confirming that the MCAs' allowances were authorized by the County Assembly were not provided for audit.

In the circumstances, accuracy, completeness and propriety of the expenditure of Kshs.3,717,200 could not be confirmed.

#### **Other Matter**

#### **871. Budgetary Control and Performance**

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.13,913,111,772 and Kshs.10,761,624,843 respectively, resulting to under-funding of Kshs.3,151,486,929 or 23% of the approved

budget. Similarly, the County Executive incurred actual expenditure of Kshs.10,969,013,054 against approved budget of Kshs.13,913,111,772 resulting to under- performance of Kshs.2,944,098,718 or 21% of the budget.

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

#### **872. Unresolved Prior Year Matters**

As disclosed in the progress on follow up of auditor's recommendations section of the financial statements, some of the prior year audit issues remained unresolved as at 30 June, 2022. Management has not provided satisfactory reasons for the delay in resolving the issues.

#### **873. Late Receipt of Exchequer Issues from The National Treasury**

Review of bank statements and cash books of the County Executive revealed that out of the exchequer releases of Kshs.10,614,043,797 reflected in the statement of receipts and payments, exchequer releases totalling to Kshs.571,770,689 were received on diverse dates between 16 June, 2022 and 15 July, 2022.

In the circumstances, the County Executive was not able to accomplish its activities and programs as projected in the annual budget.

### **REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

#### **Basis for Conclusion**

#### **874. Long Outstanding Imprest**

The statement of assets and liabilities reflects a balance of Kshs.46,734,065 in respect of accounts receivable - outstanding imprest which, as disclosed in Note 11 to the financial statements, relates to Government imprest. Out of the balance, imprests totalling to Kshs.35,149,850 were issued in 2016/2017, 2018/2019, 2019/2020 and 2020/2021 financial years, while the balance of Kshs.11,584,215 relates to the year under review. No explanation was provided for failure to account and recover the imprests from the defaulting officers, contrary to Regulation 93(5) of the Public Finance Management (County Governments) Regulations, 2015, which requires an imprest holder to surrender or account for imprest within seven (7) working days after returning to duty station. In the circumstances, Management was in breach of the law.

#### **875. Non-Compliance with the Fiscal Responsibility Principles – Wage Bill**

The statement of receipts and payments reflects expenditure of Kshs.4,842,460,885 in respect of compensation of employees, which represents 45% of the total receipts in the

year of Kshs.10,761,624,843. This is contrary to Regulation 25(1)(b) of the Public Finance Management (County Governments) Regulations, 2015, which states that total expenditure on the wage bill for County Governments should not exceed thirty-five (35) percent of the County Government's total revenue.

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

#### **876. Irregular Engagement of Temporary Workers**

The statement of receipts and payments reflects expenditure of Kshs.4,842,460,885 in respect of compensation of employees which, as disclosed in Note 3 to the financial statements, includes an amount of Kshs.215,778,183 relating to basic wages of temporary employees, including an amount of Kshs.78,000,000 paid to three thousand two hundred and sixty-eight (3,268) volunteer community health workers serving in three hundred and twenty-nine (329) community health units at a token payment of Kshs.2,000 per volunteer per month. However, it was not explained how the temporary employees and community health workers were identified and engaged since Management did not provide a needs assessment report, application letters from the workers, terms and conditions of the workers and reports from the field on achievements of the workers. This is contrary to Section 37(1)(6) of the Employment Act, 2007 which provides that a casual employee is one who performs work which cannot reasonably be expected to be completed within a period or a number of working days amounting in aggregate to the equivalent of three months or more.

In the circumstances, Management was in breach of law.

#### **877. Project Implementation Status**

The County Executive had projected to implement three hundred and eighty-two (382) development projects during the year under review. However, as at 30 June, 2022, one hundred and nineteen (119) or 31% had been completed, one hundred and eighty-two (182) or 48% were on-going, two (2) projects had been halted while seventy nine (79) or 21% had not been started.

In the circumstances, the public did not receive value for money from eighty one (81) stalled on started the projects.

#### **878. Unsupported Provision of Consultancy Services**

The statement of receipts and payments reflects an amount of Kshs.2,037,798,793 in respect of use of goods and services which, as disclosed in Note 4 to the financial statements, includes an amount of Kshs.376,244,300 relating to other operating expenses. This amount includes an amount of Kshs.8,942,765 paid to five (5) law firms for provision of legal services to the County Executive. However, procurement documents including advertisements, tender opening and evaluation minutes, professional opinion, letters of award and regret letters, were not provided for audit review. It was therefore not

possible to confirm how the consultants were identified and if proper procurement procedures were followed. This is contrary to Section 91(1) of the Public Procurement and Asset Disposal Act, 2015 which provides that open tendering shall be the preferred procurement method for procurement of goods, works and services.

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

#### **879. Unremitted Statutory Contributions**

Records maintained by the County Executive revealed that as at 30 June, 2022, the County Executive had not remitted statutory deductions amounting to Kshs.461,337,574 due to five (5) statutory bodies. The amount of Kshs.461,337,574 is made up a principal amount of Kshs.361,218,466 and accumulated interest of Kshs.100,119,108 arising from the non-remittance of the statutory dues.

In the circumstances, Management may subject the County Executive to unnecessary penalties.

#### **880. Non-adherence to One-third Basic Salary Rule**

The statement of receipts and payments reflects an amount of Kshs.4,842,460,885 in respect of compensation of employees which, as disclosed in Note 3 to the financial statements, includes Kshs.4,443,865,745 relating to basic salaries of permanent employees. However, review of the Integrated Payroll and Personnel Database (IPPD) as at 30 June, 2022 revealed that an average of 374 employees were earning net salaries that were less than one-third of their basic salaries during the year under review. This is contrary to Section 19(3) of the Employment Act, 2007 which provides that total deductions from salaries of employees shall not exceed two-thirds of the respective basic salaries.

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

#### **881. Non-Compliance with the Law on Staff Ethnic Composition**

Records provided for audit revealed that during the year under review, the County Executive recruited two hundred and fifty-six (256) employees. However, out of this number, two hundred and fourteen (214) or 84% were from the dominant ethnic community in the County. This is contrary to Section 65(1) of the County Governments Act, 2012 which provides that in selecting candidates for appointment, the County Public Service Board shall consider that at least thirty (30) percent of the vacant posts are not from the dominant ethnic community in the County.

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

#### **882. Failure to Maintain a Staff Establishment Record**

During the year under review, the County Executive did not maintain a staff establishment record. This is contrary to Section 5(2)(f) of the County Governments Act, 2012 which provides that a County Government is responsible for the establishment and staffing of



its public service. It was therefore not possible to confirm the County Government's optimum staffing levels, areas of overstaffing and any other staffing requirements.

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

### **883. Unsupported Construction of Maternal Child Ward Block**

As disclosed in Note 8 to the financial statements, the statement of receipts and payments reflects acquisition of assets amount of Kshs.1,609,935,884 which includes an amount of Kshs.653,973,092 in respect to construction and civil works, out of which Kshs.12,354,500 was incurred as preliminary expenses in the proposed construction of a maternal child ward block. The preliminary expenses included purchases of two (2) project vehicles, insurance cover, payments to the resident clerk of works, purchase of seven (7) laptops, capacity building and supply of water and electricity. However, log books for the two (2) vehicles, receipts for the laptops purchased and insurance policies were not provided for audit.

In the circumstances, propriety of the expenditure of Kshs.12,354,500 could not be confirmed.

### **884. Undelivered Medical Equipment**

As disclosed in Note 8 to the financial statements, the statement of receipts and payments reflects acquisition of assets amount of Kshs.1,609,935,884 which includes an amount of Kshs.28,280,580 in respect of purchase of specialized plant, equipment and machinery out of which Kshs.17,684,600 was incurred on purchase of medical equipment for casualty department. However, review of documents and physical inspection of the equipment carried out in July, 2022 revealed that the supplier delivered medical equipment worth Kshs.14,462,300 resulting to undelivered equipment worth Kshs.3,222,300. No explanation was provided for failure to have delivery made for the balance.

In the circumstances, the public did not obtain value for money from the undelivered equipment with Kshs.3,222,300.

### **885. Construction of Mama Mboga Sheds at Kolani and Shiundu Markets**

As disclosed in Note 8 to the financial statements, the statement of receipts and payments reflects acquisition of assets amount of Kshs.1,609,935,884 which includes an amount of Kshs.653,973,092 in respect of construction and civil works, out of which an amount of Kshs.1,897,974 was incurred in the construction of two (2) mama mboga sheds, each at Kolani and Shiundu markets in Namwela ward. However, the contractor used gauge 30 roofing iron sheets instead of gauge 28 as provided in the Bill of Quantities. In addition, the sheds did not also have selling stalls for displaying merchandize as provided in the Bill of Quantities.

In the circumstances, the public did not obtain value for money for the Kshs.1,897,974 incurred on the project.

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

### **Basis for Conclusion**

#### **886. Composition of Audit Committee and Failure to Operationalize the Risk Management Policy Framework**

As reported previously, review of the audit committee members' appointment letters and the audit committee meeting minutes revealed that as at 30 June, 2022, the committee lacked two (2) members: an independent member and a representative of the County Treasury. The positions fell vacant on 4 December, 2018 and 3 March, 2020 respectively.

In addition, the County Executive was yet to operationalize the approved Risk Management Policy framework and did not have an updated risk register, contrary to Regulation 158(1)(b) of the Public Finance Management (County Governments) Regulations, 2015.

In the circumstances, effectiveness of internal controls, risk management and governance of the County Executive could not be confirmed.

## **COUNTY EXECUTIVE OF BUSIA - NO.40**

### **REPORT ON THE FINANCIAL STATEMENTS**

#### **Basis for Qualified Opinion**

##### **887. Inaccuracies in the Financial Statements**

##### **887.1 Variances Between Statement of Receipts and Payments and Supporting Schedules**

The statement of receipts and payments reflects five (5) components with a total amount of Kshs.8,642,085,348 which were at variance with the corresponding amounts shown in supporting schedules amounting to Kshs.7,873,301,922 resulting to an unexplained variance of Kshs.768,783,426.

##### **887.2 Variance Between the Statement of Receipts and Payments and Statement of Comparison of Budget and Actual Amounts**

The statement of receipts and payments reflects a deficit of Kshs.193,398,049 while the statement of comparison budget and actual amounts reflects a surplus of Kshs.1,193,401,187. The variance of Kshs.1,386,799,236 has not been explained or reconciled.

##### **887.3 Variance Between the Statement of Assets and Liabilities and Statement of Cash Flows**

The statement of assets and liabilities reflects cash and cash equivalents balance of Kshs.559,254,055 while the statement of cash flows reflects a corresponding balance of Kshs.557,618,997. The variance of Kshs.1,635,058 has not been explained or reconciled.

In the circumstances, the accuracy and completeness of the respective amount and balances could not be confirmed.

##### **888. Unsupported Use of Goods and Services**

The statement of receipts and payments reflects use of goods and services payments amount of Kshs.1,793,955,718 as disclosed in Note 5 to the financial statements. However, expenditure amounting to Kshs.620,020,776 was not supported by relevant documents.

In the circumstances, accuracy and regularity of use of goods and services amounting to Kshs.620,020,776 could not be confirmed.

### **889. Unsupported Acquisition of Assets**

The statement of receipts and payments reflects acquisition of assets expenditure amounting to Kshs.363,381,172 as disclosed in Note 10 to the financial statements. The expenditure includes construction of buildings amount of Kshs.3,769,825. However, payment vouchers and other supporting documents were not provided for audit.

Further, the expenditure includes an amount of Kshs.4,500,000 relating to acquisition of land, out of which an amount of Kshs.4,000,000 was paid for acquisition of a parcel of land measuring 0.2 hectares for Busia Municipality cemetery. However, a valuation report by the Ministry of Lands and Physical Planning indicated that the land comprised of four (4) plots. An official search for the land indicated that the land measured 3.32 hectares. No explanation was provided for the contradictory information on the size of the land. Management did not also provide a title deed for the land.

In the circumstances, the ownership and valuation of the expenditure on land amounting to Kshs.4,000,000 and construction of buildings amount of Kshs.3,769,825 could not be confirmed.

### **890. Misclassification of Expenditure**

The statement of receipts and payments reflects other payment amounting to Kshs.774,694,873 which, as disclosed in Note 13 to the financial statements, relates to development projects in various Wards in the County. However, the amount includes payments totalling to Kshs.5,773,102 made on account of casual wages thereby overstating other payments by Kshs.5,773,102 and understating compensation of employees by the same amount.

In the circumstances, the accuracy and regularity of other payments amounting to Kshs.5,773,102 could not be confirmed.

### **891. Accounts Payable (Pending Bills)**

As disclosed in Note 1 on Other Important Disclosures the County Executive had pending accounts payable amounting to Kshs.1,770,154,174 comprising of brought forward amounts totalling to Kshs.740,655,335, additions during the year totalling to Kshs.1,224,410,107 and payments during the year totalling to Kshs.194,911,267.

However, review of Annex 2 to the financial statements indicates that the brought forward balance of Kshs.740,655,335 was incurred between June, 2014 and June, 2021. No explanation was provided for the failure to clear the long outstanding bills as first charge during subsequent years.

Further review of Annex 2 indicates that out of the total pending bills of Kshs.1,770,154,174 as at 30 June, 2022, bills totalling to Kshs.70,045,337 will be incurred in the 2022/2023 financial year. No explanation was provided on why expenditure incurred in 2022/2023 financial year were included as pending bills for the year ended 30 June, 2022 before the close of the financial year.

In the circumstances, the accuracy and completeness of the pending accounts payable balance of Kshs.1,770,154,174 could not be confirmed.

## **Other Matter**

### **892. Budgetary Control and Performance**

The statement of comparison of budget and actual amounts combined reflects final receipts budget and actual on comparable basis of Kshs.10,230,377,635 and Kshs.8,523,348,215 respectively, resulting to under-funding of Kshs.1,707,029,420 or 17% of the budget. Similarly, the County Executive spent an amount of Kshs.7,329,947,028 against approved budget of Kshs.10,230,377,635 resulting to under-performance of Kshs.2,900,430,607 or about 28% of the budget.

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

### **893. Unresolved Prior Year Matters**

In the audit report for 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, Management had not resolved the issues or given any explanation for the delay in resolving them.

## **REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

### **Basis for Conclusion**

#### **894. Non-Collection of Parking Fees**

The statement of receipts and payments reflects an amount of Kshs.293,263,742 in respect of other receipts which, as disclosed in Note 3 to the financial statements, relates to receipts from own source revenue and returned CRF. However, revenue collection on some legislated revenue streams had been effected but parking fees collection within Busia town were not being collected or effected as provided for in the Busia County Finance Act, 2021. No explanation was provided on why parking fees remained uncollected from various classes of motor vehicles as set out in the Act.

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

#### **895. Irregular Acquisition of Fire Fighting Engine**

The statement of receipts and payments reflects an amount of Kshs.363,381,172 in respect of acquisition of assets which, as disclosed in Note 10 to the financial statements, includes an amount of Kshs.88,359,246 relating to purchase of specialized plant, equipment and machinery. Included in the amount of Kshs.88,359,246 is an amount of

Kshs.52,000,000 paid to a local supplier for supply and delivery of one (1) fire fighting vehicle.

However, verification of the log book indicated that the County Executive of Busia is the second (2<sup>nd</sup>) owner of the vehicle and that there was a previous first (1<sup>st</sup>) owner. When the vehicle was purchased, it had a private registration before being transferred to the County Government registration number. This is contrary to Regulation 173(2) of the Public Procurement and Asset Disposal Regulations, 2020 which provides that motor vehicles, plant, equipment and related spare parts to be procured shall be new and meet the minimum standards set by the agency responsible for quality control and standardization.

Further, market survey revealed that the cost of a new fire-fighting engine is between Kshs.15,000,000 and Kshs.20,000,000. In the circumstances, the cost of Kshs.52,000,000 paid for the second-hand unit is grossly exaggerated.

Physical verification of the fire fighting vehicle revealed that the vehicle has been parked at the Governor's office idle instead of offering the envisaged services.

In the circumstances, Management was in breach of the law and the residents of Busia County did not receive value for money from the fire fighting engine.

#### **896. Irregular Construction of Mother and Child Specialized Hospital**

Management awarded a contract to a local contractor in 2020 for construction of a mother and child specialized hospital at Alupe Sub-County at a contract sum of Kshs.109,545,885 and contract period of nine (9) months commencing 22 April, 2020 to 21 January, 2021. As at 30 June, 2022, the contractor had been paid a total of Kshs.109,503,079, representing 99.9% of the contract sum. However, records indicated that Management introduced additional new drawings, which increased the total slab area from 1,430 to 2,526 square metres and the project cost by Kshs.39,273,544 or about 36% of the initial contract sum. This is contrary to Section 139(4)(e) of the Public Procurement and Asset Disposal Act, 2015 which states that any variation of a contract shall only be considered if the cumulative value of all contract variations do not result in an increment of total contract price by more than twenty-five (25) percent of the original contract price.

Further, the bill of quantities were not revised in line with the revised works and drawings and the variations were not approved in writing by the tender awarding authority as required by Section 139(1)(a) of the Public Procurement and Asset Disposal Act, 2015

Physical inspection of the project carried out in the month of July, 2022 revealed that the project was behind schedule by eighteen (18) months, with works such as roofing, windows, doors, external finishes, electrical works, plastering and plumbing costing Kshs.40,127,749 not yet done.

In the circumstances, Management was in breach of the law and the public did not receive value for money from the project.



#### **897. Non-Compliance with the Fiscal Responsibility Principles– Wage Bill**

The statement of receipts and payments reflects an amount of Kshs.2,878,476,753 in respect to compensation of employees, which represents 40% of the total receipts during the year of Kshs.7,136,548,979. This was contrary to Regulation 25(1)(b) of the Public Finance Management (County Governments) Regulations, 2015, which states that total expenditure on the wage bill for County Governments should not exceed thirty-five (35) percentage of the County Government's total revenue.

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

#### **898. Non-Compliance with the One Third Basis Salary Rule**

Review of the Integrated Payroll and Personnel Database (IPPD) for the year under review revealed that an average of one hundred and sixty seven (167) employees were earning less than a third of their basic salaries per month. This is contrary to Section 19(3) of the Employment Act, 2007 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.

#### **899. ERP Project Business Process, System Study and Gap Analysis Study**

As reported in the 2020/2021 report, the County Government engaged a research consultant at a cost of Kshs.27,999,320 on 17 November, 2015 for a contract period of three (3) years ending 17 November, 2018. The consultant was to implement a complete Revenue Management System capable of providing visibility to Management across all revenue streams as well as provide real-time information to the County Government and citizens at large. The purpose of the contract was to create a high-level gap analysis on the business processes giving priority to revenue collection for the County Government, so as to capture all aspects of revenue streams and to propose strategies to optimize collection, minimize, and ultimately close revenue leakages through automation.

However, review of the contract indicated that the ERP contract expired on 17 November, 2018 after the consultant had been paid the full contract amount of Kshs.27,999,320 but related contract had not been renewed.

In the circumstances, Management did not obtain value for money from the Kshs.27,999,320 invested in the project.

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

### **Basis for Conclusion**

#### **900. Weaknesses in Information and Communication Technology Control Environment**

Review of Information and Communication Technology (ICT) governance documents and IT systems revealed that during the year under review, the County Government did not have an approved ICT Security Policy, Disaster Recovery Plan and IT Steering Committee. The County Government did not also have in place network controls such as firewalls and access controls.

In the circumstances, the ICT control environment was weak and there was a risk that the County Executive may not recover in a timely manner in the event of a disaster.

## **COUNTY EXECUTIVE OF SIAYA - NO.41**

### **REPORT ON THE FINANCIAL STATEMENTS**

#### **Basis for Adverse Opinion**

##### **901. Compensation of Employees**

The statement of receipts and payments reflects compensation of employees amount of Kshs.2,918,749,245 as disclosed in Note 4 to the financial statements. The following anomalies were noted:

##### **901.1 Unsupported Basic Wages of Temporary Employees**

The compensation of employees amount includes basic wages of temporary employees of Kshs.360,506,813 (2021 – Kshs.331,092,550) an increase of Kshs.29,141,263 which is an indication of engaging more temporary employees without approval and justification. Further, some temporary employees were engaged for more than six (6) months contrary to provisions of Section 37 of the Employment Act, 2007. In addition, the Integrated Financial Management Information System (IFMIS) data revealed expenditure on temporary employees of an amount of Kshs.23,167,050 in the Enterprise and Industrial Development Department without the needs assessment, justification and evidence of work done.

In the circumstances, the accuracy and completeness of basic wages of temporary employees amount of Kshs.360,506,813 could not be confirmed.

##### **902. Unsupported Other Personnel Payments**

Included in compensation of employees expenditure is other personnel payments of Kshs.308,302,691 (2021 – Kshs.8,427,710) an increase of Kshs.299,874,981 or 97% which was not explained or supported by documents and approval from the Controller of Budget.

In the circumstances, the accuracy and completeness of other personnel payments expenditure of Kshs.308,302,691 could not be confirmed.

##### **903. Variance in Basic Salaries**

The expenditure on compensation of employees also includes basic salaries of permanent employees amount of Kshs.1,002,016,606, which is at variance with an amount of Kshs.977,611,780, reflected in the Integrated Personnel and Payroll Database (IPPD) resulting in an unexplained and unreconciled variance of Kshs.24,404,826.

In the circumstances, the accuracy and completeness of basic salaries of permanent employees amount of Kshs.1,002,016,606 could not be confirmed.

#### **904. Use of Goods and Services**

The statement of receipts and payments reflects use of goods and services amount of Kshs.1,866,113,402 as disclosed in Note 5 to the financial statements. Review of expenditure records revealed the following anomalies:

##### **904.1 Unsupported Domestic Travel and Subsistence Allowance**

The expenditure on use of goods and services includes domestic travel and subsistence allowance amount of Kshs.381,665,358 out of which expenditure amounting to Kshs.111,976,000 was indicated as payment to the County Government of Siaya and an amount of Kshs.3,200,000 as payment to Siaya County Emergency Fund Account instead of the respective individuals/payees. In addition, an amount of Kshs.4,674,800 for provision of air travel services was not supported by approved travel memos or boarding passes and the purpose of travel was not indicated.

##### **904.2 Unsupported Foreign Travel and Subsistence Allowance**

The expenditure on use of goods and services further includes an amount of Kshs.8,963,706 on foreign travel and subsistence. However, expenditure totalling to Kshs.2,605,396, was not supported by invitation letters, boarding passes, copies of passports, authority to travel, or attendance register and there was no evidence of output from the foreign travel.

##### **904.3 Unsupported Training Expenses**

The expenditure on use of goods and services includes training expenses amount of Kshs.261,244,362 out of which expenditure of Kshs.12,341,576 paid through imprest accounts was not supported by payment vouchers, attendance registers, work tickets and training reports.

##### **904.4 Unsupported Hospitality Supplies and Services**

Included under use of goods and services amount is hospitality supplies and services expenditure of Kshs.106,507,816 out of which an amount of Kshs.53,581,947 was paid through the imprest account but supporting documentation was not provided for audit. In addition, an amount of Kshs.3,431,000 was transferred to a private club without explanations and Kshs.644,000 was paid to facilitate Members of the County Assembly of Siaya to attend a meeting in Kisumu which was not acknowledged and there was no evidence of travel. Further, an amount of Kshs.10,682,000 was paid on account of departmental review meetings held in Kisumu in the months of April, May and June, 2022. However, only one list of sixty-five (65) officers was used to support the three (3) different payments which was also inconsistent with IFMIS records and the authority to attend meetings was not provided for audit.

##### **904.5 Unsupported Specialized Materials**

The use of goods and services expenditure further, includes specialized materials and services amount of Kshs.444,992,930 which is at variance with the general ledger

amount of Kshs.451,409,367 resulting to an unexplained and an unreconciled variance of Kshs.6,416,438. In addition, payment vouchers totalling to Kshs.40,144,243 that were paid in the month of June, 2022 and supporting documents for an amount of Kshs.350,000,000 paid through imprest account were not provided for audit. Further, an amount of Kshs.6,096,351 was paid through Siaya County Referral Hospital account whose statements were not provided for audit.

#### **904.6 Unsupported Operating Expenses**

Included in other operating expenses and other creditors amount of Kshs.316,664,103 is an expenditure of Kshs.46,500,000 paid through the imprest account and an amount of Kshs.18,696,392 which were not supported by payment vouchers and other supporting documents.

#### **904.7 Irregular Rent Payments**

Disclosed in Note 5 to the financial statements is rentals of produced assets amount of Kshs.7,570,564. The expenditure relates to an office space whose contract agreement was dated September, 2016 and for monthly rentals of Kshs.40,000. A request for additional office space was confirmed on 21 February, 2019 and review of payments for the nine months starting July, 2021 to March, 2022 revealed rent charges of Kshs.60,000 per month. However, there was no evidence of amending the contract agreement or signing a new one.

#### **904.8 Un-supported Routine Maintenance of Motor Vehicles Expenditure**

As disclosed in Note 5 to the financial statements, the use of goods and services expenditure includes routine maintenance - vehicles and other transport equipment of Kshs.32,297,886. However, out of sampled of payments totalling Kshs.7,937,323, only an expenditure of Kshs.290,696 had supporting documentation resulting to unsupported amount of Kshs.7,646,627 or 96.3% of the sampled expenditure.

#### **904.9 Unsupported Legal Fees**

Disclosed in Note 5 to the financial statements is other operating expenses amount of Kshs.316,664,103 which includes legal fees amount of Kshs.9,766,800. However, the expenditure was not supported by initial fee notes, amounts paid to date, outstanding balances per case, the cases being handled and their status, evidence of court attendance, rate as per advocate remuneration roll and case files showing the value of each case. In addition, there was no evidence of competitive identification and award of service to the law firms.

In the circumstances, the propriety, accuracy and completeness of the use of goods and services expenditure amounting to Kshs.571,906,901 could not be confirmed.

## **905. Acquisition of Assets**

The statement of receipts and payments reflects acquisition of assets amount of Kshs.2,034,618,876 as disclosed in Note 8 to the financial statements. Review of expenditure records revealed the following anomalies:

### **905.1 Unsupported Expenditure**

The expenditure includes an amount of Kshs.630,255,837 in respect of refurbishment of buildings, construction of civil works and purchase of certified seed, breeding stock and live animals out of which an amount of Kshs.72,315,850 was not supported by payment vouchers and other supporting documentation.

### **905.2 Unreconciled Variance**

The acquisition of assets includes an amount of Kshs.2,506,000 for research, studies, projection preparation, design and supervision balance which is at variance with an amount of Kshs.25,581,750 reflected in the Integrated Financial Management Information System (IFMIS) resulting to an unexplained variance of Kshs.23,075,750. The expenditure was also not supported by prefeasibility reports. In addition, expenditure on acquisition of land was reflected at Kshs.2,700,000. However, schedules from the County's Lands, Physical Planning, Urban Development and Housing sector revealed expenditure of Kshs.4,303,100 resulting to an unexplained variance of Kshs.1,603,100.

In the circumstances, the accuracy and completeness of acquisition of assets expenditure of Kshs.77,521,850 could not be confirmed.

## **906. Unsupported Bank Balances**

The statement of assets and liabilities reflects bank balances of Kshs.715,238,368 as disclosed in Note 10A to the financial statements. The amount includes Kenya Climate Smart Agriculture Operations Account balance of Kshs.2,248,612 which includes unpresented cheques amounting to Kshs.207,718 out of which Kshs.48,068 were stale. In addition, the Siaya County Education Bursary Fund bank balance was reflected at an amount of Kshs.18,603,667 whereas the cash book reflects a balance of Kshs.17,309,265 resulting to an unreconciled variance of Kshs.1,294,402. Further, the reconciliation statement includes bursary cheques amounting to Kshs.1,417,892 which were not presented and bank charges of Kshs.123,480 which have not been recorded in the cashbook. Review of the Integrated Financial Management Information System (IFMIS) report revealed "Return to Drawer" cheques amounting to Kshs.69,746,785 without evidence of replacement cheques drawn in favour of the beneficiaries.

In the circumstances, the accuracy and completeness of bank balances of Kshs.715,238,368 could not be confirmed.



## **907. Pending Bills**

Other important disclosures reflect pending accounts payable balance of Kshs.818,803,232 as disclosed in Annex II to the financial statements. However, audit revealed the following unsatisfactory matters:

### **907.1 Inaccuracies in Accounts Payables**

Annex II to the financial statements reflects pending accounts payable balance of Kshs.818,803,232, while the supporting schedules reflect a balance of Kshs.738,755,483 resulting to an unexplained variance of Ksh.80,047,749. Further, the Integrated Financial Management Information System (IFMIS) reports reflected pending bills balance of Kshs.9,093,570,181, resulting to an unexplained variance of Kshs.8,274,766,949. In addition, the consolidated list of pending bills included an amount of Kshs.176,613,833 reflected both under purchase of goods and under purchase of services.

### **907.2 Unsupported Pending Bills**

A pending bills taskforce report by the Governor reflected an amount of Kshs.1,036,248,598 which was not supported and differed from supporting schedules balance of Kshs.738,755,483.

In the circumstances, the propriety, completeness and accuracy of pending accounts payable balance of Kshs.818,803,232 could not be confirmed.

### **Other Matter**

## **908. Budgetary Control and Performance**

The statement of comparison of budget and actual amounts reflects final receipts budget of Kshs.8,970,294,579 and actual amounts on comparable basis of Kshs.7,884,939,562, resulting to underfunding of Kshs.1,085,355,017 or 12% of the budget. In addition, statement of comparison of budget and actual reflects amounts other grants and payments of Kshs.420,084,756 which has no budgetary provision.

The underfunding affected the planned activities and projects which may have impacted negatively on service delivery to the residents.

## **909. Unresolved Prior Year 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, no report or recommendations from Management and oversight bodies were submitted for verification and clearance. In addition, 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 resolve any issues resulting from an audit that remain outstanding.

## REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

### **Basis for Conclusion**

#### **910. Expensing of Imprest Upon Issuance**

During the year under review, an amount of Kshs.1,075,025,345 was transferred from recurrent account to imprest account and immediately expensed without specifying the purposes or issuing the amounts through imprest requests. In addition, payment vouchers were prepared in the name of County Treasury whereas actual payments were made to individuals. This was contrary to Regulation 93 (1) of the Public Finance Management (County Governments) Regulations, 2015 which states that an imprest shall be issued for a specific purpose and any payments made from it, shall be only for the purposes specified in the imprest warrant.

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

#### **911. Delayed Surrender of Imprest**

Review of the imprest records revealed that several imprest were surrendered late after seven (7) working days, while imprest totalling Kshs.661,840 remained un-surrendered for more than a year. This was contrary to Regulation 93(5) of the Public Finance Management (County Governments) Regulations, 2015 which requires a holder of a temporary imprest to 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.

#### **912. Retention of Staff Beyond Mandatory Retirement Age**

Review of the payrolls revealed fourteen (14) employees who had attained the retirement age of sixty (60) years were still in the June, 2022 payroll and were not among staff serving in the Office of the Governor. This was contrary to Section D.21 of the Human Resource Policies and Procedures Manual for the Public Service, May, 2016 which states that all officers shall retire from the Service on attaining the mandatory retirement age of 60 years and 65 years for persons with disabilities and/or as may be prescribed by the Government from time to time.

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

#### **913. Non-Compliance with the One Third (1/3) Basic Salary Rule**

Review of the payrolls for the year under review revealed that in the month of June, 2022, net salaries for one hundred and nineteen (119) officers totalling to Kshs.1,508,608 were less than the calculated one third of the respective basic pay. This was contrary to Section C.1(3) of Public Service Commission (PSC) Human Resources Policies, 2016 which states that the Public Officers shall not over-commit their salaries beyond two-thirds ( $\frac{2}{3}$ ) of their basic salaries and Heads of Human Resource units should ensure compliance.

In the circumstances, Management contravened the Public Service Commission (PSC) Human Resources Policies which may expose the staff to pecuniary embarrassment.

#### **914. Irregular Recruitment**

During the year under review, the County Executive recruited two hundred and twenty (220) revenue collectors and seventy-one (71) health workers without an approved staff establishment and human resource budget and recruitment plan. In addition, one hundred and four (104) Early Childhood Development (ECD) instructors were employed, without the requisite qualifications of early childhood certificates or holders of a Diploma in Education and were not registered by the Teachers Service Commission (TSC). This was contrary to Section B.5 of the Human Resource Policies on recruitment based on merit.

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

#### **915. Delayed Acquisition of Assets (ERP) Management Information System**

The contract for supply, installation, configuration, customization, testing, commissioning and support of an enterprise resource planning (ERP) management information system was awarded at a sum of Kshs.72,420,000. However, in November, 2022, fourteen (14) months after signing of the contract and paying a total of Kshs.21,600,000 the system was still in the development stage.

In the circumstances, value for money on expenditure of Kshs.21,600,000 on the system could not be confirmed.

#### **916. Delay in Construction of Siaya County Stadium**

The following unsatisfactory matters were noted:

##### **916.1 Irregular Contract Extension and Variation**

The contract for these works was signed on 30 August, 2018 at a contract sum of Kshs.394,661,767 starting 1 January, 2019 to 6 December, 2019 but later extended six (6) times with the latest ending 25 May, 2022. In addition, the contract sum was revised to an amount of Kshs.488,716,823 resulting to a variation of Kshs.94,055,056 or 24% but the bill of quantities was not amended. However, there was no evidence of recommendations by an evaluation committee for these variations contrary to Section 139(1) and (2) of the Public Procurement and Asset Disposal Act, 2015.

##### **916.2 Incomplete Works**

Audit verification in November, 2022 revealed that the project remained incomplete about thirty-five (35) months after inception. Pending works include sports pitch, main pavilion (substructure, roofing and rainwater disposal, windows, doors, B.W.I electrical/mechanical engineering services), terraces and Amphitheatre. Similarly, the installations of the electrical fittings and plumbing fittings were incomplete, while the storage of these fittings were poorly done and prone to theft and/or damage.

### **916.3 Expired Performance Bond**

The performance bond dated 26 October, 2018 expired on 20 April, 2020 without evidence of its replacement or extension.

In the circumstances, Management was in breach of the law and value for money on expenditure of Kshs.57,999,787 for the construction of Siaya County Stadium could not be confirmed.

### **917. Skewed Award of Contracts for Construction and Civil Works**

During the year under review, three (3) contractors were paid an amount of Kshs.500,892,638 for construction and civil works. However, there was no evidence on prequalification and registration of the suppliers to undertake these works. In addition, out of the total expenditure of Kshs.1,116,705,514 in Roads, Public Works, Energy and Transport Sector/Department, an amount of Kshs.327,000,412 or 29.28% was executed by only two (2) contractors. This was contrary to Section 58 (2) of the Public Procurement and Asset Disposal Act, 2015 which states that the tender documents used by a procuring entity under subsection (1) shall contain sufficient information to allow fairness, equitability, transparency, cost-effectiveness and competition among those who may wish to submit their applications.

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

### **918. Construction of Roads**

The statement of receipts and payments reflects acquisition of assets amounting to Kshs.2,034,618,876 as disclosed in Note 8 to the financial statements. The amount includes construction of roads expenditure of Kshs.1,067,726,665 whose audit revealed incomplete projects and other irregularities as follows:

#### **918.1 Skewed Awards for Construction of Roads Contracts**

The expenditure includes an amount of Kshs.1,067,726,665 on the construction of roads, out of which, Kshs.605,289,909 or 57% of the total amount on roads, was paid to only eleven (11) contractors, out of eight-six (86) road contractors registered and awarded contracts during the year under review. The eleven (11) contractors were awarded two hundred and twenty-one (221) road works, an indication of a lack of fairness and open competition contrary to Section 58(2) of the Public Procurement and Asset Disposal Act, 2015 that states that tender documents used by a procuring entity shall contain sufficient information to allow fairness, equitability, transparency, cost effectiveness and competition among those who wish to submit their applications.

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

#### **918.2 Incomplete Road Works**

During the year under review, the County Executive spent an amount of Kshs.7,722,584 paid towards drainage works, grading and gravelling and dozing works

of twelve (12) kilometres of Kwaweya Yenga Nyalula Udura Kolum road. However, physical verification of the projects on 27 July, 2022 revealed that three (3) kilometres stretch of the road was not gravelled nor graded as provided in the bill of quantities.

In the circumstances, value for money in respect to expenditure of Kshs.7,722,584 towards road works of Kwaweya Yenga Nyalula Udura Kolum road could not be confirmed.

### **918.3 Damaged Boro-Katondi Road**

A contractor was engaged to carry out repairs and maintenance of Boro-Katondi Road, Ogunga Road and Segere-Ouru Road at a contract sum of Ksh.14,659,268 and paid an amount of Kshs.5,218,260 for the repairs and maintenance of Boro-Katondi road. However, physical verification carried out on 10 November, 2022 revealed a damaged line of the culvert on the section of the road.

In the circumstances, value for money on the expenditure of Kshs.5,218,260 for the repairs and maintenance of Boro-Katondi road could not be confirmed.

### **918.4 Incomplete Construction of Siaya Bus Park**

The contract for the construction of Siaya Bus Park was awarded in March, 2020 at a cost of Kshs.23,014,867 with expected completion date of 22 February, 2021 but a second request for extension up to 22 February, 2022 was made. However, there was no evidence that the extension was given after recommendation by the evaluation committee as required by Section 139(2)(a). There was also no evidence of justification by the technical department in writing backed by supporting evidence and submitted to the head of the procurement function for processing as required by Section 151(2) (e) of the Public Procurement and Asset Disposal Act, 2015. In addition, at the time of this audit, the contractor had been paid an amount of Kshs.12,582,218, the project was estimated to be at a 60% level of completion but the project duration had lapsed by over sixteen (16) months.

In the circumstances, value for money on the expenditure of Kshs.12,582,218 for the construction of Siaya Bus Park could not be confirmed.

### **918.5 Incomplete Tarmacking of Opoda-Bondo Township Road**

The contract for tarmacking of the Opoda-Bondo township road was awarded in July, 2020 at a cost of Kshs.52,805,116 with a completion date of 23 November, 2021. It was noted that as at 30 June, 2022, an amount of Kshs.17,692,949 had been paid translating to 33.5% of expected road works. At the time of this audit, the executed works were estimated at only 20% and the contractor was not on site.

In the circumstances, value for money on the expenditure of Kshs.17,692,949 spent on the tarmacking of Opoda-Bondo township road could not be confirmed.

### **919. Delayed Completion of Early Childhood Development (ECD) Classrooms**

Included in the amount for acquisition of assets is construction and civil works expenditure of Kshs.567,191,516 out of which an amount of Kshs.9,701,685 was paid towards the construction of five (5) ECD classrooms in Mahero Primary School, Kirindo Primary School, Ninga Primary, Nyadheho Primary and Nyabondo Primary with at a total contract sum of Kshs.19,124,181. However, physical verification revealed pending works of installation of steel windows and steel doors, floor screeding and tiling, plastering and electrical works and the contractors were not on site in all five (5) projects.

In the circumstances, value for money on the expenditure of Kshs.9,701,685 for the construction Early Childhood Development classrooms could not be confirmed.

### **920. Delayed Completion of Boreholes**

An amount of Kshs.9,640,750 was paid towards drilling and equipping of nine (9) boreholes in Ugunja, Alego and Rarienda Sub-counties and whose contract sum was Kshs.29,040,488. However, physical verification in sampled boreholes at Alara Primary School, Pala Kobong Primary School and Kolo Primary School revealed that they were not equipped, the contractors were not on site and there was no evidence of contract extension.

In the circumstances, value for money on the expenditure of Kshs.9,640,750 for drilling and equipping of nine (9) boreholes could not be confirmed.

### **921. Non-Operational Power House**

The contract for the supply and installation of machines, wiring repairs and construction of a powerhouse at Madiany Ginnery in West Uyoma ward was awarded at a contract sum of Kshs.10,237,191. However, the tender opening minutes were not provided for audit and there was no evidence that bidders were invited to the tender opening. A visit to the ginnery on 15 November, 2022 revealed a lack of power since the distribution board and the led flood lights blew off soon after being repaired, the powerhouse foundation slab had cracks and the project was not operational.

In the circumstances, the public may not get value for money on the expenditure of Kshs.10,237,191 for the construction of the powerhouse at Madiany Ginnery.

### **922. Failure to Utilize Kagwa Health Centre Laboratory**

The construction works of Kagwa Dispensary laboratory were certified to be completed as per bills of quantities at an amount of Kshs.4,326,869 and a technical inspection report was issued on 21 June, 2021. However, site verification in July, 2022 revealed that the laboratory had not been put into use without explanations.

In the circumstances, value for money on the expenditure of Kshs.4,326,869 spent on the construction of the laboratory could not be confirmed.



### **923. Delayed Supply and Installation of a Transformer**

The Executive incurred an expenditure of Kshs.2,324,054 in respect of the supply and installation of a transformer at the Ambira Sub-county Hospital which had not been installed by July, 2022. This has hindered the commissioning and use of an x-ray machine that was delivered to the facility on 19 December, 2019

In the circumstances, value for money on the expenditure of Kshs.2,324,054 for the supply of a transformer could not be confirmed.

### **924. Irregular Commitments-Pending bills**

Other Important Disclosures reflect pending accounts payable balance of Kshs.818,803,232 as disclosed in Annex II to the financial statements. However, the balance of the pending bills includes amounts totalling to Kshs.77,122,956 arising from commitments made after 31 May, 2022. This was contrary to Regulation 51(1) of the Public Finance Management (County Governments) Regulations, 2015, which states that all commitments for supply of goods and services shall be done not later than 31 May each year except with express approval of the accounting officer.

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

### **925. Failure to Use E-procurement**

During the year under review, the County Executive spent an amount of Kshs.6,276,158 for various goods and services without using the e-procurement system. This was contrary to 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.

## **REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE**

### **Basis for Conclusion**

### **926. Failure to Map Businesses**

During the year under review, all businesses within the County jurisdiction had not been mapped and included in a comprehensive register for monitoring and issuance of single business permits. In addition, the register maintained was only being used or updated when the businessmen presented themselves for renewal or application of the licenses.

In the circumstances, the effectiveness of internal controls for monitoring and renewal/issuance of single business permits could not be confirmed.

### **927. Failure to Automate Own Source Revenue Collection**

Management has not mapped and automated any of its revenue-generating streams and was dependent on manual collections which are prone to errors and inconsistencies and time-consuming.

In the circumstances, the effectiveness of the controls on County own generated revenues budgeting, monitoring of revenue collection and banking could not be confirmed.

### **928. Lack of Policy on Recruitment of Casuals**

Review of the human resource policy documents revealed that the County Executive does not have an approved policy manual on the recruitment of casuals. Further, human resources records revealed that the County has five thousand six hundred and seventy-nine (5,679) casual workers which translate to three (3) casuals for every permanent and contracted employee. In addition, the wages of the casuals were not categorised or defined, which was left at the discretion of the persons hiring the casuals.

In the circumstances, the effectiveness of internal controls over the staff recruitment process could not be confirmed.

### **929. Delayed Hearing and Determination of Disciplinary Cases**

Review of personnel records revealed twenty (23) officers were either interdicted or under suspension with their cases not heard and determined with some dating back to the year 2014.

In the circumstances, the effectiveness of the controls over the disciplinary process could not be established.

### **930. Weaknesses in Inventory Management**

During the year under review, the County procured non-pharmaceutical items valued at Kshs.26,290,000. The amount was charged to emergency funds sub-vote. However, bidders were not invited to witness the tender opening process and the signed contract agreement was not provided for audit. In addition, stores records of details of the items received and issues from the store were not provided for audit verification.

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

### **931. Failure to Insure Assets**

As disclosed in Note 5 to the financial statements, the statement of receipts and payments reflects the use of goods and services expenditure which includes insurance costs totalling to Kshs.153,102,936 out of which an amount of Kshs.144,867,779, relates to National Hospital Insurance Fund (NHIF) for staff medical cover and

Kshs.8,235,157 for insurance cover on motor vehicles. However, there was no evidence of insuring other non-current assets.

In the circumstances, the effectiveness of internal controls on management of non-current assets could not be confirmed.

### **932. Lack of a Risk Management Policy**

During the year under review, the County Executive did not have an approved Risk Management Policy and therefore, had no approved processes and guidelines on how to mitigate operational, legal and financial risks. There was also no evidence that a formal risk assessment was conducted during the year under review. Further, the County Executive did not have an approved IT Security Policy, documented and tested emergency procedures and IT continuity and disaster recovery plans kept off-site, and backups stored in a secure off-site location.

In the circumstances, Management's ability to identify threats or risks and definition of strategy to eliminate or minimize the impact of the risks could be confirmed.

## COUNTY EXECUTIVE OF KISUMU - NO.42

### REPORT ON THE FINANCIAL STATEMENTS

#### **Basis for Adverse Opinion**

##### **933. Unsupported Prior Year Adjustments**

The statement of assets and liabilities reflects prior year adjustments balance of Kshs.742,970,432 which includes an expenditure of Kshs.40,000,000 paid to National Hospital Insurance Fund (NHIF) for a medical insurance scheme without a supporting contract.

Further, the balance includes an expenditure on climate change balance of Kshs.3,594,426 whose cash flows and expenditure were not disclosed contrary to the end year procedures issued by The National Treasury which required Accounting Officers to disclose cash flows and expenditure on climate change.

In addition, the balance includes an amount of Kshs.3,004,475 for interim certificate No.1 dated 8 June, 2021 in respect of proposed completion of Ngege Dispensary in Nyakach Sub-county and an amount of Kshs.4,950,000 incurred on supply of a fogging machine.

The rest of the balance was not supported with authorized journal entries.

In addition, the statement of cash flows reflects changes in prior year adjustments of Kshs.634,655,676 which vary with the computed amount of negative Kshs.899,407,752. The variance was not explained.

In the circumstances, the accuracy and cutoff of the prior year adjustments could not be confirmed.

##### **934. Cash and Cash Equivalents**

The statement of assets and liabilities reflects cash and cash equivalents balance of Kshs.1,228,336,891 which, as disclosed in Note 8A to the financial statements includes bank balances totalling to Kshs.1,228,144,862. The following observations were however made:

##### **934.1 Variances in Comparative Bank Balances**

The Note 8A to the financial statements discloses comparative balances for various bank accounts amounting to Kshs.5,195,711 which had not been reflected in the audited financial statements for the year 2020/2021 as indicated below:

<b>Name of the Bank Account</b>	<b>Bank Balances (Kshs.)</b>
Kisumu Aquaculture Business Dev. Prog	842,185
JOOTRH	41,635
Alcoholic Drink CTRL-KSM County	4,303,041
Seme Sub-County Imprests A/C	1,378
Kisumu Central Sub-County Imprests A/C	2,414
Kisumu East Sub-County Imprests A/C	1,337
Nyando Sub-County Imprests A/C	907
Nyakach Sub-County Imprests A/C	1,987
Kisumu West Sub-County Imprests A/C	827
<b>Total</b>	<b>5,195,711</b>

### 934.2 Anomalies in Bank Reconciliation Statements

Review of the bank reconciliation statements for various accounts held by the County Executive revealed the following anomalies:

- i. Payments in the bank statement not in the cash book amounted to Kshs.1,653,433 with some transactions outstanding since July, 2021. Management did not provide an explanation on the payments.
- ii. Payments in the cash book not in the bank statement (unpresented cheques) of Kshs.6,537,649. No reason was given for failure to replace or reverse them in the cash book. Similarly, there were receipts in bank statements not in cash book totalling to Kshs.207,950 for which no explanation was provided for non-inclusion in the cash book.
- iii. Receipts in the cash book not in the bank statements amounted to Kshs.411,437,692 whose details including source of the receipts and the date cleared by the bank were not provided for review.
- iv. Various bank balances amounting to Kshs.16,901,677 as at 30 June, 2022 were not supported with bank reconciliation statements, cash books and bank certificates.
- v. Note 8A to the financial statements discloses a balance of Kshs.160,534,832 held in a local bank account. However, the bank reconciliation statement as well as the manual cash book reflected a balance of Kshs.160,605,834 resulting to an unexplained variance of Kshs.71,002. Further, the reconciliation statement for 30 June, 2022 reflects balance as per bank statement of Kshs.117,127,997 while the bank certificate reflects a balance of Kshs.117,054,995, resulting to an unreconciled and unexplained variance of Kshs.73,002 between the two balances.
- vi. Similarly, the bank reconciliation statement for a project account reflected a balance of Kshs.8,527,727 as at 30 June, 2022. However, the bank certificate reflected a balance of Kshs.10,111,950 resulting to an unexplained variance of Kshs.1,584,223.

In the circumstances, the accuracy and completeness of the bank balance of Kshs.1,228,336,891 could not be confirmed.

### **935. Use of Goods and Services**

The statement of receipts and payments reflects use of goods and services amount of Kshs.1,074,027,052 and as further disclosed in Note 3 to the financial statements. Review of records revealed several unsatisfactory matters:

#### **935.1 Domestic Travel and Subsistence**

##### **935.1.1 Unsupported Payments for Domestic Travels**

- i. Note 3 to the financial statements discloses use of goods and services amount of Kshs.1,014,027,057 which includes an amount of Kshs.178,231,080 under domestic travel and subsistence allowance. Included in this expenditure is an amount of Kshs.40,331,867 reflected as transfer to KCB – Kisumu, whose payment details were not provided for audit. Further, the expenditure includes an amount of Kshs.11,436,490 indicated as payment to the Kenya Revenue Authority for income tax obligations. Management did not explain why PAYE should be paid through the domestic travel and subsistence account.
- ii. Further, the expenditure includes an amount of Kshs.54,616,445 paid to twenty (20) members of staff as daily subsistence allowance, where some of the members received amounts ranging from Kshs.1,000,000 to Kshs.13,000,000 per person in the year under review. Management explained that the huge imprests had been taken out by team leaders on behalf of a group of employees and officers on official duty. However, supporting schedules for the group activities were not provided for audit.
- iii. In addition, the expenditure includes an amount of Kshs.301,000 paid to a travel firm for air tickets for staff. However, copies of air tickets, boarding passes, attendance list and activity report were not provided for audit.
- iv. Similarly, an amount of Kshs.510,850 was paid to two (2) firms for provision of air tickets. However, the firms were not in the prequalified list of suppliers. The expenditure also includes an amount of Kshs.4,491,100 paid in respect to attendance to workshops whose invitation letters and workshops, signed schedules to confirm attendance reports and minutes of deliberations held were not provided for audit review.
- v. In addition, a payment of Kshs.122,650 paid during the year was not supported by invoices for the year 2018/2019. However, the amount had not been included as a pending bill during the year 2020/2021. Further, documents including copies of air tickets, duly signed and rubberstamped passports and boarding passes were not provided for audit.
- vi. Included in the domestic travel and subsistence is directly expensed imprest of Kshs.2,406,416 issued to an officer from the Department of Governance and Administration to facilitate a trip to India and undertake community engagement in the Nairobi Liaison Office on village council roles in road maintenance. However, Management did not explain the rationale of funding activities of the Department of Governance and Administration.



### **935.2 Unsupported Rentals of Produced Assets**

Further, the amount includes expenditure on rentals of produced assets amounting to Kshs.13,074,217. The amount includes payments totalling to Kshs.4,939,200 relating to rental services for the Nairobi Liaison Office. However, lease agreement and other supporting documents were not provided for audit . Further, the rentals of produced assets amount includes a payment of Kshs.1,003,662 in respect of rent and rates for the Governor's house in the months of July and August, 2022 and an expenditure of Kshs.690,000 being six (6) months' rent for the Deputy Governor's house. However, the valuation report of the houses was not provided for audit review.

### **935.3 Wrong Charge Under Other Operating Expenses**

In addition, the balance includes other operating expenses amounting to Kshs.251,682,137 which also includes purchase of furniture balance of Kshs.3,116,780 which had been charged to the wrong account.

In the circumstance, the accuracy, completeness and regularity of the use of goods and services amounting to Kshs.1,074,027,052 could not be confirmed.

### **936. Transfers to Other Government Entities**

The statement of receipts and payments reflects transfers to other Government entities amounting to Kshs.2,157,907,922 and as disclosed under Note 4 to the financial statements. Review of documents provided for audit revealed the following unsatisfactory matters:

#### **936.1 Unsupported Transfer of Funds**

The balance includes transfers to Kisumu County Emergency Fund amounting to Kshs.128,013,000. Included in these transfers is an amount of Kshs.9,042,684 incurred on supply and delivery of food items. Although, there were supporting documents showing the nature and purpose of the items procured were of emergency in nature, Management did not explain reasons for procuring and paying for the food on behalf of Kisumu County Emergency Fund which is an autonomous entity.

#### **936.2 Variances in Transfers to Other Government Entities**

Further, the balance includes transfers amounting to Kshs.726,630,141 which varied with the amount reflected in the respective entity financial statements totalling to Kshs.593,977,267 as indicated in the table below:

	<b>Payee</b>	<b>Amount as Per the County's Financial Statements (Kshs.)</b>	<b>Amount as per the Entities Financial Statements (Kshs.)</b>
1.	City of Kisumu	491,964,572	489,444,572
2.	Kisumu County Emergency Fund	128,013,000	-
3.	Kisumu East District Hospital	70,681,923	60,500,000
4.	Kombewa District Hospital	8,146,442	8,201,901
5.	Muhoroni District Hospital	6,740,426	9,790,426

	<b>Payee</b>	<b>Amount as Per the County's Financial Statements (Kshs.)</b>	<b>Amount as per the Entities Financial Statements (Kshs.)</b>
6.	Nyakach Sub-County Hospital	5,576,651	8,073,241
7.	Chulaimbo Sub-District Hospital	5,938,946	6,018,946
8.	Ahero Sub-District Hospital	9,568,181	11,948,181

### **936.3 Unsupported Other Capital Grants and Transfers**

In addition, the transfers to other Government entities includes other capital grants and transfers amounting to Kshs.309,570,004. The amount includes payments made to individuals, private enterprises, a consultancy firm, a bank, construction companies, auto mobile companies and public entities like the Commissioner of Domestic Taxes totalling to Kshs.228,078,614 which were not supported while transfers to various youth polytechnics and vocational training center self-help groups amounting to Kshs.71,775,500 were not supported with confirmation of receipts and accountability statements expenditure returns.

In the circumstances, the regularity, accuracy and completeness of transfers to other Government entities totalling to Kshs.1,026,484,255 could not be confirmed.

### **937. Acquisition of Assets**

The statement of receipts and payments reflects acquisition of assets amount of Kshs.924,670,289 which, as disclosed in Note 7 to the financial statements includes purchase of specialised plant, equipment and machinery amounting to Kshs.49,122,884 which further includes an expenditure of Kshs.13,820,404 incurred on the purchase of sports items supplied to various wards. However, distribution list indicating the ward name and beneficiaries, signed issue (S11) and receipt (S13) vouchers were not provided for audit. Further, the expenditure includes refurbishment of buildings amounting to Kshs.2,274,070 paid to a transport company whose supporting documents were not provided.

In the circumstances, the accuracy and completeness of acquisition of assets amounting to Kshs.16,094,474 could not be confirmed.

### **938. Discrepancies in the Integrated Financial Management System (IFMIS)**

Review of IFMIS data revealed the following anomalies:

#### **938.1 Voided Transactions**

One thousand two hundred and ninety-nine (1299) transactions in IFMIS totalling to Kshs.1,073,623,658 were voided. However, supporting documents such as the voided payment vouchers, request to void payments, The National Treasury approval and Exchequer requisitions from the Controller of Budget were not provided. Further, the voided payments were not disclosed as pending accounts payable. The utilization of funds meant for voided transaction was also not confirmed.

### **938.2 Invoices Billed Greater than LPO/LSOs Amount**

Further, payments in IFMIS amounting to Kshs.341,128,265 were billed higher than the corresponding Local Purchase Orders'/Local Service Orders' amount of Kshs.282,741,220. No explanation was provided for over-invoicing the amount by Kshs.58,387,045.

### **938.3 Transactions in System Payments but not Processed in Payment Details**

In addition, two hundred and fifty-two (252) payments amounting to Kshs.256,093,457 were reflected in the internet banking (IB) but were not in IFMIS payment details. This is an indication that the payments were made outside IFMIS. No explanation was provided for failure to process the payments in IFMIS.

### **938.4 Unexplained Cash Payments**

IFMIS records reflects cash payment for thirteen (13) transactions amounting to Kshs.88,546,249 which were not explained.

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

### **939. Lack of Fixed Assets Register**

As disclosed in Annex 6 to the financial statements, the summary of fixed assets register reflects assets with a historical cost brought forward and additional amount during the year of Kshs.6,247,139,791 and Kshs.924,670,289, respectively, totalling to Kshs.7,171,810,080. However, the amount differed with the supporting documents balance of Kshs.8,869,129,667 resulting to an unexplained variance of Kshs.1,697,319,587. Further, the supporting documents did not indicate the year of acquisition of the asset while eight (8) vehicles were not included in the list of motor vehicles.

In the circumstances, the accuracy and completeness of assets valued at Kshs.7,171,810,080 could not be confirmed.

### **940. Irregular Purchase of Office Furniture and General Equipment**

Acquisition of assets expenditure includes an amount of Kshs.9,912,318 for purchase of office furniture and general equipment which further includes expenditure totalling to Kshs.1,739,990 incurred on purchase of various ICT items which was not done in e-procurement. In addition, the appointment letters for the Tender Opening and Evaluation Committees were not provided for audit review as required by the Public Procurement and Asset Disposal Act, 2015.

In the circumstances, the propriety and value for money on the above expenditure could not be confirmed.

#### **941. Irregular Contract**

Management entered into a contract to carry out fencing and equipping of tree nursery and production of six thousand (6,000) bamboo seedlings at a contract sum of Kshs.3,499,200. However, review of contract records revealed that the contractor was paid the full contract sum of Kshs.3,499,200. However, during physical inspection carried out in the month of July, 2022, it was revealed that there was no fence and bamboo nursery at the earmarked site.

In the circumstances, the propriety and value for money on Kshs.3,499,200 spent on this project could not be confirmed.

#### **Other Matter**

#### **942. Budgetary Control and Performance**

The statement of comparison of budget and actual amounts reflects total budgeted receipts amount of Kshs.11,248,535,017 and actual receipts of Kshs.8,404,407,350 resulting to a budget shortfall of Kshs.2,844,127,667 or 25% of the budget. Similarly, the County Executive spent an amount of Kshs.8,945,512,306 against actual budget of Kshs.11,248,535,017 resulting to an under absorption of Kshs.2,303,022,711 or 20%. Further, the Management did not provide any footnote explanations for variances as required by the Public Sector Accounting Standards Board reporting template.

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

#### **943. Pending Bills**

Disclosure 1 of other importance disclosure for the financial statements reflects pending accounts payable amounting to Kshs.2,416,382,496. The amount includes pending accounts payable amounting to Kshs.1,950,176,560 relating to 2020/2021 and earlier years which have not been paid. Further, details of the pending bills have not been disclosed in annexure 2 to the financial statements.

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

#### **944. 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, the Management had not resolved the issues nor given any explanation for failure to implement the recommendations

## REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

### **Basis for Conclusion**

#### **945. Compensation of Employees**

The statement of receipts and payments reflects compensation of employees amount of Kshs.4,545,113,972. Review of the expenditure records revealed the following:

##### **945.1 Irregular Recruitment Process**

The County Public Service Board advertised for one (1) vacancy in the position of Director, Supply Chain and thirteen (13) vacancies positions of Chief Supply Chain Management Officers in a local daily. However, the applications were to be received latest by 1 April, 2021 or 15 days after the advertisement. This is contrary to Section B 4(1) of the Public Service Commission Human Resource Policies Manual, 2016 which requires Government agencies to advertise all vacant posts in a manner that reaches the widest pool of potential applicants and allow for at least twenty-one (21) days before closing the advert.

##### **945.2 Non-Compliance with the One-Third of the Basic Salary Rule**

Review of the payrolls revealed that one hundred and fifty-four (154) 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. This may expose the staff to pecuniary embarrassment.

##### **945.3 Irregular Retention of Staff Beyond Mandatory Retirement Age**

Review of the payroll for June, 2022 revealed that fourteen (14) employees who had attained the mandatory retirement age of 60 years were still in employment without explanation. This is contrary to Section D.21 of the Public Service Commission Human Resource Policies and Procedures Manual for the Public Service, 2016 on mandatory retirement age which states that all officers shall retire from the service on attaining the mandatory retirement age of 60 years or at 65 years for persons with disabilities and/or as may be prescribed by the Government from time to time.

##### **945.4 Irregular Payment of Special Duty Allowance**

As disclosed in Note 2 to the financial statements, Management paid personal allowances paid as part of salary amounting to Kshs.668,186,824. The amount includes special duty allowance of Kshs.1,500,869 paid to various officers for more than six (6) months. This is contrary to Section C.15 of the Public Service Commission Human Resource Policies and Procedures Manual, 2016, which states that the payment of special duty allowance will not be payable to an officer for more than six (6) months.

Further, review of payroll records revealed that eleven (11) officers were performing duties of posts that were more than two (2) grades higher than their substantive grades. This was contrary to the provisions of Section C 15(3) of the Public Service Commission Human Resource Policy and Procedures Manual for the Public Service, 2016 where officers shall not be called upon to perform duties of a post that is more than two (2) grades higher than the officer's substantive grade.

#### **945.5 Irregular Engagement of Casuals**

Note 3 to the financial statements reflects routine maintenance - other assets amounting to Kshs.90,054,407. The amount includes casual wages expenditure of Kshs.12,487,450 incurred by the Department of Roads and Public Works. The casual employees had been engaged for a continuous period of more than three (3) months. However, the terms of employment were not converted to regular employment terms. This is contrary to Section 37 of the Employment Act, 2007 which provides for conversion of the casual employment to regular employment terms for employees who have worked in an entity continuously for more than two months.

#### **945.6 Payment of Salaries Outside the Integrated Payroll and Personnel Database (IPPD)**

The statement of receipts and payments reflects compensation of employees amount of Kshs.4,545,113,972. The expenditure includes an amount of Kshs.503,156,098 paid outside the IPPD system. This is contrary to 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. Management has attributed the failure to include some of the employees into the IPPD system to lack of payroll numbers, inability to define some of the cadre of staff into the system and the temporary nature of the engagement of some of the employees.

#### **945.7 Non-Compliance with the Fiscal Responsibility Principles - Wage Bill**

The statement of receipts and payments reflects compensation of employees amounting to Kshs.4,545,113,972 which is equivalent to 54% of the total revenue of Kshs.8,404,407,350. This is contrary to Regulation 25(1)(b) of the Public Finance Management (County Governments) Regulations, 2015 which provides that the County Government's expenditure on wages and benefits for its public officers shall not exceed thirty-five (35) percent of the County Government's total revenue.

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

#### **946. Unsatisfactory Construction of Ngege Dispensary**

During the years audit review, Management paid an amount of Kshs.3,004,475 in respect of proposed completion of Ngege Dispensary in Nyakach Sub-county. Review of records revealed that Management engaged a contractor at a cost of Kshs.3,060,387 for a period of three (3) months commencing 26 March, 2021. Physical inspection in the month of



November, 2022 revealed that although the dispensary was complete, wide cracks were observed along the walls and the dispensary had not been put into use as intended.

In the circumstances, value for money may not have been obtained in respect of Kshs.3,004,475 spent on the facility.

#### **947. Delayed Completion of Projects**

As disclosed in Note 4 to the financial statements, the statement of receipts and payments reflects other capital grants and transfers amounting to Kshs.309,570,004. Included in this amount is Kshs.18,556,765 paid to a construction company and Kenya Power and Lighting Company which was incurred on EU IDEAS Project. Review of contract records revealed that the County Executive entered into two contract agreements with a contractor on 25 September, 2019 for the construction to completion of administration and ablution block, and construction to completion of milk processing plant, cooling plant, power generator house and zero grazing unit at contract sums of Kshs.13,152,195 and Kshs.13,719,430, respectively.

Further, according to the contracts, the works were expected to be completed by 17 May, 2020 but the contractor requested for several extensions with the last extension requested up to 17 September, 2021 which was sixteen (16) months after the initial completion date. Further, the performance security provided by the contractor from a local bank expired on 7 December, 2020. Payment records provided indicated that payments totalling to Kshs.34,227,998 had been made in respect of the Project.

In addition, site inspection carried out in the month of November, 2022 and January, 2023, revealed that, although the structures had been completed, the cooling plant and the administration block remained unused. The equipment procured including milking machines, cooling plants and the administration block had not been installed and the water tower and tank were destroyed due to the poor installation.

Whereas the grant contract indicated that VAT/taxes, duties and charges were not eligible, the electricity supply quotation indicated that connection cost will include 14% VAT of Kshs.968,014. Although Management committed processing and applied for VAT exemption no evidence was provided in support of the application nor evidence of the granting of the exemption.

In the circumstances, the project had not been operationalized, thus delaying service delivery to the public.

#### **948. Irregular Procurement of Consultancy Services**

During the year under review, Management paid an amount of Kshs.4,500,000 for consultancy on the development of the implementation plan of the Kisumu County COVID-19 Social Economic Re-engineering Recovery Strategy. Review of the procurement process for the consultancy service revealed that the procurement of the services was not done in e-procurement contrary to Regulations 49(2) of the Public Procurement and Asset Disposal Regulations, 2020. There was no evidence of open

tendering as stipulated in the second schedule threshold matrix of the Public Procurement and Asset Disposal Regulations, 2020 and the tender evaluation report was not provided for audit, contrary to Regulation 78(1) of the Public Procurement and Asset Disposal Regulations, 2020.

Further, the procurement for the consultancy service was not in the approved annual procurement plan contrary to Regulation 40 of the Public Procurement and Asset Disposal Regulations, 2020 which require preparation, approval and implementation of an annual procurement plan.

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

#### **949. Acquisition of Assets**

The statement of receipts and payments reflects acquisition of assets amount of Kshs.924,670,289 as further disclosed in Note 7 to the financial statements. The following observations were made:

##### **949.1 Unsatisfactory Construction of Roads**

The balance includes an amount of Kshs.80,027,061 in respect of construction of roads. The expenditure includes a payment of Kshs.5,221,429 for improvement of Pundo Kandara Junction Access Road. Management had entered into the contract with a construction firm on 25 February, 2020 at a contract sum of Kshs.5,221,636 for a period of ten (10) weeks. However, physical inspection in the month of November, 2022 revealed that the road was complete but the culverts and drainage works stated in the approved bill of quantity were not done as per the specifications.

Further, the expenditure includes a payment of Kshs.4,663,548 incurred on the improvement of Nubian Access Road which was not procured in e-procurement contrary to Regulations 49(2) of the Public Procurement and Asset Disposal Regulations, 2020.

##### **949.2 Unsatisfactory Construction and Civil Works**

###### **949.2.1 Relocation of Agriculture Sheds**

The balance also includes construction and civil works amounting to Kshs.569,085,786 which further includes an expenditure of Kshs.3,932,430 incurred on the proposed relocation and reconstruction of agriculture sheds, acquisition of three thousand one hundred and sixty (3,160) assorted copies of 4th Annual State of the County speech book at a cost of Kshs.4,844,555 and event management services procured at a cost of Kshs.1,000,000. However, direct procurement method was used to procure the services contrary to Section 103(2) of the Public Procurement and Asset Disposal Act, 2015 without giving any justification.

### **949.2.2 Construction of Market Sheds at Riat Market**

Further, the expenditure includes an amount of Kshs.7,430,618 incurred on construction of a modern market shade and fence at Riat Market. Review of procurement records revealed that Management awarded the contract to a construction company at a contract price of Kshs.8,452,850 for a contract period of three (3) months from the date of signing the contract. However, review of the project status and physical verification in July, 2022 revealed that certified works to date amounted to Kshs.7,580,618 but the market was yet to be put in use due to incomplete flooring, construction of stalls, fencing and electrical works. No satisfactory explanation was provided for the stalling of works or delay in the project's completion and the Management had not made any budgetary provision to complete the remaining works.

### **949.2.3 Construction of Market Shed at Pap Onditi**

In addition, the expenditure includes an amount of Kshs.7,578,856 paid to a firm in respect to construction of a modern market at Pap Onditi at a contract sum of Kshs.42,400,400. The contract agreement was signed on 24 February, 2016 which was executable in three (3) phases. Information on the project indicated that the value of certified works as per the statement of account dated 23 June, 2020 amounted to Kshs.28,194,018 with a total of Kshs.15,171,073 having been paid. However, site inspection carried out in the month of July, 2022 indicated that the works had stalled and the contractor was not on site. Further, there were no budgetary provisions for the project in the financial year 2021/2022.

### **949.3 Unsatisfactory Rehabilitation of Civil Works**

Further, the balance on acquisition of assets includes rehabilitation of civil works amounting to Kshs.58,358,174 which further, includes an amount of Kshs.8,063,168 in respect to construction of Guba-Gita-Namba-Kabongo and Lela-Agulu-Mbaka-Oromo roads. The contract was awarded to a Company at a contract sum of Kshs.21,525,925 for a contract period of 16 weeks which ended on 14 March, 2022. However, physical inspection carried out in the month of July, 2022 revealed that the Lela-Agulu-Mbaka-Oromo road had not been started yet the contract agreement had expired.

### **949.4 Unsatisfactory Construction of Buildings**

In addition, the balance on acquisition of assets expenditure includes construction of buildings amounting to Kshs.118,870,669. The expenditure includes an amount of Kshs.24,019,773 paid for the proposed construction of a cancer center at Jaramogi Oginga Odinga Teaching and Referral Hospital at a contract price of Kshs.165,622,113. The contract was signed on 11 May, 2020 for a period of eighteen (18) months ending November, 2021. However, the project status report provided for audit review dated 17 February, 2022 reflected 61% progress of works twenty-one (21) months after the contract lapse. Physical inspection of the project in June, 2022 revealed that the project had stalled and the contractor was not on site.

Further, interim certificate number 5 dated 24 May, 2022 in respect of preliminary substructure works, superstructure branchy external walling and internal walling

amounted to Kshs.48,256,344 against the bill of quantities amount of Kshs.38,461,895 resulting to unauthorized variation of quantities of Kshs.9,794,449. This is contrary to Section 139(1) of the Public Procurement and Asset Disposal Act, 2015.

In addition, Management paid an amount of Kshs.4,932,651 in respect of proposed Kosawo Dispensary. Review of records revealed that the contract was awarded to a contractor at a contract sum of Kshs.37,138,510 for a period of three (3) months. However, project inspection carried out in the month of July, 2022 revealed the project had stalled, and the contractor was not on site. Further, the contract period and the performance bond had since expired and there was no evidence of approval for contract extension.

#### **950. Non-Compliance with the Public Procurement and Asset Disposal Regulation, 2020**

During the year under review, Management made a cash expenditure totalling to Kshs.1,200,000 charged to catering services for board and committee meetings. The cash expenditure was incurred in the form of imprests. This is contrary to the Second Schedule Threshold Matrix of the Public Procurement and Asset Disposal Regulations, 2020 which limits cash purchase to Kshs.50,000 per item per financial year for goods and services.

Further, payment of an amount of Kshs.25,730,350 was made for the supply and delivery of various medical items. Review of documents in support of the payment revealed that suppliers registration certificates had expired. Management awarded tenders amounting to Kshs.3,564,110 to suppliers with expired and invalid PIN, tax certificates and AGPO certificates. This is contrary to Regulation 75(1) of the Public Procurement and Asset Disposal Regulations, 2020 which provides for rejection of tenders which are not in conformity with the preliminary requirements.

In addition, Management made payment amount of Kshs.4,950,000 for the supply of a fogging machine through request for quotation. The amount exceeded the required threshold for use of request for quotations limit of Kshs.3,000,000 prescribed in the Second Schedule of the Public Procurement and Asset Disposal Regulations, 2020.

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

#### **951. Non-Compliance with Public Procurement and Asset Disposal Act, 2015**

During the year under review, Management paid an amount of Kshs.1,504,050 for supply and delivery of medical drugs. Review of records indicated that the drugs were delivered on 31 August, 2021. However, inspection and acceptance certificate in relation to the goods was issued two (2) months before delivery. This is contrary to Section 48(3) of the Public Procurement and Asset Disposal Act, 2015 which requires the Inspection and Acceptance Committee to inspect goods, works or services immediately they are delivered.

In addition, procurement of goods and services amounting to Kshs.3,400,000 were split into two (2) contracts. This was contrary to Section 54(1) of the Public Procurement and

Asset Disposal Act, 2015 which provides that no procuring entity may structure procurement as two or more procurements for the purpose of avoiding the use of a procurement procedure.

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

#### **952. Long Outstanding Imprests**

The statement of assets and liabilities reflects outstanding imprests and advances balance of Kshs.54,120,090. The amount includes imprest totalling to Kshs.52,928,848 which has been outstanding for more than one year, dating back to the 2013/2014 financial year. Management has not provided any explanation for not recovering the long outstanding imprests from the salaries of the defaulting officers. Further, several officers held multiple imprests totalling to Kshs.33,180,906. This was contrary to Regulation 93(5) and (8) of the Public Finance Management (County Governments) Regulations, 2015 which requires that imprest be surrendered or accounted for within 7 working days after returning to duty station and prohibits issue of new imprests to officers with outstanding imprests.

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

#### **953. Unfunded Matching-Fund Programme**

Included in other capital grants of Kshs.309,570,004 is an amount of Kshs.35,000,000 paid to Rural Electrification and Renewable Energy Corporation (REREC) in respect of the Matching-Fund Programme. Management had entered into framework collaboration with the REREC on 9 September, 2021. The Corporation was to contribute up-to a maximum of Kshs.5,000,000 per constituency while Management mapped seven (7) areas and committed an amount of Kshs.35,000,000 for the project.

However, review of projects progress report revealed that the initial budget was estimated at Kshs.193,479,991 which was revised to Kshs.76,664,631. This was against the planned commitment charge of Kshs.70,000,000 resulting to a shortfall of Kshs.6,664,631. Analysis of the approved supplementary budget estimates for the financial year 2021-2022 also revealed that the additional commitment charge was not factored in the County contribution to REREC for Rural Electrification projects.

In the circumstances, the implementation of the Matching Fund Programme is doubtful and value for money on an amount of Kshs.35,000,000 spent on the project could not be achieved.

#### **954. Irregular Payment to the Council of Governors**

During the year under review, Management paid an amount of Kshs.950,000 for activities of the Council of Governors. This is contrary to Section 37 of the Inter-Governmental Relations Act, 2012 which states that the operational expenses of the Council of Governors should 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.

#### **955. Failure to Bank Hospital Revenue**

Review of revenue records maintained at the Lumumba Sub-county Hospital revealed that an amount of Kshs.5,112,433 was collected during the year under review. However, analysis of bank statements revealed bankings of Kshs.4,479,840 resulting to unexplained unbanked revenue of Kshs.632,593. Further, review of building plans approvals files revealed that the Department of Finance invoiced a total of Kshs.16,741,730 during the year to various applicants who had submitted building plans for approvals. However, no evidence was provided to support receipt of funds. In addition, an amount of Kshs.8,703,350 was invoiced, received and deposited in a Kenya Commercial Bank (KCB) account but the Management did not provide a cash book and bank statements to confirm receipt and transfer of these funds to the County Revenue Fund.

This was contrary to Regulation 63(1) of the Public Finance Management (County Governments) Regulations, 2015 which states that an Accounting Officer and a receiver of revenue are personally responsible for ensuring that adequate safeguards exist and are applied for the prompt collection and proper accounting for, all County Government revenue and other public moneys relating to their county departments or agencies.

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

#### **956. Avoidable Expenditure**

The statement of receipts and payments reflects use of goods and services amount of Kshs.1,074,027,052 as disclosed in Note 3 to the financial statements. This amount includes other operating expenses amounting to Kshs.251,682,137 out of which an amount of Kshs.4,600,000 was in respect of a court award being principal of Kshs.1,316,000 and accrued interest of Kshs.3,284,000 arising from a legal case between a firm and Municipal Council of Kisumu. The court had awarded the plaintiff an amount of Kshs.1,316,000 subject to an interest of 14% per annum for any delayed payment. Payment of interest amounting to Kshs.3,284,000 on defrayment of delayed payments led to loss of public funds which could have been avoided

In the circumstances, effectiveness in use of public resources could not be confirmed.

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

#### **Basis for Conclusion**

#### **957. Weak Controls Over Fuel Expenditure**

Included in the use of goods expenditure amount of Kshs.1,074,027,052 were fuel costs amounting to Kshs.68,968,625. Review of the fleet management system, motor vehicle records and the supplier statement for the period under review revealed instances of fuel drawn but not recorded in the work tickets, fuel drawn in the supplier statement, detail



orders and the amounts recorded in the work tickets which varied with the Management reports. Further, fuel drawn by two (2) vehicles was not supported with detailed orders, a fuel register, work tickets and suppliers' records while some grounded motor vehicles were drawing fuel for the period they were not in use.

In the circumstances, effectiveness of controls over fuel records and management could not be confirmed.

## **COUNTY EXECUTIVE OF HOMA BAY - NO.43**

### **REPORT ON THE FINANCIAL STATEMENTS**

#### **Basis for Qualified Opinion**

#### **958. Compensation of Employees**

##### **958.1 Unsupported Basic Salaries of Permanent Employees**

The statement of receipts and payments reflects compensation of employees amount of Kshs.4,093,825,542 and as disclosed in Note 4 to the financial statements which includes basic salaries of permanent employees amount of Kshs.4,000,333,775 out of which an amount of Kshs.196,502,226 was not supported by schedules.

In the circumstances, the accuracy, propriety and completeness of the expenditure on permanent employees amount of Kshs.196,502,226 could not be confirmed.

##### **958.2 Unsupported Basic Wages**

The statement of receipts and payments reflects compensation of employees amount of Kshs.4,093,825,542 and as disclosed in Note 4 to the financial statements which includes basic wages of temporary employees of Kshs.11,991,770. However, Management did not provide for audit, evidence of budgetary allocations for the casual costs, requisitions from the departments, approval from the County Public Service Board and evidence on how temporary employees were recruited. In addition, Management did not maintain a muster roll and evidence of actual attendance and participation of casual workers.

In the circumstances, the accuracy, and completeness of the expenditure on temporary employees amount of Kshs.11,991,770 could not be confirmed.

##### **958.3 Staff Salary Payments outside Integrated Payroll and Personnel Database (IPPD)**

As disclosed in Note 4 to the financial statements, the statements of receipts and payments reflects an amount of Kshs.4,093,825,542 in respect to compensation of employees. The expenditure includes an amount of Kshs.4,000,333,775 in respect to basic salaries of permanent employees out of which Kshs.499,426,726 was processed manually outside the IPPD system. The manual system requires manual calculation of deductions and net pay by the human resource officers and regular monthly updates which are prone to human error. It was not clear why Management did not pay all its employees using the IPPD.

In the circumstances, the accuracy, propriety and completeness of the expenditure of Kshs.499,426,726 in respect of compensation of employees processed manually could not be confirmed.

#### **958.4 Unsupported Increase in Employee Costs**

The statement of receipts and payments reflects compensation of employees' amount of Kshs.4,093,825,542 which is an increase of Kshs.1,047,235,134 from the amount of Kshs.3,046,590,411 reported in the financial year ended 30 June, 2021. However, Management did not provide evidence of budgetary allocations supporting the increment of staff costs. In addition, staff establishment indicating vacant positions and Executive Committee meeting minutes approving the increase of staff emoluments were also not provided for audit.

Though the Management explained that the increase was due to a collective bargaining agreement which increased medical allowances to the medical staff, the agreement indicating the number of staffs who benefited and the respective allowances was also not provided for audit.

In the circumstances, the accuracy and completeness of compensation of employees amount of Kshs.1,047,235,134 could not be confirmed.

#### **959. Use of Goods and Services**

##### **959.1 Unsupported Expenditure on Specialized Materials and Services**

The statement of receipts and payments reflects an amount of Kshs.1,416,731,548 on use of goods and services of Kshs.1,416,731,548 and as disclosed in Note 5 to the financial statements which includes an amount of Kshs.248,698,285 for specialized services. This amount includes an expenditure of Kshs.19,944,513 incurred by the Department of Health Services in procuring various pharmaceutical and non-pharmaceutical items. However, Management did not provide for audit payment vouchers and records in support of the expenditure.

In the circumstances, the accuracy and completeness of the amount of Kshs.19,944,513 could not be confirmed.

##### **959.2 Unsupported Expenditure on Refined Fuels, Oil and Lubricants**

As disclosed in Note 5 to the financial statements, the statement of receipts and payments reflects an amount of Kshs.1,416,731,548 on use of goods and services which includes an amount of Kshs.35,033,284 incurred on refined fuel, oil and lubricants. This amount includes an expenditure of Kshs.7,421,570 incurred by the Department of Roads and Executive Services in respect of refined fuels, oil and lubricants. However, Management did not provide for audit, payment vouchers and records in support of the expenditures

In the circumstances, the accuracy and completeness of the refined fuel, oil and lubricants amount of Kshs.7,421,570 could not be confirmed.

### **959.3 Unsupported Legal Fees**

As disclosed in Note 5 to the financial statements, the statement of receipts and payments reflects an amount of Kshs.1,416,731,548 on use of goods and services which includes Kshs.134,028,208 for contracted professional services, out of which an expenditure of Kshs.12,277,900 is in respect of legal services. However, Management did not provide for audit, the case files containing respective invoice raised, court rulings and judgement, subject matter in dispute, fee note and related work as basis for billing in accordance with Advocates (Remuneration) (Amendment) Order, 2014.

In the circumstances, the completeness and propriety of the amount of Kshs.12,277,900 on legal fees could not be confirmed.

### **960. Misstatement of Transfers to County Assembly**

The statement of receipts and payments reflects transfers to County Assembly of Kshs.1,177,145,243 as disclosed in Note 6 to the financial statements. However, the County Assembly financial statements reflects County Revenue Fund transfers of Kshs.1,122,267,322 resulting in unexplained and unreconciled variance of Kshs.54,877,921.

In the circumstances, the accuracy and completeness of the transfers to County Assembly of Kshs.1,177,145,243 could not be confirmed.

### **961. Acquisition of Assets**

#### **961.1 Unsupported Expenditure on Construction of Roads**

As disclosed in Note 9 to the financial statements, the statement of receipts and payments reflects an amount of Kshs.3,126,081,869 on acquisition of assets. Included in the expenditure is an amount of Kshs.844,809,089 relating to construction of major roads, access roads and bridges which includes payments of Kshs.71,918,951 for seven (7) projects implemented during the year. However, Management did not provide for audit, duly processed payment vouchers and tender documents supporting the expenditure.

In the circumstances, the accuracy and completeness of the amount of Kshs.71,918,951 could not be confirmed.

#### **961.2 Unsupported Expenditure on Construction of Buildings-Non-Residential**

As disclosed in Note 9 to the financial statements, the statement of receipts and payments reflects an amount of Kshs.3,126,081,869 on acquisition of assets. Included in the expenditure is an amount of Kshs.297,682,134 relating to construction of buildings which includes payments of Kshs.51,871,709 for which the Management did not provide for audit supporting documents which include duly processed payment vouchers and tender documents.

In the circumstances, the accuracy and completeness of the construction of non-residential buildings amount of Kshs.51,871,709 could not be confirmed.

### **961.3 Other Infrastructure and Civil Works**

#### **961.3.1 Unsupported Expenditure on Other Infrastructure and Civil Works**

As disclosed in Note 9 to the financial statements, the statement of receipts and payments reflects an amount of Kshs.3,126,081,869 on acquisition of assets. Included in the expenditure is an amount of Kshs.1,561,467,073 relating to other infrastructure and civil works which includes payments of Kshs.43,952,784 for which the Management did not provide for audit, supporting documents which include duly processed payment vouchers and tender documents.

In the circumstances, the accuracy and completeness of the amount of Kshs.43,952,784 could not be confirmed.

#### **961.3.2 Unsupported Expenditure on Purchase of Specialized Plant, Equipment and Machinery**

As disclosed in Note 9 to the financial statements, the statement of receipts and payments reflects an amount of Kshs.3,126,081,869 on acquisition of assets. Included in the expenditure is an amount of Kshs.245,700,926 relating to purchase of specialized plant, equipment and machinery which further includes payments of Kshs.101,998,346 for which the Management did not provide for audit, supporting documents which include duly processed payment vouchers and tender documents.

In the circumstances, the accuracy and completeness of the expenditure amounting to Kshs.101,998,346 could not be confirmed.

### **961.4 Unexplained Variances in the Summary of Non-Current Asset Register**

As disclosed in Annex 5 to the financial statements, included in the historical cost balance of summary of non-current asset register of Kshs.5,523,571,940 is additions during the year totalling to Kshs.2,214,615,113. However, the amount is at variance with the acquisition of assets balance of Kshs.3,126,081,869 as disclosed under Note 9 to the financial statements resulting in unreconciled variance of Kshs.911,466,756.

In the circumstances, the accuracy and completeness of additions of Kshs.2,214,615,113 could not be confirmed.

### **962. Misstatement of Fund Balance Brought Forward**

The statement of assets and liabilities reflects fund balance brought forward of Kshs.2,346,031,390 whereas the summary statement of appropriation: recurrent and development combined reflects other receipts including the balance brought forward of Kshs.886,748,289 resulting in an unexplained and unreconciled variance of Kshs.1,459,283,101.

In the circumstances, the accuracy and completeness of the fund balance brought forward of Kshs.886,748,289 could not be confirmed.

### **963. Nugatory Expenditure on Tax Penalties**

The statement of receipts and payments reflects an amount of Kshs.602,267,548 on Kenya Revenue Authority agency notice recoveries as disclosed in Note 16 to the financial statements. Review of tax records revealed that the expenditure was in respect of non-remittances of pay as you earn (PAYE) and other taxes totalling to Kshs.1,360,545,874 vide agency notice reference number P051419131B dated 5 July, 2021. However, Management did not provide a plausible explanation as to why there was delayed deduction and remittances of statutory obligations resulting in avoidable costs of Kshs.602,267,548.

In the circumstances, the propriety, accuracy, completeness and value for money on the nugatory expenditure amounting to Kshs.602,267,548 could not be confirmed.

### **964. Misstatement of Transfers to Municipality of Homabay**

As disclosed in Note 7 to the financial statements, the statement of receipts and payments reflects an amount of Kshs.71,713,579 on capital grants and payments. Included in the expenditure is an amount of Kshs.65,685,635 relating to Homa Bay Municipal Board (KUSP-UDG) which differs with the amount of Kshs.70,175,301 reflected in the financial statements of the Municipality of Homabay resulting in an unexplained variance of Kshs.4,489,666.

In addition, the Municipality's annual report and financial statements reflects transfers from the County Executive of Kshs.19,694,360 which was not recognized in the statement of receipts and payments of the County Executive.

In the circumstance, the accuracy and completeness of the capital grants and payments amount of Kshs.65,685,635 could not be confirmed.

### **965. IFMIS Data Analysis Report - Unexplained Voided Transactions**

Analysis of the system payments indicated that twenty (20) transactions amounting to Kshs.529,625,874 were voided during the year under review. However, Management has indicated, without providing evidence, 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.

In the circumstances, the accuracy and propriety of voided transactions amounting to Kshs.529,625,874 could not be confirmed.

### **Other Matter**

#### **966. Pending Bills**

Disclosed in Annexure 4 of the financial statements are pending account payables amounting to Kshs.882,328,436 which were not settled during the year under review but were carried forward to 2022/2023 financial year. Management has continued to accumulate pending bills 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 and the Accounting Officer shall ensure this is done to the extent possible that the County Government does not default on debt obligations.

In addition, review of pending bills records revealed that Management did not maintain a permanent ledger for the pending bills and there was no proper movement schedule to show individual opening balance, additions, and specific amount settled during the year and closing balance as well as their ages.

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

#### **967. Late Exchequer Releases**

As disclosed in Note 1 to the financial statements, the statement of receipts and payments reflects exchequer releases totalling to Kshs.7,556,144,978 which includes an amount of Kshs.1,365,936,828 received by the County Executive from the National Treasury towards the end of the month of June, 2022.

In addition, other exchequer releases amounting to Kshs.624,428,161 were disbursed by the National Treasury in the month of July, 2022 for the budgeted funds for 2021/2022 financial year.

The late exchequer releases had adverse effects on the implementation of the planned activities and projects by the County Executive.

#### **968. Budgetary Control and Performance**

The statement of comparative budget and actual amounts reflects final receipts budget and actual on a comparable basis of Kshs.9,684,356,474 and Kshs.8,599,884,767 respectively, resulting to an under-funding of Kshs.1,084,471,707 or 11% of the budget amount. Similarly, the County Executive spent an amount of Kshs.10,055,656,030 against an approved budget of Kshs.9,684,356,474 resulting in an over-expenditure of Kshs.371,299,556 or 4% of the budget.

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

#### **969. Failure to Implement Budgeted Projects**

Review of projects implementation status report as at 30 June, 2022 revealed that 15 projects budgeted at a cost of Kshs.1,172,132,018 were not implemented by the County Executive during the year under review.

In the circumstance, the public did not obtain benefits which would have accrued from the implementation of these projects.

## **970. 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, Note 12 on other important disclosures to the financial statements shows fifteen (15) issues raised by the Auditor General in the report for 2020/2021 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**

## **971. Long-Outstanding Imprests**

As disclosed in Note 13 to the financial statements, the statement of assets and liabilities reflects accounts receivables – outstanding imprests of Kshs.11,600,000 which were not surrendered within seven (7) days after the imprest holders had returned to their duty station. Included in the balance is an amount of Kshs.11,000,000 issued to various members of staff who participated in capacity building exercise at the annual devolution conference. 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 or surrender the imprest within seven (7) working days after returning to duty station.

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

## **972. Compensation of Employees**

### **972.1 Non-Compliance with the Fiscal Responsibility Principles - Wage Bill**

As disclosed in Note 4 to the financial statements, the statement of receipts and payments reflects an amount of Kshs.4,093,825,542 in respect to compensation of employees which translates to 53% of the total County Executive's receipts of Kshs.7,713,136,478 in the year under review. This is contrary to Regulation 25(1)(b) of the Public Finance Management (County Governments) Regulations, 2015, which states that the County Government expenditure on wages and benefits for public officers should not exceed 35% of the County Government total revenue.

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

### **972.2 Non-Compliance with the Law on Staff Ethnic Composition**

Review of the personal records revealed that the County Executive had a staff composition of 4793 members as at 30 June, 2022 out of which 3850 or 74% comprised 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 employment of staff and then 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.

### **972.3 Officers on Acting and Delegation of Duty**

Review of employee records revealed that five (5) employees were acting or delegated without appointment letters. The acting positions included one (1) chief officer, one (1) director, two (2) deputy directors and one (1) senior assistant director. Further, the acting and delegated period was not determined hence it was not possible to confirm whether they had been acting within the time limit as prescribed by law. This is contrary to Section 34(3) of the Public Service Commission Act 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.

### **972.4 Unsupported Recruitment of New Staff**

Review of recruitment records reflects an amount of Kshs.4,093,825,542 in respect to compensation of employees which includes an amount of Kshs.176,953,701 in respect of salary for the newly recruited one thousand two hundred and forty (1240) employees during the year under review. However, Management did not provide for audit, the staff establishment indicating the vacant positions filled, newspaper adverts requesting for qualified and interested members of public to apply for the vacant positions, the Executive Committee Members minutes approving the appointments, County Public Service Board list of candidates who applied, those shortlisted for the various positions and how the rankings was done for those interviewed.

In the circumstances, regularity of the expenditure in respect to compensation of employees for the new staff processed manually in the year under review could not be confirmed.

### **973. Irregular Payments to Council of Governors**

As disclosed in Note 5 to the financial statements, the statement of receipts and payments reflects an amount of Kshs.1,416,731,548 on use of goods and services. Included in the expenditure is an amount of Kshs.229,797,811 relating to domestic travel and subsistence which includes payments of Kshs.2,000,000 to the Council of Governors in respect to contribution for the 7<sup>th</sup> Annual Devolution Conference. The payment was made in contravention of Section 37(b) of the Intergovernmental Relations Act, 2012 which requires that the operational expenses in respect of the Council of Governors to 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.

## **974. Acquisition of Assets**

The statement of receipts and payments reflects an amount of Kshs.3,126,081,869 on acquisition of assets as disclosed under Note 9 to the financial statements. The following anomalies were noted:

### **974.1 Construction of Buildings**

#### **974.1.1 Delayed Construction of Maternity at Kodula Dispensary**

The expenditure includes an amount of Kshs.297,682,134 relating to construction of buildings-non residential out of which an amount of Kshs.2,584,577 was paid to a contractor for the construction of Maternity at Kodula Dispensary at a contract sum of Kshs.5,931,638. Physical inspection conducted in the month of November, 2022 revealed that only superstructure was done. Roofing, floor finishes, ceiling finishes, wall finishes, painting, electrical works, mechanical works, windows and doors fittings remained incomplete and contractor was not on site.

In the circumstances, value for money on the expenditure of Kshs.2,584,577 could not be confirmed.

#### **974.1.2 Delayed Construction of Maternity at Okiki Amayo Health Centre**

The expenditure includes an amount of Kshs.297,682,134 relating to construction of buildings-non residential out of which an amount of Kshs.2,047,991 was paid to a contractor for the construction of Maternity at Okiki Amayo Health Centre at a contract sum of Kshs.5,456,026. Physical inspection conducted in the month of November, 2022 revealed that the wall finishes, ceiling finishes, mechanical works including plumbing, drainage, construction of septic tank and electrical works had not been completed and the contractor was not on site.

In the circumstances, value for money on the construction of buildings-non residential expenditure of Kshs.2,047,991 could not be confirmed.

#### **974.1.3 Delayed Construction of Outpatient Block at Thuon Gweno Dispensary**

The expenditure includes an amount of Kshs.297,682,134 relating to construction of buildings-non residential out of which an amount of Kshs.3,530,431 was paid to a contractor for the construction of Outpatient Block at Thuon Gweno Dispensary at a contract sum of Kshs.4,620,003. Physical inspection conducted in the month of November, 2022 revealed that the wall finishes, ceiling finishes, and mechanical works and electrical works had not been done. Further, the balustrade had been vandalized and the contractor was not on site.

In the circumstances, value for money on the construction of buildings - non residential expenditure of Kshs.3,530,431 could not be confirmed.

#### **974.1.4 Delayed Construction of Theatre at Ramula in Kabondo Sub-County**

The expenditure includes an amount of Kshs.297,682,134 relating to construction of buildings - non residential out of which an amount of Kshs.9,756,504 was paid to a contractor for the construction of Theatre at Ramula in Kabondo Sub-county at a contract sum of Kshs.28,104,770. Physical inspection conducted in the month of November, 2022 revealed that doors, windows, external finishing, internal finishes, balustrading and railing were incomplete and the contractor was not on site.

In the circumstance, the value for money on the construction of non-residential buildings expenditure of Kshs.9,756,504 could not be confirmed.

#### **974.1.5 Construction of Health Facilities on Private Land**

The expenditure includes an amount of Kshs.297,682,134 relating to construction of buildings-non residential, out of which an amount of Kshs.25,522,806 was spent towards the construction of nine (9) health centres. Physical inspection and interviews with the local residents in the month of July, 2022 revealed that the parcels of land on which the projects stand were donated by the local residents. However, Management did not provide for audit, evidence of transfers of the parcels of lands to the County Executive.

In the circumstances, value for money on the expenditure amounting to Kshs.25,522,806 and ownership of parcels of land where the projects stand could not be confirmed.

#### **974.1.6 Delayed Construction of Ward Administrators Office at Rakwaro - Wang'chieng Ward**

The expenditure includes an amount of Kshs.297,682,134 relating to construction of buildings out of which an amount of Kshs.4,808,722 was paid to a contractor for the Construction of Ward Administrators Office at Rakwaro - Wang'chieng Ward. Physical inspection in the month of November, 2022 revealed that doors, windows and window panes, plastering and general painting as well as electrical installation works were not done, the building remained incomplete while the contractor was not on site

In the circumstances, value for money on the construction of buildings - non residential amount of Kshs.4,808,722 could not be confirmed.

#### **974.1.7 Delayed Construction of Ward Administrator's Office at Ibo-Homa Bay East Ward**

The expenditure includes an amount of Kshs.297,682,134 relating to construction of buildings - non residential out of which an amount of Kshs.4,762,124 was paid to a contractor for the construction of Ward Administrator's Office at Ibo-Homa Bay East Ward. Physical inspection conducted in the month of November, 2022 revealed that the foundation and walling was done to lintel level while roofing, doors, windows and window panes, plastering and electrical installations were not done

In the circumstances, value for money on the construction of buildings - non residential expenditure amounting to Kshs.4,762,124 could not be confirmed.

#### **974.1.8 Delayed Construction of Ward Administrator's Office at West Kasipul Ward**

The expenditure includes an amount of Kshs.297,682,134 relating to construction of buildings - non residential out of which an amount of Kshs.4,620,003 was paid to a contractor for the construction of Ward Administrator's Office at West Kasipul ward. Physical inspection conducted in the month of November, 2022 revealed that the doors, windows and window panes, plastering and general painting as well as electrical installation works were not done and the building remained incomplete while the contractor was not on site.

In the circumstances, value for money on the construction of non-residential buildings expenditure of Kshs.4,620,003 could not be confirmed.

#### **974.1.9 Completed Administration's Office Block but not in Use**

The expenditure includes an amount of Kshs.297,682,134 relating to construction of buildings - non residential out of which an amount of Kshs.6,371,813 was paid to a contractor for completion of Administration's Office block, fencing and installation of gate at Suba North Sub-county. Physical inspection conducted in the month of November, 2022 revealed that the project was complete but not in use as furniture is yet to be supplied. Further, fencing was done, but sections of the fence chain-link had been vandalized.

In the circumstances, value for money on the construction of buildings-non residential expenditure of Kshs.6,371,813 could not be confirmed.

#### **974.1.10 Condemned Building in use at Kendu Sub-county Hospital**

Review of project records and physical inspection revealed that a building in use within Kendu Sub- County Hospital where many crucial services like physiotherapy, clinician consultation rooms, health records, accounts, NHIF, main hospital stores, cash office and kitchen are domiciled had been condemned as not fit for use. However, the Ministry of Transport, Roads & Housing & Infrastructure on 8 October, 2019 recommended for demolition. Management had not made any efforts to renovate the structure.

In the circumstances, the lives of workers and the public are at risk in case of collapse of the structure.

### **974.2 Other Infrastructure and Civil Works**

#### **974.2.1 Delayed Completion of Kigoto Post-Harvest Grain Handling Facility in Suba Sub-county**

The amount of Kshs.3,126,081,869 on acquisition of assets as disclosed in Note 9 to the financial statements includes an amount of Kshs.1,561,467,073 relating to other



infrastructure and civil works. This amount includes an amount of Kshs.2,750,000 paid to a contractor for construction of a post- harvest grain handling facility at Kigoto which had been awarded at a contract sum of Kshs.28,844,444.

Review of the project records revealed that the contractor had been paid a cumulative amount of Kshs.29,200,396 inclusive of VAT as at 30 June, 2022 thus leading to overpayment amount of Kshs.355,952. In addition, handing over report of the project was not provided for audit. Physical inspection conducted on 4 July, 2022 revealed that the project was not in use and the title deed to the parcel of land on which the project is situated was not provided for audit.

In the circumstance, the propriety of the amount of Kshs.29,200,396 on the project could not be confirmed.

#### **974.2.2 Stalled Project – Kigoto Phase 1**

As reported in the previous year, the Department of Trade and Industrialization awarded a contract to a local contractor for construction of a maize milling plant in Kigoto area at a contract sum of Kshs.12,940,392 on 24 June, 2015. The contract period was for six months. The initial contract was terminated and completion works retendered and awarded to a new contractor at a contract sum of Kshs.12,284,834 on 19 August, 2022. However, physical inspection on 4 July, 2022 revealed that the building was incomplete and had been abandoned.

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

#### **974.2.3 Delayed Construction of Homa Bay Stadium**

The amount of Kshs.3,126,081,869 on acquisition of assets as disclosed under Note 9 to the financial statements includes an amount of Kshs.1,561,467,073 relating to other infrastructure and civil works, out of which an amount of Kshs.2,750,000 was paid to a contractor for construction of Homabay Stadium.

Review of procurement documents revealed that the contract was awarded to a local contractor at a contract sum of Kshs.369,781,250 through an open tender being the lowest evaluated bidder. The contract agreement was signed on 20 June, 2019 with a commencement date of 05 July, 2019, contract period of 78 weeks and expected completion date of 01 January, 2021. As at 30 June, 2022, the contractor had been paid cumulatively an amount Kshs.420,209,083 which surpassed the contract sum by Kshs.50,427,833.

However, Management did not provide for audit, the variation requests and orders for the variation of more than 25% by the main contractor in line with Section 139(4e) of the Public Procurement and Asset Disposal Act, 2015 which provides that any variation of a contract shall only be considered if the cumulative value of all contract variations do not result in an increment of the total contract price by more than twenty-five per cent of the original contract price. In addition, electrical works amounting to Kshs.9,621,656 were paid to

install high mast flood lights in the stadium. However, physical inspection revealed that works were incomplete and the performance bond had expired without renewal. The project status report was also not provided for audit review.

In the circumstances, the value for money on the expenditure Kshs.420,209,083 incurred to date on the project could not be confirmed.

#### **974.2.4 Delayed Construction of a Classroom at Nyawino EYE Centre at Kanyaluo Ward**

The amount of Kshs.1,561,467,073 on other infrastructure and civil works includes payments of Kshs.681,290 for construction of a classroom at Nyawino early year education (EYE) center at Kanyaluo Ward in Karachuonyo Sub-county at the contract sum of Kshs.1,485,183. Physical inspection revealed that the building had been constructed up to roofing but the walling works inside and outside were not yet done, windows and doors were fixed with no glass panes, floor was not done and the classroom was already in use in that pathetic condition an indication of poor workmanship.

In the circumstances, value for money on the expenditure of Kshs.681,290 could not be confirmed.

#### **974.2.5 Delayed Construction of Classroom at Waregi EYE Centre at Rusinga Ward**

The amount of Kshs.1,561,467,073 on other infrastructure and civil works includes payments of Kshs.1,462,481 for the construction of a classroom at Waregi early year education (EYE) center at Rusinga ward in Suba North Sub-county at the contract sum of Kshs.1,462,481. Physical inspection revealed that the building was incomplete, no roof, no works for internal and external walling, no windows and doors and the contractor was not on site.

In the circumstances, value for money on the expenditure of Kshs.1,462,481 for the year ended 30 June, 2022 could not be confirmed.

#### **974.2.6 Delayed Construction of a Classroom at Osani EYE Centre at Kwabwai Ward**

The amount of Kshs.1,561,467,073 on other infrastructure and civil works includes payments of Kshs.1,543,425 for the construction of a classroom at Osani early year education center at Kwabwai Ward in Ndhiwa Sub County. Physical inspection revealed that the building was constructed upto windows level, there was no progress on the building while the contractor had abandoned the site.

In the circumstances, value for money on the expenditure amounting to Kshs.1,543,425 could not be confirmed.

#### **974.2.7 Poor Workmanship in Renovation and Equipping of Classroom at Aringo EYE Centre at Lambwe Ward**

The amount of Kshs.1,561,467,073 on other infrastructure and civil works includes payments of Kshs.299,500 for the renovation and equipping of early year education (EYE) Classroom at Aringo Center in Lambwe ward Suba North Sub-county. Physical inspection revealed that the renovation was done in three (3) classrooms instead of one classroom as per the contract agreement. However, the classrooms still had several potholes and depressions on the floor, an indication of poor workmanship.

In the circumstances, value for money on the expenditure amounting to Kshs.299,500 could not be confirmed.

#### **974.2.8 Poor Workmanship in Construction of Classroom at Luanda EYE Centre**

The amount of Kshs.1,561,467,073 on other infrastructure and civil works includes payments of Kshs.1,276,379 for the new early year education classroom at Luanda EYE Centre at the contract sum of Kshs.1,480,849. Physical inspection revealed that the building was complete but the plastered areas were peeling off an indication of poor ratios of cement and sand, the ceiling board had already shown signs of tear and wear, an indication they were not fitted properly.

In the circumstances, value for money on the expenditure amounting to Kshs.1,276,379 could not be confirmed.

#### **974.2.9 Anomalies in Construction of ECDE Classroom at Shauri Yako Primary School Arujo Ward**

The amount of Kshs.1,561,467,073 on other infrastructure and civil works includes payments of Kshs.1,499,500 for the construction of ECDE Classroom at Shauri Yako Primary School Arujo Ward. Physical inspection revealed that the classroom was complete but no soft board ceiling had been fitted as stated in element No.3 of the bill of quantities. In addition, no lever union mortice door lock with anodized aluminum lever handle to the door set was used contrary to element 4 (2) of the bill of quantities.

In the circumstances, value for money on the expenditure of Kshs.1,499,500 could not be confirmed.

#### **974.2.10 Incomplete Arujo Animal Feeds Milling Plant (Structure)**

As reported in the previous year, the Department of Trade and Industrialization awarded a contract to a local contractor towards construction and completion of animal feeds factory and godown at a contract sum of Kshs.45,160,064 in the financial year 2014/2015. The contract period was eight (8) months with initial expected completion date of 04 January, 2016. Review of records revealed that the contractor had cumulatively been paid an amount Kshs.36,712,000 as at 30 June, 2022 before termination. The contract was retendered and awarded to a new contractor at a contract sum of Kshs.24,239,267

on 24 May, 2022. However, physical inspection revealed that the project was incomplete and the structure was at lintel level.

In the circumstances, the regularity, value for money and propriety of the expenditure of Kshs.36,712,000 incurred so far on the project could not be confirmed.

#### **974.2.11 Incomplete Water Projects**

The amount of Kshs.1,561,467,073 on other infrastructure and civil works includes payments of Kshs.37,328,320 to various local contractors in respect of drilling of boreholes, extension of water pipelines and rehabilitation of water pans within the County. Physical inspection on 10 July, 2022 revealed instances of poor workmanship, delays in completion and abandonment of project site by contractors.

In the circumstances, the regularity and value for money on the expenditure Kshs.37,328,320 incurred on these projects could not be confirmed.

### **974.3 Anomalies in Construction of Major Roads, Access Roads and Bridges**

#### **974.3.1 Routine Maintenance of Rusinga-Ringa Road Phase 1**

The amount of amount Kshs.3,126,081,869 on acquisition of assets as disclosed in Note 9 to the financial statements includes an amount of Kshs.844,809,089 for construction of major roads, access roads and bridges out of which payments totalling to Kshs.19,878,920 were in respect to a contract for routine maintenance of rusinga-ring road Phase 1. The contract entailed bush clearing, heavy grading with no compaction, gravel patching, compaction of the gravel surface and dozer work. However, physical inspection revealed that;

- i. The total chainage (distance) of the ring road is approximately eighteen (18) kilometers and not twenty-two (22) kilometers as indicated in the bills of quantities and payment certificate.
- ii. Thick bushes had overgrown along the side ditches impeding drainage of the road.
- iii. Approximately two (2) kilometers from chainage zero, the half of the width of the road had been washed away by the rain water making the section impassible.
- iv. Approximately six (6) kilometers from chainage zero, gully erosion had been completely washed away one side of the culvert about four (4) meters deep. The section was completely impassible.

In the circumstances, value for money on the expenditure amounting to Kshs.19,878,920 could not be confirmed.

### **974.3.2 Maintenance of Marindi-Nyanguu-Disii Ogweyo JNC C 18 Road**

The statement of receipts and payments reflects acquisition of assets amount of Kshs.3,126,081,869 as disclosed in Note 9 to the financial statements which includes an amount of Kshs.844,809,089 for construction of major roads, access roads and bridges out of which payments totalling to Kshs.7,243,167 were made to a contractor for repair and Maintenance of Marindi-Nyanguu-Disii Ogweyo JNC C 18 Road (13.5km) for a contract period of 4 months (120 days). The main work entailed grading, gravelling and drainage works.

The certificate of completion was raised on 13 August, 2021 and a payment of Kshs.5,545,380 made to the contractor on 29 October, 2021. However, physical inspection of the project conducted on 6 July, 2022 revealed that some sections of the road had been washed away by runoff storm water casting doubt on the quality of workmanship. Patches of water were noted along the road. Drainage works and gravel patching amounting to Kshs.1,995,350 and Kshs.260,000 were not done.

In the circumstances, value for money on the expenditure of Kshs.5,545,380 could not be confirmed.

### **974.3.3 General Maintenance of Nyalkinyi-Imbo Road**

The amount of Kshs.3,126,081,869 on acquisition of assets as disclosed on Note 9 to the financial statements includes an amount of Kshs.844,809,089 for construction of major roads, access roads and bridges. This amount includes payments totalling to Kshs.5,873,451 made to a local contractor for general maintenance of Nyalkinyi-Imbo Road (Approximately 12.8Km) at a contract sum of Kshs.5,873,451 for a period was twelve (12) weeks commencing from 15 June, 2021 to 15 September, 2021. The work entailed erecting two (2) publicity signpost, grading, gravelling and drainage works.

However, physical inspection carried out on 13 July, 2022 revealed that publicity signposts amounting to Kshs.40,000 were missing on both ends of the road, heavy bushes had overgrown along the ditches narrowing the width of the road. Further, the road appears to have been completely washed away approximately five (5) kilometers from the Nyalkinyi junction.

In the circumstances, value for money on the expenditure amounting to Kshs.5,873,451 could not be confirmed.

### **974.3.4 Maintenance of Rabware-Thagalany-Kopany Road**

The amount of Kshs.3,126,081,869 on acquisition of assets as disclosed on Note 9 to the financial statements includes an amount of Kshs.844,809,089 for construction of major roads, access roads and bridges out of which payments totalling to Kshs.6,299,148 were made to a local contractor for Maintenance of Rabware-Thagalany-Kopany Road. The contract had been awarded at a contract sum of Kshs.6,299,148 for a contract period of

twelve (12) weeks commencing on 25 May, 2021 to 25 August, 2021. The contract entailed culverting, heavy grading and gravel patching.

However, physical inspection on 13 July, 2022 revealed that culverts amounting to Kshs.1,029,000 were not constructed and drift reinforced with A142 BRC mesh class 20/25 concrete amounting to Kshs.202,500 was also not erected. The half of the road approximately three (14 kilometers from Rabware area had deep furrows dug by sugar cane trailer tyres.

In the circumstances, value for money on the expenditure amounting to Kshs.6,299,148 could not be confirmed.

#### **974.3.5 Maintenance of Marindi-Magina-Pala-Oria Bridge Road**

The amount of Kshs.3,126,081,869 on acquisition of assets and as disclosed in Note 9 to the financial statements includes an amount of Kshs.844,809,089 for construction of major roads, access roads and bridges out of which payments totalling to Kshs.13,963,164 were made to a local contractor for routine maintenance of Marindi-Magina-Pala-Oria Bridge road covering an approximate distance of 34.7 kilometers. The contract had been awarded through an open tender at a contract sum of Kshs.13,963,164. The works entailed; erection of two publicity sign posts; culvert installation (600mm and 900mm diameter); rock fill to carriage way; heavy grading including side ditches and back slope; and gravel patching.

However, physical inspection carried out on 14 July, 2022 revealed that only one publicity signpost was erected around Marindi area, some sections of the road had been completely washed away by water and bushes had over grown along the side ditches making the road impassible. Ten (10) months after the contractor had left the site, the road appeared dilapidated, narrow and deep pot holes were visible all over the road casting doubt on the quality of workmanship and viability of gravel patching as an option for road construction.

In the circumstances, value for money on the expenditure amounting to Kshs.13,963,164 could not be confirmed.

#### **974.3.6 Maintenance of Sigama-Gaena-Ndhiwa-Ojode-Pala Road**

The amount of Kshs.3,126,081,869 on acquisition of assets and as disclosed in Note 9 to the financial statements includes an amount of Kshs.844,809,089 for construction of major roads, access roads and bridges out of which payments totalling to Kshs.10,291,774 were made to a local contractor for the routine maintenance of Sigama-Gaena-Ndhiwa-Ojode-Unga-Pala Road at a cost of Kshs.10,291,774. The contract agreement signed on 25 February, 2021 was for a contract period of 120 days. The major works entailed culvert installation 600mm diameter, heavy grading including side ditches and gravel patching.



However, physical inspection carried out on 14 July, 2022 revealed that a double culvert constructed along Gaena area had been broken making the road completely impassible, grading was not properly done as boulders (heavy stones) laid along Kenya Medical Training College (KMTTC) road were dangerously exposed and some sections of the road had been washed away by rain water. The road requires urgent maintenance barely eight (8) months after the contractor left the site.

In the circumstances, value for money on the expenditure amounting to Kshs.10,291,774 could not be confirmed.

#### **974.3.7 Maintenance of Pala-Sombro-Aora Kogola Road**

The amount of Kshs.3,126,081,869 on acquisition of assets and as disclosed in Note 9 to the financial statements includes an amount of Kshs.844,809,089 for construction of major roads, access roads and bridges out of which payments totalling to Kshs.5,530,111 were made to a local contractor for routine maintenance of Pala-Sombro-Aora-Kogola Road (Approximately 3.9 Km) at a contract sum of Kshs.5,530,111. The contract agreement signed on 25 February, 2021 for a contract period of one hundred and twenty (120) days.

Physical inspection carried out on 14 July, 2022 revealed that that one publicity signpost at a cost of Kshs.10,000 in the bills of quantities was not provided, Dozer works D6 billed at Kshs.1,040,000 appears not to have been done and sections of the road had been washed away by rain water. In addition, ten (10) months after the contractor had left the site, the culvert and the drainage ditches were completely blocked and covered by thick bushes causing rain water to collect on the road.

In the circumstances, value for money on the expenditure amounting to Kshs.5,530,111 could not be confirmed.

#### **974.3.8 Maintenance of Riat-Ariri-Oridi-Minya Road**

The amount of Kshs.3,126,081,869 on acquisition of assets and as disclosed in Note 9 to the financial statements includes an amount of Kshs.844,809,089 for construction of major roads, access roads and bridges at a contract sum was Kshs.7,842,064 for a contract period of twelve (12) weeks commencing on 24 May, 2021 to 24 August, 2021. Payments totalling to Kshs.7,842,064 were paid to a local contractor for the routine maintenance of Riat-Ariri-Oridi-Minya Road.

However, physical inspection carried out on 14 July, 2022 revealed that publicity signposts were not erected, culverts installed and the side ditches to enhance drainage were blocked. Also pools water on the culvert ends and along the road made it impassable, and sections of the road were washed away by rain water.

In the circumstance, the value for money on the expenditure amounting to Kshs.7,842,064 could not be confirmed.

### **974.3.9 Construction of Nyatindo Box Culvert**

The amount of Kshs.3,126,081,869 on acquisition of assets and as disclosed in Note 9 to the financial statements includes an amount of Kshs.844,809,089 for construction of major roads, access roads and bridges out of which payments totalling to Kshs.6,366,416 were made to a local contractor for construction of Nyatindo Box culvert. The contract sum was Kshs.6,366,416 for a period of 12 weeks from 15 May, 2021 to 15 September, 2021.

However, physical inspection carried out on 14 July, 2022 revealed that gabions on one side of the box culvert were not constructed thus rain water had started washing away the foot of the box culvert.

In the circumstances, regularity and value for money on the expenditure amounting to Kshs.6,366,416 could not be confirmed.

### **974.4 Purchase of Office Furniture and General Equipment**

The amount on acquisition of assets Kshs.3,126,081,869 and as disclosed in Note 9 to the financial statements includes an amount of Kshs.12,420,092 for purchase of office furniture and general equipment, out of which payments totalling to Kshs.2,327,888 were for supply and delivery of office equipment for Homabay County Energy Centre. Physical inspection revealed that the equipment were delivered on 16 June, 2021 but had not been put to use and were lying idle in the stores.

In the circumstances, value for money on the expenditure totalling to Kshs.2,327,888 could not be confirmed.

### **974.5 Completed Projects but Not in Use**

Review and physical inspection of project revealed that the County Executive completed the construction of three (3) health facilities and two (2) EYE classrooms at a cumulative cost of Kshs.14,665,513 but which are not in use.

In the circumstances, value for money on the expenditure amounting to Kshs.14,665,513 could not be confirmed.

## **975. Capital Grants and Payments**

### **975.1 Delay in Completion of Road Works**

The statement of receipts and payments reflects capital grants amounting to Kshs.71,713,579 as disclosed in Note 10 to the financial statements which includes an amount of Kshs.65,685,635 as transfers to Homabay Municipal Board (KUSP-UDG). The County Executive entered into a contract with a contractor on 12 May, 2021 for the upgrading to bitumen standards of junction C-19 to Tom Mboya University Junction link Road for a period of one year, at a contract sum of Kshs.44,370,899. During the year under review, a total amount of Kshs.34,620,952 was paid for the road works.

However, physical inspection carried out in the month of July, 2022 revealed that road furniture works amounting to Kshs.775,000 as per the bill of quantities had not been done yet the contract period lapsed on 12 May, 2022. No reason was provided by Management for the delay in completion of the road works.

In the circumstances, the public did not obtain value for money on the project.

## **976. Other Grants and Transfers**

### **976.1 Non-Functioning Community Projects**

As disclosed in Note 11 to the financial statements, the statement of receipts and payments reflects an amount of Kshs.137,375,439 on other grants and transfers. Included in the expenditure is an amount of Kshs.107,581,269 relating to other grants and transfers (NARIGP) which includes disbursements totalling to Kshs.8,639,778 to various Community Driven Development Committees (CDDC) to undertake projects in the Wards. However, physical inspection carried out in the month July, 2022 revealed that all the group projects were not operational.

In the circumstances, value for money on the expenditure totalling to Kshs.8,639,778 could not be confirmed.

## **977. Operating Bank Accounts without Approvals**

The statement of assets and liabilities reflects the cash and bank balances of Kshs.18,992,407 and as disclosed in Note 12 to the financial statements. There are three (3) salary accounts maintained at Cooperative, Kenya Commercial and Equity banks. However, Management did not provide for audit, approval from County Assembly or National Treasury to operate more than one salary bank account.

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

## **REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE**

### **Basis for Conclusion**

#### **978. Lack of Staff Establishment**

As previously reported, review of human resource records revealed that the County Executive has been operating without an approved staff establishment to ensure that appropriate systems, procedures, structures, skilled and competent staff are in place at the optimal level to deliver its mandate to the people of Homa Bay County.

In the circumstances, it was not possible to confirm whether the total staff in the employment of the County Executive is at the optimal operating level.

### **979. Lack of ICT Policy and Disaster Recovery Plan**

As previously reported, review of the County Executive's ICT Environment revealed that there was no formal approved ICT Policy. The Management did not assess the impact of an outage or disruption to the information communication technology systems and did not develop business continuity or information technology disaster recovery plan. Consequently, in case of a disaster significant delays or disruptions of activities may occur, the County Executive may not recover or restore critical infrastructure services and systems affecting all operations that rely on the Information Communication Technology.

In the circumstances, the integrity, security and reliability of the County Executive's financial data including its Management Information System could not be confirmed.

### **980. Lack of an Assets Register**

Annexure 5 to the financial statements reflects non-current assets with a historical cost balance of Kshs.5,523,571,940. However, review of assets records revealed the following anomalies:

- i. 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 which states 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. The register in place lacked identification or serial numbers, acquisition date, description of asset, location, class and cost of acquisition.
- ii. 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 under Regulation 136(2) of the Public Finance Management (County Government) Regulations, 2015.
- iii. Management has not taken over or reported assets and liabilities inherited from all the defunct Local Authorities.
- iv. Management is yet to establish policies and procedures on assets management as required under Part XII of Public Finance Management (County Government) Financial Regulations 2015.
- v. The assets are also not coded or tagged for ease of identification and tracking.
- vi. Fixed assets are not physically inspected on a regular basis to establish their conditions

In the circumstances, Management has not instituted proper mechanisms to safeguard the County Executive's assets.

## **981. Ineffective Internal Audit and Audit Committee Function**

Review of the internal control and governance structure revealed that the internal audit function is not properly resourced or adequately staffed. In addition, the audit charter, and risk policy and framework have not been approved by the audit committee. Further, the annual audit work plan was not developed and risk assessment and internal audit reports for the year under review were not provided for audit review as well as the minutes of audit committee indicating that the internal audit function was supervised.

In the circumstances, Management has not put in place proper system to monitor the County Executive governance process, accountability process and control environment and to offer objective advice on issues concerning risk, control, regulatory requirements and governance.

## **982. Anomalies in the Procurement Function**

Review of the procurement function revealed the following anomalies:

- i. Inadequate capacity in e-procurement where the users were not well trained in some core functionalities like the reporting module where the users were not well versed on the reports that could be generated from the system.
- ii. Details of development activities to be undertaken were not given in the procurement plan but were rather aggregated together making it incoherent and difficult to identify specific projects planned for procurement.
- iii. In addition, the procurement plan did not capture with clarity, the firm timelines within which the procurement cycle of various activities was to be commenced and completed.
- iv. Further, though a supplementary budget was prepared and approved by the County Assembly in May 2022, the procurement plan appears not to have been revised to accommodate the changes.
- v. Failure to prepare quarterly reports on the implementation of procurement plans by Chief Officers is contrary to Regulation 40(6) of the Public Procurement and Asset Disposal Regulations, 2020.
- vi. Failure to constitute Community Project Management and Implementation committees (CPMIC) to oversee the efficient and effective implementation of projects exists in line with the provisions of Regulation 111(6) of Public Procurement and Asset Disposal Regulations, 2020.

In the circumstances, Management has not put in place proper system to ensure efficient coordination of procurement and disposal procedures.

## **COUNTY EXECUTIVE OF MIGORI - NO.44**

### **REPORT ON THE FINANCIAL STATEMENTS**

#### **Basis for Qualified Opinion**

##### **983. Misstatement of Exchequer Receipts**

The statement of receipts and payments reflects exchequer releases amounting to Kshs.7,903,532,000 as further disclosed in Note1 to the financial statements. Review of exchequer receipts records and bank statements revealed that the County Executive received an amount of Ksh.7,364,618,812 during year ended 30 June, 2022. The remaining amount of Ksh.640,401,136 was received in July, 2022, but was reported as part of the receipts in the 2021/2022 financial contrary to Regulation 97(1) Public Finance Management (County Governments) Regulations, 2015 which provides that the accounts of the county government entities shall record transactions which take place during a financial year running from the 1st July to the 30th June.

In the circumstances, the accuracy and completeness of the exchequer receipts of Kshs.7,903,532,000 could not be confirmed.

##### **984. Compensation of Employees**

The statement of receipts and payments as disclosed in Note 3 to the financial statements, reflects expenditure on compensation of employees amounting to Kshs.2,966,768,763. The following observations were made:

###### **984.1 Unsupported Payments of wages to Temporary Employees**

The expenditure includes an amount of Kshs.40,630,191 paid to one thousand one hundred twenty-five (1125) casual employees. However, the payments to employees were not supported by requisitions from user departments, engagement contracts and employees muster rolls.

Further, during the year Migori County Public Service Board engaged four hundred and thirteen (413) casual employees without budgetary provision and without request from the user departments. The engaged casuals were deployed by the County Public Service Board to the wards as revenue collectors in the eight (8) Sub-Counties without involving the Human Resource Director. Further, muster roll and attendance registers of the casual workers were not provided for audit review.

###### **984.2 Nugatory Expenditure on Tax Penalties**

The expenditure includes other personnel payments of Kshs.97,001,288 which relates to penalties for non-remittances of Pay As You Earn (PAYE). Management did not provide explanation for delayed remittances of statutory salary deductions occasioning penalties payments.



In the circumstances, the accuracy and completeness of Kshs.40,630,191 in respect to temporary employees and penalties totalling to Kshs.97,001,288 could not be confirmed.

#### **985. Unsupported Use of Goods and Services**

The statement of receipts and payments reflects use of goods and services expenditure of Kshs.2,644,465,618 which as disclosed in Note 4 to the financial statements includes an amount of Kshs.720,808,023 incurred on specialized materials and services. The amount further includes an amount of Kshs.38,581,050 paid to suppliers in respect of procurement of sports equipment, uniforms and cultural items in the department of sports and department of education for distribution to different groups/units within the County. However, a list of beneficiaries of the equipment, uniforms and other items procured was not provided for audit.

Further, payments totalling to Kshs.18,369,450 in respect of supply and delivery of assorted items procured through the Department of Agriculture were not supported by stores ledger.

In addition, payments includes insurance costs of Kshs.34,022,741 which further includes an amount of Kshs.14,292,550 paid to a local insurance company in respect of premiums for thirty-seven (37) motor vehicles and one machinery. However, valuation reports for the motor vehicles was not provided for audit.

In the circumstances, the accuracy and regularity of the above expenditure of Kshs.71,233,050 could not be confirmed.

#### **986. Unsupported Transfers to Other Government Entities**

The statement of receipts and payments reflects transfers to other Government entities vocational polytechnics of Kshs.1,315,040,322, as further disclosed in Note 6 to the financial statements. The expenditure includes an amount of Kshs.18,411,255 transferred to vocational polytechnics. Review of the transferred amount revealed an amount of Kshs.9,431,721 conditional grants transferred to fifteen (15) vocational polytechnics. However, expenditure returns in respect of utilization of the grants at the polytechnics were not provided for audit.

In the circumstances, the regularity and completeness of expenditure of Kshs.9,431,721 transferred to vocational polytechnics could not be confirmed.

#### **987. Unsupported Other Grant and Payments**

The statement of receipts and payments reflects other grant and payments amounting to Kshs.235,450,369 as further disclosed in Note 7 to the financial statements. The payments include other current transfers, grants, donation, and subsidies of Kshs.230,983,369. Review of the disbursements revealed an amount of Kshs.26,103,489 transferred to various Community Driven Development Committees (CDDCs) through Rural Inclusive Growth Project (NARIGP) which were not supported by procurement plans, work plans and expenditure returns to support activities undertaken.

In the circumstances, the accuracy and regularity of expenditure of Kshs.26,103,489 could not be confirmed.

#### **988. Unsupported Acquisition of Assets**

The statement of receipts and payments reflects acquisition of assets expenditure of Kshs.1,626,900,272 which as disclosed in Note 9 to the financial statements includes construction of buildings amount of Kshs.254,594,998. The expenditure further includes an amount of Kshs.32,165,040 paid in respect of completion of an intensive care unit (ICU) Phase III at County Referral Hospital Migori. However, Management did not provide procurement documents, contract agreement, progress reports and payment vouchers for audit.

Further, the expenditure includes purchase of certified seeds, breeding stock and live animals amount of Kshs.30,159,420. However, distribution lists of the seeds, cows, fingerlings, and pigs were not provided for audit.

In addition, the expenditure includes an amount of Kshs.18,820,000 incurred on purchase a parcel of land for the solid waste disposal within Migori Town and amount of Kshs.1,800,000 in respect of land for expansion of Othoro Dispensary. However, Management did not provide title deeds for the purchased parcels of land for audit.

In the circumstances, the accuracy, completeness and ownership of the above expenditure totalling to Kshs.20,620,000 could not be confirmed.

#### **989. Unsupported Cash and Cash Equivalents**

The statement of financial assets and liabilities reflects bank balances of Kshs.732,083,084 as further disclosed in Note 12A to the financial statements. However, bank confirmation certificates, bank reconciliation statements and extracts of the cash books for a balance of Kshs.262,334,244 held in forty-seven (47) bank accounts were not provided for audit.

In addition, cash held in seven (7) bank accounts with a cumulative closing balance of Kshs.1,945,679 were not included in the financial statements.

In the circumstances, the accuracy and completeness of the bank balances totalling Kshs.732,083,084 could not be confirmed.

#### **990. Unsupported Voided Transactions**

Analysis of the Integrated Financial Management. Information System (IFMIS) data revealed that 41 expenditure transactions totalling Kshs.102,693,302 were voided during the year under review. Management indicated that the action was occasioned by a Central Bank of Kenya directive to void all pending transactions in IFMIS and Internet Banking System due to unreleased exchequer disbursements. However, no evidence of the directive was provided for audit review.

In the circumstances, the accuracy and regularity of the voided transactions could not be confirmed.

## **Other Matter**

### **991. 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.10,444,016,812 and Kshs.7,903,532,000 respectively, resulting into an underfunding of Kshs.2,540,484,812 (or 24%). Similarly, the County Executive spent Kshs.8,796,710,206 against an approved budget of Kshs.10,444,016,812 resulting in under expenditure of Kshs.1,647,306,605 or 16% of the budget.

The underfunding and under expenditure affected the planned activities and may have impacted negatively in service delivery to the public.

### **992. Late Exchequer Releases**

Note 1 to the financial statement reflects exchequer releases totalling Kshs.7,903,532,000 which includes Kshs.1,400,878,578 received by the County Executive from the National Treasury on 17 and 27 June, 2022.

In addition, exchequer releases of Kshs.640,401,136 were disbursed in the month of July, 2022 to fund budgeted activities for 2020/2021 financial year.

Late exchequer releases could have adverse effects on the implementation of the planned activities and projects.

### **993. 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, the Management has not resolved the issues nor given any explanation for failure to adhere to the provisions of the Public Sector Accounting Standards Board templates and The National Treasury Circulars.

### **994. Pending Accounts Payable**

Annex 2 to the financial statements reflects pending accounts payable totalling to Kshs.473,980,964, a decrease from Ksh.1,278,814,175 reflected in the previous year. However, the bills were not supported with a pending bills movement schedule indicating the breakdown of additions and payments made during the year under review. In addition, Management did not provide the aging analysis of the pending bills.

Failure to pay pending bills in the year they relate to distorts subsequent years budget as they form first charge

## REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

### **Basis for Conclusion**

#### **995. Human Resource Management**

##### **995.1 Non-Compliance with the Law on Staff Ethnic Composition**

During the year under review, the total number of employees of the County Executive was three thousand three hundred and thirty (3,330) out of whom, two thousand three hundred and ninety-eight (2,398) or 72% 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 requires that public establishment 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.

##### **995.2 Delayed Confirmation in Employment**

Review of Integrated Personnel and Payroll Database (IPPD) payroll for the month of June, 2021 revealed that six hundred and sixty-nine (669) officers had been on probation for more than six (6) months contrary to section B.13(1) of the County Public Service Human Resource Manual.

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

##### **995.3 Non-Compliance with the Fiscal Responsibility Principles-Wage Bill**

The statement of receipts and payments reflects compensation of employees' expenditure amounting to Kshs.2,966,768,763 as disclosed in Note 3 to the financial statements. The expenditure represented 37.5% of the total revenue of Kshs.7,903,532,000 which exceeded the recommended limit of 35%. This was contrary to Regulation 25(1)(a) of the Public Finance Management (County Governments) Regulations, 2015 which requires that the County Executive Committee members with the approval of the County Assembly shall set a limit on the county governments expenditure on wages and benefits for its public office pursuant to section 107(2) of the Act (b) the limit set under paragraph (a) shall not exceed 35% of the County Government total revenue.

Further, as similarly reported in the prior year, the County Public Service Board recruited two hundred and forty (240) staff against the budgeted one hundred and seventy-four (174) in six (6) departments therefore, exceeding the allowed limit by sixty-six (66) employees. The excess employees were recruited without due consideration to the availability of a budget for their salaries and emoluments and departmental labour request.

In addition, the wage bill for the year under review increased significantly by Kshs.309,665,835 without sufficient Management justification and budgetary approval.

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

## **996. Use of Goods and Services**

The statement of receipts and payments reflects use of goods and services expenditure amounting to Kshs.2,644,465,618. The following observations were made:

### **996.1 Unsupported Training Expenses**

Included in the expenditure is an amount of Kshs.124,430,629 incurred in respect of training expenses which includes an amount of Kshs.22,505,172 paid under Kenya Devolution Support program (KDSP) for payment of capacity building. However, Management did not provide supporting documents including payments vouchers, tender documents and attendance registers and donor no objection letter for audit.

As a result, the value for money for the expenditure of Kshs.22,505,172 on training expenses could not be confirmed.

### **996.2 Irregular and Unsupported of Legal Fees Payments**

The expenditure includes an amount of Kshs.291,877,774 in respect of other operating expenses which includes an amount of Kshs.149,907,119 incurred on legal services. The procurement of the services were not in conformity with the conditions of framework contracting. In addition, Management did not provide documents in support of framework contracting, negotiation minutes and the threshold to be met before applying framework contracting.

Further, Management did not provide adequate explanations for outsourcing legal services despite existence of the office of the County Attorney staffed by two legal officers.

In the circumstances, the value for money for the expenditure of Kshs.149,907,119 on legal fees could not be confirmed.

### **996.3 Weaknesses in the Implementation of the Revenue Management System**

The expenditure includes, an amount of Kshs.23,000,000 paid in respect of supply, installation, implementation, and revenue management system. However, physical verification revealed that six (6) revenue modules had partially been rolled out while five (5) had not been rolled out.

In addition, there were anomalies in deployment and management of the revenue automation system as follows:

- i. The revenue targets were not set in the Revenue Management System therefore no comparison could be made between the collected revenue and the set targets.
- ii. Standard customers like business owners and landlords were not added to the system.

- iii. Revenue officers in Kuria East, Nyatike, Uriri and Awendo Sub-counties were not enabled to use the system due to lack of the necessary ICT infrastructure.
- iv. The system allows collection of revenue through M-Pesa and Cash. However, Management did not provide an M-Pesa statement to evidence that collected revenue was deposited in the CRF account.
- v. The system was not adequately secured against cyber-attacks and uses an insecure HTTP protocol that could be accessed from any network.
- vi. The system was not enabled to capture all logs. Other than transactions, there were no logs for system changes and administrators' activities.
- vii. There was no power backup for the desktop computers used by the administrators and the cashiers.
- viii. Administrators of the system and the accounts used by the developers could grant or deny themselves user roles at will. Some users and the developers' accounts had been assigned all the possible roles in the system while some users were assigned access rights which did not relate to their job responsibilities.

In the circumstances, the value for money spent on the Revenue Management System could not be confirmed.

#### **996.4 Supply and Configuration of Point of Sales (POS) Equipment**

An amount of Kshs.24,200,000 was paid in respect of supply and configuration three hundred and fifty (350) point of sales (POS) equipment at a contract sum of Kshs.24,200,000 to be used in revenue collection. However, review of implementation of the contract revealed that only eighty-one (81) or 23% of equipment had been configured and therefore, the system is not operating at optimal level.

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

### **997. Transfers to Other Government Entities**

The statement of receipts and payments reflects transfers to other Government entities balance of Kshs.1,315,040,322 as disclosed in Note 6 to the financial statements. The following observations were however, made:

#### **997.1 Incomplete Latrine Construction Works**

The amount includes transfers to vocational training centres amounting to Kshs.18,411,255 which further include an amount of Kshs.984,811 paid to a contractor for construction of a four doors latrine at Maendeleo Vocational Training Centre. Physical verification revealed that the latrine's floor was incomplete.

In the circumstances, the value for money of the expenditure of Kshs.984,811 could not be ascertained.



## **997.2 Incomplete Projects at Early Childhood Education Centres**

The expenditure includes an amount of Kshs.80,375,416 transferred to Early Childhood Education (ECDE) centres of Kshs.80,375,416. Review and physical verification of projects implemented at various ECDE centres revealed several implementation weaknesses and anomalies as detailed below:

- i. An amount of Kshs.1,000,000 was paid to a contractor for the construction of an ECDE classroom block and a pit latrine at Arombe Primary School. However, physical verification of the works in July, 2022 revealed that the classroom was incomplete, not in use and not labelled. The pit latrine was also incomplete.
- ii. A transfer of Kshs.950,000 was made in respect of the construction of ECDE classroom block and pit latrine at Rabuor Nono Primary School. However, physical verification in July, 2022 revealed that the classroom and the pit latrine were incomplete. Further, ownership documents for the land where the two projects were being implemented were not provided for audit.
- iii. An amount of Kshs.1,000,000 was paid to a contractor for the construction of a two ECDE classrooms block at Thimlich Primary School. Physical verification in July, 2022 revealed that the floor and wall plastering were yet to be done and the contractor was not on site.
- iv. A contractor was paid a total of Kshs.1,916,436 to undertake fencing work at Nyabiranga ECDE centre. Physical verification in July, 2022 revealed that fencing was complete but there was no prove for land ownership.

In the circumstances, the value for money of the expenditure on ECDE centres could not be confirmed.

## **998. Other Grants and Payments**

The statement of receipts and payment reflects other grants and payments expenditure of Kshs.235,450,369 as disclosed in Note 7 to the financial statements.

The following observations were made:

### **998.1 Construction of Lower Kuja Irrigation Block Project**

The amount includes a total of Kshs.65,980,732 incurred on an irrigation development project at lower Kuja for contract sum of Kshs.71,919,215. The works involved construction of walls along the canal and siltation. However, review of contract elements against implemented works revealed the following anomalies and omissions:

- i. the contract included establishment of a complaint-handling mechanism that comprised grievance/complaints committee, designation of a focal point officer to coordinate complaints, and establishment of a complaints framework. However, as at time of audit, the community was yet to benefit from the project since there was no farmer sensitization as was provided for. In addition, not all the affected persons had been compensated.

- ii. project management committee had not been established to investigate the siltation along the canal banks, and soil conservation which may render such project useless.
- iii. training of farmers and awareness creation to the local communities about the project by the contractor had not taken place
- iv. physical verification in the month of July 2022 revealed that constructed walls along the canal had cracks while some parts had been eroded by water, an indication of poor workmanship. Further, the procurement document and certificate for works done was not provided for audit.

#### **998.2 Unutilised Siabai Earth Dam**

The expenditure further includes an amount Kshs.45,646,022 paid to a contractor for the construction of Siabai Earth Dam at a sum of Kshs.45,626,347. However, the project which had been fully paid for was yet to be commissioned and put to use. Further the Management did not provide procurement documents for audit.

#### **998.3 Incomplete Construction to Bitumen Standards of Migori Township Roads**

The amount includes a total of Kshs.10,600,547 in respect of construction of roads at Migori Township to bitumen standards during the year. However, the roads furniture including road signs and markings were not implemented despite the contractor having been paid an amount of Kshs.114,600,547 for the same during project implementation.

#### **998.4 Incomplete Construction to Bitumen Standards of Awendo Township Roads**

The amount includes a total of Kshs.9,914,944 incurred on upgrading of Awendo Township roads to bitumen standards during the year. However, the roads furniture including road signs and markings were not implemented despite the contractor having been paid cumulative amount of Kshs.201,914,944 for the same during project implementation.

#### **998.5 Construction of Ultra-Modern Market at Awendo Municipality**

Management entered into a contract for construction of an ultra-modern market, washrooms, cabro paving of paths and landscaping for Awendo Municipality Phase III at a contract sum of Kshs.55,795,422 for a contract period of six (6) months ending on 30 June, 2022. The amount certified as at 30 June, 2022 was Kshs.20,290,012.

An audit inspection exercise carried out in July, 2022 revealed the following anomalies:

- i. There was no separate procurement and monthly progress report files maintained contrary to Section 68 of the Public Procurement and Asset Disposal Act, 2015.
- ii. The signed form of tender as well as performance bond or bid security from the contractor as required by Regulation 106 (7) of the Public Procurement and Asset Disposal Regulations, 2020 were not provided for audit.

- iii. There was no evidence of a signed bills of quantities and specific conditions of the contract contrary to Section 70 (6) of the Public Procurement and Asset Disposal Act, 2015.
- iv. The project was about 60% complete against the actual time lapsed of 90%, and therefore, was behind schedule. The remaining works included installation of worktops, cabro works, landscaping, water tank installation and installation of a high mast. However, request for extension of works was not provided for audit review.

#### **998.6 Installation of Solar Powered Street Lights in Rongo Town**

Management entered into a contract with a contractor for the installation of solar powered streetlights in Rongo Municipality Phase III at a contract sum of Kshs.42,843,295. The date of commencement and completion date for the project were 17 January, 2022 and 30 June, 2022 respectively. As at 30 June, 2022, works valued at Kshs.39,518,244 had been certified.

Review of the project implementation revealed the following anomalies:

- i. The signed form of tender was not provided for audit and there was no evidence of provision of performance bond or bid security by the contractor as required by Regulation 106(7) of the Public Procurement and Asset Disposal Regulations, 2020.
- ii. The signed bills of quantities and specific conditions of the contract as required by Section 70 (6) of the Public Procurement and Asset Disposal Act, 2015, were not provided for audit review.
- iii. The branded solar powered streetlights were installed in an area where the County Government had previously installed the same resulting in duplication of works.

#### **998.7 Construction of Water Facilities and Flood Light at Ombo Modern Market**

Management entered into a contract with a contractor for the construction, fabrication and erection of steel tower and water tank, underground water tank and associated works, flood light and supply of stackable heavy-duty steel skip at Ombo Modern Market Migori Municipality Phase III. The contract sum was Kshs.34,793,828 and commencement date of 17 January, 2022 for a contract period of six (6) months ending on 30 June, 2022. The amount certified as at 30 June, 2022 was Kshs.31,066,159.

Review of implementation of the project revealed the following anomalies:

- i. The signed form of tender was not provided for audit and there was no evidence of provision of the performance bond or bid security by the contractor as required by Regulation 106 (7) of the Public Procurement and Asset Disposal Regulations, 2020.
- ii. The signed bills of quantities and specific conditions of the contract as required by Section 70(6) of the Public Procurement and Asset Disposal Act, 2015 were not provided for audit.

- iii. Despite the completion of the project in June, 2022 and the previous construction of 420 market stalls at Ombo Modern Market in June, 2020, the market was not operational. No explanation was provided non operationalization of the market.

In the circumstances, the propriety and value for money on the above projects could not be confirmed.

## **999. Acquisition of Assets**

The statement of receipts and payments reflects acquisition of assets expenditure of Kshs.1,626,900,272 as disclosed in Note 9 to the financial statements. The following observations were made:

### **999.1 Construction of Buildings**

Physical verification at the construction sites revealed implementation weaknesses including incomplete works, poor workmanship and unutilised buildings as shown below:

<b>No</b>	<b>Project Name</b>	<b>Amount Paid Kshs.</b>	<b>Observations</b>
1.	Completion of West Sakwa Ward Office	4,499,835	Internal partitioning and electrical works had not been completed and the building was not in use.
2.	Construction of Ntimaru East Ward Administrator's Office Kuria East	9,793,000	The project was complete but not in use
3.	Supply of building materials to Macalder Vocational Training Center in Nyatike Sub-county	4,999,600	Materials supplied comprising 180 tons of sand, 180 tons of ballast, 3900 pieces of machine cut stones, 200 pieces of D8 steel bars, 680 pieces of D12 steel bars, 350 pieces of D16 steel bars, 6 pieces of binding wires, 5 pieces Hoop iron, 500 pieces of trappers and 1200 bags of cement were still laying at site exposing them to spoilage and theft since there was no work going on.
4.	Construction of an administration and workshop block at Kababu Youth Polytechnic	5,077,274	Cracks were seen on the floors indicating poor workmanship and undone painting works. Further, contractor had left site without handing over.
5.	Construction of an administration block and workshop at Migori Youth Polytechnic-God Jope	5,392,956	Painting was not done, lintel not filled or sealed, and contractor was not on site.
6.	Construction of a workshop and administration block at Uriri Youth Polytechnic (Phase 1)	19,966,906	Although phase one was complete, and the project handed over by the contractor. It was difficult to verify the scope of work entailed in the phase since the engineer's bill of qualities (BOQ) was not provided for audit.

## **999.2 Construction and Civil Works**

The amount includes construction and civil works expenditure of Kshs.228,841,681 incurred in respect of various projects within the County. Physical verification of sampled projects revealed several implementation weaknesses and anomalies as highlighted below:

- i. An amount of Kshs.1,995,024 was paid to a local contractor for Phase I construction of a market shed at Siabai in Ntimaru East Ward. Verification at the site in the month of July, 2022 revealed that the project had stalled with no additional budgetary allocation made to allow for its completion.
- ii. Management undertook to construct a water borne toilet at Ogwedhi market at a cost of Kshs.3,117,924. A visit to the site revealed that although the project was completed, it was not operational as solar panels and the water pump had been vandalised.
- iii. An amount of Kshs.18,716,620 was paid to various contractors engaged to drill and equip seven boreholes located in Uriri, Nyatike, Rongo, kuria East and Kuria West Wards. Physical verification at the sites in the month of July, 2022 revealed that the boreholes had been drilled but were yet to be equipped and thus were not in use for the benefit of the local communities
- iv. Three borehole projects located in Nyatike and Suna West constructed at a cost of Kshs.8,166,219 were drilled on private parcels of land. Management did not provide land sale/ transfer agreements or consent from the landowners to put up the water facilities and infrastructure.
- v. An expenditure of Kshs.3,651,900 was incurred in respect of drilling a borehole at Kanyadera borehole and Got Kokomo. However, physical verification revealed that the boreholes drilled had no water.
- vi. A payment of Kshs.1,999,900 was made for rehabilitation of Oyani Intake River and draining in Uriri. Physical verification of the works revealed that rehabilitation was done but the riverbanks were still bursting causing the adjacent dry areas to be flooded and causing soil erosion.
- vii. An amount of Kshs.4,749,999 was incurred on protection of Agongo Hills Community Water Project. The works comprised foundation walling, plastering fencing, stone pitching, and landscaping. Physical verification of the works revealed that the project was complete, but water was still flowing uncontrolled since the sluice valve was not installed posing risk of floods to the community.

## **999.3 Delays in Approving the County Spatial Plan**

The expenditure includes research, studies, project preparation, design, and supervision amount of Kshs.55,943,592 paid to a local consultant towards preparation of Migori County Spatial Plan. However, the delivered plans had not been approved by the County Assembly and were yet to be implemented.

#### **999.4 Non-Operational Uriri Television and Radio Station**

The statement of receipts and payment reflects acquisition of assets expenditure of Kshs.1,626,900,272 which includes purchase of ICT Equipment of Kshs.8,985,600 as disclosed in Note 9 to the financial statements. The amount includes Kshs.8,741,134 incurred on repairs, service, maintenance and furnishing of Uriri TV/Radio station by four local firms. Physical verification in the month of July, 2022 revealed that works were complete but the station was not operational as the county lacked a license. The delayed licensing and operationalization of the project has denied the Migori residents deserved communication services.

In the circumstances, value for money of the above projects could not be confirmed.

#### **1000. Stalled Construction of the County Office Headquarters and Residences**

Management entered into a contract with a consultant for the design and supervision of the proposed County Office Headquarters, Governor's and Deputy Governor's Residences on 6 June, 2019 for a contract sum of Kshs.84,100,000. An amount of Kshs.27,953,100 was paid in 2019/20 financial year in respect of architectural drawings for the three proposed structures. However, physical verification at the time of audit revealed that the projects had stalled.

In the circumstances, value for money on the resources spent on the projects could not be ascertained.

#### **1001. Lack of Public Participation on Proposed Construction of a Ultra-Modern Stadium**

Management contracted a private company to provide consultancy services for preparation of design and supervision of proposed ultra-modern stadium external works and associated facilities for a contract sum of Kshs.54,452,864. However, Management did not provide records of public participation, tender documents and signed contract agreement for audit review though payment to the consultant had not been made.

In the circumstances, the propriety and value for money for the contract sum of Kshs.54,452,864 could not be ascertained.

#### **1002. Slow Implementation of Projects**

Review of the Projects Implementation Status Report as at 30 June, 2022 revealed that four (4) projects with an expenditure of Kshs.46,807,659 were on-going as at 30 June, 2022 as shown below:



<b>Project Activities</b>	<b>Contract Sum (Kshs.)</b>	<b>Amount Paid (Kshs.)</b>	<b>Percentage of Completion</b>
Construction, fabrication and erection of steel tower and water tank, underground water tank and associates works and flood light at Migori Town	34,792,828	26,517,647	85%
Construction of Rapogi ultra - modern market, washrooms, cabro paving of paths within the market and landscaping	55,795,421	20,290,012	60%
Construction of Kwigancha Earth Dam in Kuria West Subcounty	26,103,330	0	95%
Construction of Not Earth Dam in Nyatike Sub County	31,990,473	0	96%
<b>Total</b>	<b>148,682,052</b>	<b>46,807,659</b>	

The delayed completion of the projects may have denied the public of services that would have accrued from the projects.

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

### Basis for Conclusion

#### 1003. Lack of an Approved Staff Establishment

During the year under review and in the preceding years, the County Executive did not have an approved staff establishment. The lack of an approved staff establishment implies that the County was yet to determine the skills and optimal staffing levels required to achieve its goals and objectives.

In the circumstances, it was not possible to ascertain whether the total staff in the employment was at an optimal operating level.

#### 1004. Non-Compliance with Asset Register Format

The financial statements in Annex 6, summary of non-current asset register reflects assets valued at Kshs.13,035,673,863 which includes additions during the year of Kshs.1,523,546,084. However, expenditure on acquisition of assets during the year amounted to Kshs.1,626,900,272 as disclosed in Note 9 to the financial statements resulting to an unexplained and unreconciled variance of Kshs.103,354,188.

In addition, Management did not maintain an asset register in the format required by Regulation 136(1)(2) and (3) of Public Finance Management (County Governments) Regulations, 2015. The asset register does not give details of when the assets were acquired, their value and location.

In the circumstances, it has not been confirmed whether the County Executive has instituted proper mechanisms to safeguard the assets.

#### **1005. Lack of Risk Management Policy and Strategy**

During the year under review, Management did not have in place an approved risk management policy and risk management framework outlining strategies and procedures to assess, identify, measure, prioritize and mitigate risks in the entity.

In the circumstances, Management lacks a mechanism to guide in detection and mitigation of any possible risk in the institution.

#### **1006. Lack of Approved Information Technology (IT) Security Policy**

Review of the County Executives' information technology systems revealed that there was an automated revenue system used in management of operations. However, was missing approved IT Policy for governance and management of its ICT resources. In addition, there was no IT Steering Committee in place to assist in the development of IT policy framework which would enable the company to realize long-term ICT strategic goals.

In the circumstances, Management did not institute appropriate access controls needed to minimize breaches of information confidentiality, data integrity and loss of business.

#### **1007. Grounded Motor Vehicles and Machineries**

Review of status of the County Executive fleet of motor vehicles and machineries revealed that sixty (60) vehicles and machineries across the departments were grounded and unserviceable in various garages. In addition, Management did not prepare an annual disposal plan.

In the circumstances, effectiveness of mechanisms in safeguarding motor vehicles and machines could not be confirmed.

#### **1008. Payments of Salaries outside the Integrated Personnel and Payroll Database (IPPD)**

The expenditure includes an amount of Kshs.2,633,948,002 incurred on basic salaries of permanent employees. Review of the expenditure revealed an amount of Kshs.68,035,140 allowances payments to sixty 60 employees which was done outside the Integrated Personnel and Payroll Database (IPPD) system. This was contrary to Clause 6.3 of the County Financial Accounting and Reporting Manual which requires salaries, allowances and/or arrears of the County Government staff to be processed on the Integrated Personnel and Payroll Database.

In the circumstances, the existence of effective internal controls in payroll could not be confirmed.

## COUNTY EXECUTIVE OF KISII - NO.45

### REPORT ON THE FINANCIAL STATEMENTS

#### **Basis for Qualified Opinion**

##### **1009. Unsupported Expenditure**

The statement of receipts and payments as disclosed in Note 4 to the financial statements reflects an amount of Kshs.1,630,997,716 in respect of use of goods and services. The balance included other operating expenses of Kshs.164,825,299 out of which, an amount of Kshs.1,000,000 was incurred on supporting the operations of the Lake Region Economic Bloc. However, expenditure returns together with related supporting documents were not provided for audit. It was also noted that the payment was not based on any law.

Further, the balance included an amount of Kshs.7,955,000 that was spent on security services. Management of the County Executive extended the contract agreement with a security firm on 01 January, 2019 for a period of twelve (12) months at cost of Kshs.12,780,000 and a further period of two (2) years from 01 January, 2020. However, the extensions were not supported by approvals by the tender evaluation committee.

In addition, Note 4 to the financial statements reflects insurance costs of Kshs.201,196,632. Included in the balance is an amount of Kshs.6,719,462 incurred on other classes of insurance costs. However, the expenditure was not supported with tender evaluation reports and approved professional opinions. Further, an amount of Kshs.18,197,788 was paid to various firms for the insurance of various assets. However, the insurance policy documents to confirm the nature, risks and extent of the insurance coverage were not provided for audit review.

Moreover, Note 4 to the financial statements reflects routine maintenance-other assets amount of Kshs.96,029,509 of out of which, an amount of Kshs.5,402,425 was spent on the supply of assorted spare parts. However, counter receipt vouchers (S13), issue vouchers (S11) and job cards for the maintenance of equipment within the departments were not provided for audit review.

In the circumstances, the accuracy, completeness and regularity of the expenditure of Kshs.39,274,675 on use of goods and services could not be confirmed.

##### **1010. Unexplained Voided Transactions**

Review of the Integrated Financial Management Information System (IFMIS) system payments indicated that fifty-five (55) transactions amounting to Kshs.82,074,454 were voided. Available information also indicates that the Controller of Budget (CoB) had approved payments of the voided transactions. Management did not explain why the

payments were voided yet they had been approved and whether they were subsequently paid.

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

## **Other Matter**

### **1011. Budgetary Control and Performance**

The statement of comparison of budget and actual amount reflects final receipts budget and actual on comparable basis of Kshs.12,590,694,978 and Kshs.8,983,386,920 respectively, resulting to under-receipt of Kshs.3,607,308,058 (or 29%) of the budget. Similarly, the County Executive spent Kshs.9,762,602,962 out of the approved expenditure budget of Kshs.12,590,694,978, resulting to an under expenditure of Kshs.2,828,092,016 (or 22%) of the budget.

In the circumstances, the under-receipt and under expenditure could have adversely affected service delivery.

### **1012. Late Exchequer Releases**

Note 1 to the financial statement reflects exchequer releases totalling to Kshs.8,182,732,547 which includes an amount of Kshs.756,013,333 received by the County Government from the National Treasury on 17 June, 2022 and therefore the funds could not be utilized by the end of the financial year.

In addition, other exchequer releases of Kshs.711,541,962 for the financial year 2021/2022 were disbursed on 28 July, 2022.

In the circumstances, late exchequer releases by the National Treasury could have had adverse effects on the implementation of the planned activities and projects by the County Executive.

### **1013. Non-Payment of Pension Contributions**

Review of financial records revealed that the County Executive owed the Local Authorities Provident Fund (LAPFUND) an amount of Kshs.25,288,547 in unremitted deductions as at 30 June, 2022. Out of this debt, Kshs.2,000,000 was paid in October, 2022.

In the circumstances, the ability of LAPFUND to service retirement benefits, as and when such benefits fall due, to the retiring employees may have been adversely affected.

### **1014. Unresolved Prior Year 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 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

#### **1015. Non-Compliance with the Fiscal Responsibility Principles – Wage Bill**

Review of the financial records revealed that out of the actual total revenue of Kshs.8,983,386,920 an amount of Kshs.5,129,147,123 was incurred on compensation of employees' which was 57% of the revenue and which was above the maximum limit of 35% set in Regulation 25(1)(a) and (b) of the Public Finance Management (County Governments) Regulations, 2015.

Further, the statement of comparison of budget and actual amounts for development vote reflects total actual development expenditure of Kshs.2,104,070,936 (or 22%) of the total expenditure of Kshs.9,762,602,962 reflected in the statement of receipts and payments. This was contrary to Regulation 25(1)(g) of the Public Finance Management (County Governments) Regulations, 2015, which requires development expenditure to be at least 30% of total expenditure.

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

#### **1016. Long Outstanding Pending Accounts Payable**

Note 1 under other important disclosures reflects pending accounts payable balance carried forward of Kshs.1,393,854,413, which increased by Kshs.649,495,292` or 87%, from the previous year's balance of Kshs.744,359,121. Further, out of the bills of Kshs.1,393,854,413, bills totalling to Kshs.202,459,134 are long outstanding as they relate to 2018/2019 and earlier financial years. This was 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 and the Accounting Officer shall ensure this is done to the extent possible that the county government does not default on debt obligations.

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

#### **1017. Unapproved Salary and Remuneration of the County Attorney Staff**

The expenditure of Kshs.5,129,147,123 on compensation of employees' as disclosed in Note 3 to the financial statements included an amount of Kshs.18,861,016 spent on the salaries and remunerations of nine (9) officers working in the County Attorney Office. However, no evidence was provided for audit review to show that the Salaries and Remuneration Commission was consulted in determining their remunerations, contrary to section 19 of the Office of the County Attorney Act, 2020, which stipulates that the

County Attorney, County Solicitor and County Legal Counsel appointed under this Act shall serve on such terms as the County Public Service Board shall, in consultation with the Salaries and Remuneration Commission, determine.  
In the circumstances, Management was in breach of the law.

#### **1018. Irregular Engagement of Officers**

The statement of receipts and payments reflects compensation of employees balance of Kshs.5,129,147,123 as disclosed in Note 3 to the financial statements. Out of the balance, an amount of Kshs.300,000,000 was paid to three hundred and thirty three (333) officers occupying positions in eight (8) departments in the County that were not in the approved staff establishment. Further, review of the Integrated Personnel and Payroll Database (IPPD) payroll for the month of June, 2022 and the approved departmental staff establishments, revealed that the officers were paid a total of Kshs.25,024,040 in the month of June, 2022.

In the circumstances, the regularity of the expenditure of Kshs.300,000,000 could not be confirmed.

#### **1019. Expenditure on Excess Drivers**

The statement of receipts and payments reflects compensation of employees balance of Kshs.5,129,147,123. Out of this balance an approximate amount of Kshs.31,209,456 was incurred on sixty-nine (69) excess drivers who were paid, on average, total gross monthly salaries of Kshs.2,600,788 per month. This was revealed through analysis of the IPPD payroll for June, 2022 that the County had one hundred and seventy (170) drivers against one hundred and one (101) serviceable motor vehicles.

In the circumstances, value for money on the expenditure of Kshs.31,209,456 could not be confirmed.

#### **1020. Non-Compliance with Law on Ethnic Composition in Recruitment of Staff**

Review of personnel records revealed that during the year under review, the County Executive recruited ninety-four (94) members of staff out of whom, ninety-three (93) or 99% were from the dominant community. This was contrary to Section 65(1)(e) of the County Governments Act, 2012 which stipulates that in selecting candidates for appointment, the County Public Service Board shall consider the need to ensure that at least thirty percent of the vacant posts at entry level are filled by candidates who are not from the dominant ethnic community in the County.

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

#### **1021. Delay in Confirmation of Officers**

Review of the payroll for the month of June, 2022 revealed seventy nine (79) officers had been on probation for more than six (6) months, contrary to the provision of Section B.13(1) of the County Public Service Human Resource Manual which requires that an



officer be put on probation for a period of six (6) months. Management did not explain the reasons for non-compliance with the Human Resource Manual.

In the circumstances, Management was in breach of the Human Resource Manual.

#### **1022. Failure to Observe One Third of Basic Salary Rule**

Review of the payroll for the month of June 2022 revealed that thirty six (36) officers earned salaries which were less than a third of their respective basic salaries 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 any written law, the total amount of all deductions which under the provisions of Section (1), may be made by an employer from the wages of his employee at any time shall not exceed two thirds of such wages or such additional or other amount as maybe prescribed by the Minister either generally or in relation to a specified employer or employee of class of employers or employees or any trade or industry.

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

#### **1023. Irregular Payment of Allowances and Subscription**

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects expenditure on use of goods and services totalling to Kshs.1,630,997,716 which included an amount of Kshs.325,240,442 in respect of travel and subsistence expenses. Out this balance, an amount of Kshs.2,254,000 was paid to Members of Kisii County Assembly (MCAs) for attending a retreat in Kisumu to discuss and finalize the budget for the financial year 2021/2022. This was despite the fact that the County Assembly had its own operational budget.

Further, the balance includes other operating expenses of Kshs.164,825,299 out of which Kshs.3,500,000 was paid to the Council of Governors for the purpose of meeting its operation expenses. This was contrary to Section 37(b) of the Intergovernmental Relations Act, 2012 which requires operational expenses of the Council of Governors to be funded by the National Government.

In the circumstances, the regularity of the expenditure of Kshs.5,754,000 could not be confirmed.

#### **1024. Unexplained Delay in Remittance of Taxes**

The statement of receipts and payments and Note 6 to the financial statements reflects other grants and transfers of Kshs.644,275,870 which included an amount of Kshs.108,785,893 in respect of payables to Kenya Revenue Authority. Review of financial records revealed an amount of Kshs.21,191,655 in respect to penalties and interest due to delay in remittance of taxes. Management did not explain the reason for the delay in remittance of taxes.

In the circumstances, the value for money on the nugatory expenditure of Kshs.21,191,655 could not be confirmed.

#### **1025. Delay in Completion of Rangi Mbili-Elimu-Umoja Road and Augmentation of Huduma Centre-Kisii Hotel Drainage and Associated Works**

The statement of receipts and payments and Note 6 to the financial statements reflects other grants and transfers expenditure of Kshs.644,275,870 out of which an amount of Kshs.89,979,516 was in respect of Kenya Urban Support program. The balance included an expenditure of Kshs.14,251,270 in respect of a contract for the construction of Rangi Mbili-Elimu-Umoja Road and Augmentation of Huduma Centre-Kisii Hotel Drainage and Associated Works. The tender had been awarded to a construction company at a contract sum of Kshs.50,594,198 for a contract period of forty eight (48) weeks commencing on 28 July, 2021 to 28 July, 2022. An additional payment was made in July, 2022, bringing the total payments to Kshs.23,843,310 (or 47% of the contract sum). Audit inspection of the project in the month of July, 2022 revealed that the project was 56% complete.

Review of records indicated that, the contractor requested for extension of time on the contract citing various reasons for the delay in completion of works, including obstruction of electrical poles, leaking water pipes, lack of design both geometric and pavement as well as lack of engineering drawings, delay in issuing instructions, the fuel crisis, changes in sequence and timing of works and excessive rainfall. The extension was granted for 85 days to 21 October, 2022.

In the circumstances, value for money for the expenditure of Kshs.23,843,310 on the project could not be confirmed.

#### **1026. Failure by Contractor to Deliver Physical Development Plans**

The statement of receipts and payments and Note 7 to the financial statements, reflects expenditure on acquisition of assets totalling to Kshs.1,384,988,744. The expenditure included research, studies, project preparation, design and supervision costs amounting to Kshs.14,470,000 out of which a payment of Kshs.9,500,000 was made in respect of a contract to prepare physical development plans for Marani, Masimba, Nyamarambe and Mosochi Towns. The consultancy had been awarded to a firm at a contract sum of Kshs.46,959,700 for a contract period of thirty six (36) months commencing on 12 May, 2016 and ending of 11 May, 2019. The first 30% of the contract sum (Kshs.14,087,910) was payable on submission of inception report, second 30% on submission of situational analysis report, third 30% on submission of acceptable draft plan and the final 10% on submission and acceptance of the final Physical Development Plans for the four town centers. However, as at 30 June, 2022, the firm had not submitted the final physical development plans, despite a total of Kshs.40,147,430 (or 86%) of the contract sum having been paid. Further, although the contract had lapsed over three years ago, no evidence of contract extension was provided for audit review.

In the circumstances, value for money on the expenditure of Kshs.40,147,430 could not be confirmed.

## **1027. Delay in Completion of Construction of Buildings**

The statement of receipts and payments and Note 7 to the financial statements, reflects expenditure on acquisition of assets totalling Kshs.1,384,988,744 which includes an amount of Kshs.115,873,218 on construction of buildings. Review of financial records revealed six (6) projects had either been abandoned or their completion date delayed as detailed below;

- i. An amount of Kshs.4,074,440 was paid to a contractor for the construction of Sameta Library. The tender was awarded at a contract sum of Kshs.9,820,000 in the financial year 2015/2016. However, audit inspection of the project revealed that the project was abandoned, and contractor was not on site. Management had attributed the delay in completion of the project on failure to pay the contractor.
- ii. Further, an amount of Kshs.2,000,000 was incurred on construction of a cultural hall at Nyanturago in Ibeno Ward. The works had been awarded to a contractor at a contract sum of Kshs.9,911,010 in the financial year 2015/2016. Review of payment records revealed that the contractor had been paid a total of Kshs.4,929,221 as at 30 June, 2022. Physical verification of the project on 06 July, 2022 revealed that the project had not been completed and no contract extension approval was provided for audit.
- iii. In addition, an amount of Kshs.1,060,920 was incurred on construction of a cultural hall at Tabaka. The contract was awarded to a construction company in the year 2013/2014 at a contract sum of Kshs.10,633,037. As at 30 June, 2022 a total of Kshs.7,443,967 had been paid to the contractor. However, physical verification on 06 July, 2022 revealed that the project had not been completed and no contract extension approval was provided for audit review.
- iv. Moreover, an amount of Kshs.2,056,580 was spent on construction of a public toilet at Keroka Market at a contract sum of Kshs.2,056,580. However, physical verification of the project on 29 June, 2022 revealed that the project was approximately 50% complete as the water tower had not been done, while the toilets fittings were falling apart. It was also noted that the project was done in a garbage collection site, behind the market and which poses risk to the residents.
- v. According to the financial records, an amount of Kshs.7,000,000 was paid for construction of a perimeter fence at Nyatieko Waste Management. The tender had been awarded to construction company at a sum of Kshs.22,573,195 and the works commenced on 04 October, 2020 and was expected to be completed on 04 August, 2021. As at 30 June 2022, a total of Kshs.17,000,000 had been paid. However, physical verification of the project on 08 July, 2022 revealed that the walls had not been completed and the contractor was not on site. In addition, approval from National Environmental Management Authority and ownership documents for the waste management site were not provided for audit review.

- vi. An amount of Kshs.5,000,000 was incurred on construction of the Kisii Governor's Official Residence in the year under review bringing the total expenditure for the project to Kshs.14,000,000. The tender had been awarded to construction company at a contract sum of Kshs.19,402,298 for a contract period of 6 months. However, physical verification on 14 July, 2022 revealed that the project had not been completed despite the contract period having elapsed on 28 May, 2022. Management indicated that the contract was terminated on 11 October, 2022 due to failure by the contractor to strictly adhere to specifications and instructions.

In the circumstances, the value for money on the expenditure of Kshs.49,504,208 on six (6) projects could not be confirmed.

#### **1028. Payment for Non-existent Project**

The statement of receipts and payments and Note 7 to the financial statements, reflects expenditure on acquisition of assets totalling to Kshs.1,384,988,744 which includes an amount of Kshs.115,873,218 on construction of buildings. Included in this balance is an amount of Kshs.1,866,128 spent on the proposed construction of Nyamache market shade and workshop which had been awarded at a contract sum of Kshs.4,143,578. The contract was to commence on 30 April, 2015 and end on 30 July, 2015 for a period of three (3) months. As at 30 June, 2022 the contractor had been paid the full contract amount. However, physical verification of the project on 29 June, 2022 revealed that the project did not exist on the ground and the site where the market shed was allegedly built was occupied by Nyamache Banana Market.

In the circumstances, the regularity and value for money on the expenditure of Kshs.4,143,578 could not be confirmed.

#### **1029. Unutilized Youth Polytechnic**

The statement of receipts and payments and Note 7 to the financial statements, reflects expenditure on acquisition of assets totalling Kshs.1,384,988,744 which includes an amount of Kshs.115,873,218 on construction of buildings. Included in the balance is an amount of Kshs.3,998,000 spent on construction of Rioma Youth Polytechnic which had been awarded at a contract sum of Kshs.3,998,000. However, audit inspection on June, 2022 revealed that the project was done to completion but was not being utilized. Further, ownership documents for the land on which the Polytechnic is built were not provided for audit review.

In the circumstances, the value for money on the expenditure of Kshs.3,998,000 could not be confirmed.

#### **1030. Incomplete Construction Works**

The statement of receipts and payments and Note 7 to the financial statements, reflects expenditure on acquisition of assets totalling to Kshs.1,384,988,744 which includes an amount of Kshs.115,873,218 on construction of buildings. Included in the balance is an amount of Kshs.12,820,425 paid to a contractor for the refurbishment of Suneka Market.

The works had been awarded at a contract sum of Kshs.20,461,390 for a period of 6 months starting from 20 February, 2020 and ending on 30 July, 2020. Physical verification revealed that the project was not complete, more than two years after the expected completion date, and the contractor was not on site. Management had explained that the contract was terminated due to non-performance by the contractor.

Further, available information indicated that a company was awarded a contract for the Proposed Civil Works at Gesieka Market at a contract sum of Kshs.2,534,370 for a period of three months, from 28 June, 2019 to 30 September, 2019. As at 30 June, 2022, the contractor had been paid the full contract sum of Kshs.2,534,370. However, audit inspection on 29 June, 2022 revealed that the project was never implemented.

In the circumstances, the value for money on the expenditure of Kshs.15,354,795 on the two (2) projects could not be confirmed.

### **1031. Non- Publication of Procurement Contracts**

Review of the procurement records for the County Executive revealed that procurement contracts with contract sums totalling to Kshs.158,569,014 were not published on the County Executive's notice boards and websites as required by Regulation 131 of the Public Procurement and Asset Disposal Regulations, 2020. In addition, no evidence was provided to indicate that the contracts were reported to the Public Procurement and Review Authority.

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

### **1032. Stalled and Incomplete Projects**

Review of the projects under the Department of County Administration, Corporate Services and Stakeholder Management revealed that fifteen (15) projects awarded in the 2019/2020 and earlier years in respect of the construction of Ward offices and Sub-county headquarters on which the County Executive had spent an amount of Kshs.70,509,162 as at 30 June, 2022, were incomplete and had stalled.

In the circumstances, value for money on the expenditure of Kshs.70,509,162 could not be confirmed.

### **1033. Pending Legal Cases**

Review of legal documents from the County Attorney's Office revealed that two hundred and sixty-six (266) court cases were pending against the Kisii County Executive some of which were inherited from the defunct local authorities. Out of these cases, nine (9) were ruled against the County Executive and the plaintiffs or claimants awarded a total of Kshs.1,696,135 in two (2) of the nine cases, while amounts awarded in the remaining seven (7) cases had not been provided for audit. However, the County Executive had so far not settled the Court awards of Kshs.1,696,135 which had also not been included in the reported list of pending bills. Further, no evidence was provided on any appeals on the matters. In addition, the status of the two hundred and fifty-seven (257) unconcluded Court cases was not provided for audit review.



In the circumstances, failure to abide to the Court rulings may result to incurrence of further avoidable costs in form of penalties and interests.

#### **1034. Conferment of Municipality Status to Ogembo Urban Centre**

According to the Urban Areas and Cities (Amendment) Act, 2019, a town is eligible for conferment of municipality status if it has a population of at least fifty thousand (50,000) residents according to the final gazetted results of the last population census carried out. However, information available indicates that on 29 July, 2021, the Governor, Kisii County conferred the status of a municipality to Ogembo Urban Area through Gazette Notice No.8634, despite it having a population of only 3,901, according to the 2019 Kenya Population and Housing Census. Therefore, Ogembo Urban Area did not satisfy the criteria for conferment to a municipality. No explanation was given for the anomaly.

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

### **REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE**

#### **Basis for Conclusion**

#### **1035. Grounded Motor Vehicles and Machineries**

Annex 3 – summary of non-current assets register to the financial statements reflects total non-current assets with a historical cost of Kshs.15,822,083,275 which included transport equipment of Kshs.715,917,441. However, review of the status of the Executive's fleet of motor vehicles and machineries revealed that sixty-eight (68) motor vehicles and heavy machinery out of an inventory list of one hundred and eighty-two (182) representing 37% of the entire fleet, were grounded and unserviceable. Although Management had prepared a consolidated annual disposal plan for the financial year 2020/2021, none of the grounded vehicles had been disposed of as at 31 December, 2022.

In the circumstances, Management did not institute effective internal controls to ensure proper management of the fleet of motor-vehicles.

#### **1036. Uncollected Revenue - Property Rates**

The statement of comparison of budget and actual amounts reflects other receipts budget amount of Kshs.1,595,176,552 which includes an amount of Kshs.30,000,000 expected from land rates. Similarly, the statement reflects other receipts actual amount of Kshs.800,654,373 which, as disclosed in Note 2 to the financial statements, includes County own generated receipts amount of Kshs.404,554,619 out of which an amount of Kshs.12,845,291 relates to land rates. Therefore, the County Executive had a shortfall of Kshs.17,154,709 from land rates or 57% of the budgeted revenue.

Further, review of the County Executive's electronic records indicated that the Management had not collected long outstanding property rates, inclusive of interest and penalties, totalling to Kshs.435,999,218, which were owed by plot owners within Kisii



Municipality and other areas in the County. In addition, no records were provided for audit review to show efforts made by the Management to recover the outstanding monies. Moreover, the valuation rolls used in the collection of land rates were inherited from defunct local authorities.

In the circumstances, Management did not institute effective internal controls to ensure collection of property rates.

## **COUNTY EXECUTIVE OF NYAMIRA - NO.46**

### **REPORT ON THE FINANCIAL STATEMENTS**

#### **Basis for Qualified Opinion**

##### **1037. Failure to Reconcile Transfers to Other Government Entities**

The statement of receipts and payments and Note 5 to the financial statements reflects transfers to other Government entities totalling to Kshs.754,738,831 which included transfers to the County Assembly of Nyamira of Kshs.701,140,292. However, the statement of receipts and payments of the County Assembly reflected transfers from the County Treasury totalling to Kshs.784,723,483 resulting to an unreconciled variance of Kshs.83,583,191.

In the circumstances, the accuracy and completeness of the amount of Kshs.754,738,831 in respect of transfers to other Government entities could not be confirmed.

##### **1038. Other Receipts**

The statement of receipts and payments and Note 2 to the financial statements reflects other receipts totalling to Kshs.452,737,420. Review of receipt records revealed the following:

###### **1038.1 Long Outstanding Land Rates**

Included in other receipts amount is Kshs.166,905,984 in respect of County own generated receipts out of which an amount of Kshs.12,321,770 was in respect of land rates. However, review of land rates and related records provided for audit revealed accumulated land rates arrears balance of Kshs.74,883,703 which had been outstanding since the year 2010. No measures seem to have been taken by the County Government to collect the outstanding land rates.

###### **1038.2 Lack of Updated Valuation Roll**

Included in other receipts is an amount of Kshs.13,483,191 in respect of plot rent and land rates. However, review of records revealed that the County Executive was still using valuation roll of 2006 inherited from the defunct local authorities in the collection of plot rent and land rates. In addition, no evidence was provided to show that measures had been put in place to update the valuation roll and to enhance revenue collection, despite the fact that the value of land in Nyamira County has risen significantly.

In the circumstances, the accuracy and collectability of these long outstanding land rates and plot rent could not be confirmed.

### **1039. Unsupported Compensation of Employees**

The statement of receipts and payments and Note 3 to the financial statements indicates an amount of Kshs.2,958,585,401 in respect of compensation of employees which includes salaries and allowances totalling to Kshs.986,584 paid to two (2) officers who were among forty-seven (47) officers employed during the year under review. However, the payment to the two (2) officers included basic salary arrears and uniform allowances amounting to Kshs.727,084 and Kshs.80,000 respectively, for which the relevant supporting documents were not provided for audit.

In the circumstances, the accuracy and completeness of the payments totalling to Kshs.807,084 on compensation of employees could not be confirmed.

### **1040. Unsupported Legal Expenses**

The statement of receipts and payments and Note 4 to the financial statements, indicates payments totalling to Kshs.839,336,416 in respect of use of goods and services. Included in the payments is other operating expenses balance of Kshs.76,589,830 out of which Kshs.1,885,000 was paid to two (2) law firms which unrepresented the County Executive in respect of four (4) cases. However, the files containing details of these cases were not provided for audit review. Further, a judgement was obtained against the County for an amount of Kshs.1,340,033 being principal sum plus interest due to failure by the Nyamira County Public Service Board to abide by an earlier order of the Court relating to one of the cases. However, Management paid an amount of Kshs.1,000,000 to the law firm but the balance of Kshs.340,033 had not been paid by 30 June, 2022 and therefore continued to accumulate interest at 12% per annum. It was not explained why the Service Board did not address the issue.

In the circumstances, the regularity and value for money for the expenditure could not be confirmed.

### **1041. Unexplained Voided Transactions**

Review of the system payments revealed that during the year under review, nine hundred and two (902) transactions totalling to Kshs.619,903,593 were voided across all the County Government Departments.

Review of system payments and other related documents provided by Management did not reveal adequate reasons for the voided payments which had been included in the approved list schedule for payment by the Controller of Budget. At the time of audit, payment amount of Kshs.377,819,144 of the voided payments had been processed and cleared leaving a balance of Kshs.242,084,449 which was still outstanding recorded as pending bills.

In the circumstances, the regularity and completeness of the voided payments made could not be confirmed.

## **Other Matter**

### **1042. Budgetary Control and Performance**

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.6,832,617,659 and Kshs.5,177,250,253, respectively, resulting to underfunding of Kshs.1,655,367,406 or 24%. Similarly, the Management made payments totalling to Kshs.5,756,254,979 against an approved budget of Kshs.6,832,617,659 resulting to under expenditure of Kshs.1,076,362,680 or 16%.

Further, the statement of receipts and payments and Note 1 to the financial statements reflect Exchequer releases totalling to Kshs.4,724,512,833 which includes an amount of Kshs.410,827,203 disbursed by The National Treasury on 28 July, 2022 as part of the budgeted funds for 2021/2022 financial year. The late Exchequer releases could have had adverse effects on the implementation of the planned activities during the year.

The underfunding and underutilization of funds may have impacted negatively on the delivery of services to the public.

### **1043. Unresolved Prior Year Matters**

As disclosed in the Progress on Follow-Up of Prior Year Auditor's Recommendations section of the financial statements, various prior year audit issues remained unresolved as at 30 June, 2022. Management had not provided satisfactory reasons for the delay in resolving the prior year audit issues.

## **REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

### **Basis for Conclusion**

#### **1044. Failure to Submit Finance Bill to the County Assembly**

The statement of receipts and payments reflects County own generated receipts totalling to Kshs.166,905,985. However, the County Executive Member for Finance did not submit to the County Assembly revenue raising measures of the County Government contrary to Regulation 132(2) of the Public Finance Management (County Government) Regulations, 2015 which provides that the County Executive Committee Member for finance shall, on the same date that the revenue raising measures are pronounced, submit to the County Assembly the County Finance Bill, setting out the revenue raising measures for the County Government, together with a policy statement expounding on those measures.

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

## **1045. Compensation of Employees**

The statement of receipts and payments and Note 3 to the financial statements reflects payments totalling to Kshs.2,958,585,401 in respect of compensation of employees. Review of records revealed the following anomalies.

### **1045.1 Non-Compliance with the Fiscal Responsibility Principles – Wage Bill**

The statement of receipts and payments reflects compensation of employees amount of Kshs.2,958,585,401 representing 57% of the total revenue of Kshs.5,177,250,253 being 22% above the limit. This is contrary to Regulation 25(1)(a) and (b) of the Public Finance Management (County Governments) Regulations, 2015 which provides that the County Executive Committee Member with the approval of the County Assembly to 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 that the limit set shall not exceed thirty five (35) percent of the County Government's total revenue.

### **1045.2 Irregular Recruitment of Staff**

During the year under review, the County Public Service Board recruited forty-seven (47) members of staff in four (4) departments, all of whom were from one dominant ethnic community in the County, contrary to Section 65(1)(e) of the County Governments Act, 2012 which stipulates that in selecting candidates for appointment, the County Public Service Board shall consider the need to ensure that at least thirty percent of the vacant posts at entry level are filled by candidates who are not from one ethnic community in the County.

Further, review of personal files revealed that two (2) officers among the forty-seven (47) recruited were appointed to the positions of Senior Inspector (Water and Sanitation) in the Ministry of Environment, Water, Mining and Natural Resources and Civil Engineer in Ministry of Lands, Housing and Urban Development. Although the two (2) officers did not apply for the advertised vacancies, were not shortlisted and interviewed, they were issued with appointment letters. In addition, documents in the files showed that one of the officers did not have the qualifications required for the position he was appointed to, while the qualifications of the other could not be established as his personal file did not have evidence of qualifications contrary to contrary to Section 65(1) of the County Governments Act, 2012 which provides that in selecting candidates for appointment, the County Public Service Board shall consider the standards, values and principles set out in Articles 10, 27(4), 56(c) and 232(1) of the Constitution, the prescribed qualifications for holding or acting in the office; and the need for open and transparent recruitment of public servants.

### **1045.3 Irregular Payment of Salaries**

Included in the payments on compensation of employees is an amount of Kshs.1,848,366, being nine (9) months' salaries paid to twenty-one (21) employees who did not deliver any service to the public as they did not report for duty contrary to Section 149(1) of the Public Finance Management Act, 2012 which provides 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 and effective, efficient, economical and transparent. Although Management explained that the salaries were stopped in March, 2022, no further disciplinary action was taken against them towards recovery of the irregular payments.

#### **1045.4 Non-Compliance with the One Third Rule of Basic Salary**

Review of the payroll records for the month June, 2022 revealed that a total of one hundred and eighty-six (186) officers were earning less than one third of their respective basic pays contrary to Section 19(3) of the Employment Act, 2012 and Section C.1(3) Human Resource Policies and Procedures Manual for the Public Service, 2016 which provides that the total amount of all deductions which may be made by an employer from the wages of his or her 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.

#### **1046. Non-Compliance with Public Finance Management Act, 2012**

The statement of receipts and payments and Note 4 to the financial statements reflects payments totalling to Kshs.839,336,416 in respect of use of goods and services which included payments in respect of other operating expenses amounting to Kshs.76,589,830. Review of records revealed that a balance of Kshs.15,000,000 was paid to a contractor in respect of a contract for provision of consultancy services for preparation of Nyamira County Spatial Plan (2020-2030) at a contract sum was Kshs.74,999,973 for a contract period of eighteen (18) months from 15 July, 2020 to 15 January, 2022. The contract sum was to be paid in four (4) phases of 30% on submission of the approved inception report, 30% on submission of the situational report, 30% on submission of draft plan and 10% on the approval of the final plan. However, although the contract period had expired, 70% of the work had not been executed and no explanation was provided for the delay. Further, no explanation was provided on why the payment of Kshs.15,000,000 was made from recurrent vote, despite the project being capital in nature since it was in respect of the creation or renewal of assets contrary to Section 43(1)(6) of the Public Finance Management Act, 2012 which states, inter alia, that an Accounting Officers may not reallocate funds which are appropriated for recurrent/capital expenditure except to defray other recurrent/capital expenditure.

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

#### **1047. Transfers to Other Government Entities**

The statement of receipts and payments and Note 5 to the financial statements reflects transfers to other government entities totalling to Kshs.754,783,831. Review of payment records revealed the following:



### **1047.1 Delayed Completion of Upgrading of Roads**

The balance includes transfers to the Municipality of Nyamira totalling to Kshs.53,643,539, out of which an amount of Kshs.8,869,921 was paid to a contractor for the upgrading of Public Works Offices – CDF Offices – Nyamira Hospital Junction road from gravel to bitumen standard. The total contract sum for the works was Kshs.82,859,330 for a contract period of twelve (12) months from the date of site handover on 30 April, 2021 to 04 April, 2022. Audit inspection carried out in the month of July, 2022 revealed that the road is approximately 21% complete but the contractor was not on site and no works were ongoing. Review of records indicated that the contractor requested for an extension of time for six (6) months up to 30 October, 2022 citing several reasons for delay of the works, which was however not granted.

### **1047.2 Delayed Completion of Upgrading of Works**

Review of payment records revealed that a payment of Kshs.27,203,897 was made to a contractor for the upgrading to Bitumen Standard of (B5) Borabu Inn – Golan Heights Resort – Juakali – Nyamira Boys – (B5) Nyabite Market Road – Phase I awarded on 04 June, 2019 at a total contract sum of Kshs.104,373,213. The contract period was twelve (12) months from the date of site handover which was done on 05 August, 2019 to 04 August, 2020. Audit inspection exercise carried out in July, 2022 revealed that the road is approximately 97% complete with Kshs.100,578,266 already paid to the Contractor, translating to 97% of the contract sum. Review of records indicated that the contract had been extended for twenty-six (26) weeks to 05 February, 2021 and a further twenty-four (24) weeks to 20 August, 2021. The contractor cited late payment for works done as part of the reasons for the delay in completion of the contract.

### **1047.3 Stalled Construction Works of Fire Station**

The County Government of Nyamira awarded a contract for construction of a fire station on 14 December, 2021 to a contractor at a contract sum of Kshs.50,519,325. The contract period was expected to be seventy-eight (78) weeks from the date of site handover which was done on 25 January, 2022 to 25 June, 2023. Audit inspection carried out in July, 2022 revealed that the fire station is approximately 35% complete although no payment has been made. However, the Contractor was not on site and no activity was going on at the time of the audit inspection. It is therefore unlikely that the project will be completed by 25 June, 2023 as expected.

In the circumstances, the County may not have obtained value for money and the expected benefits from the projects to the public may not be realized.

## **1048. Acquisition of Assets**

As disclosed in Note 8 to the financial statements, the statement of receipts and payments reflects payments totalling to Kshs.785,160,231 in respect of acquisition of assets. Review of payment records revealed the following:

### **1048.1 Construction of Buildings**

The balance includes an amount of Kshs.299,842,228 in respect of construction of buildings. However, examination of records revealed the following:

#### **1048.1.1 Unutilized ECDE Classroom at Omoyo Primary School**

The balance includes an amount of Kshs.3,353,760 spent on construction of an Early Childhood Development and Education (ECDE) classroom at Omoyo Primary School. However, physical verification undertaken in the month of June, 2022 revealed that the project was complete but not in use. There was no explanation from the Management why the project was not serving its intended purpose.

#### **1048.1.2 Poor Workmanship on Construction ECDE Classroom and Pit Latrine at Etono Primary**

The balance includes an amount of Kshs.1,836,513 in respect of a contract for the construction of an ECDE classroom and a pit latrine at Etono Primary School at a contract sum of Kshs.3,679,718. The contract was awarded in the financial year 2018/2019. However, physical verification of the project conducted in the month of June, 2022 revealed that the toilet was not fit for use and the school Management cordoned off the toilet to prevent disaster. Further, the classroom floor had visible cracks, an indication of poor workmanship.

#### **1048.1.3 Abandoned Construction Works of ECDE Classroom at Gesore Primary**

The payments on construction of buildings further included a payment of Kshs.1,105,886 in respect of construction of an ECDE classroom at Gesore Primary School. The contract was awarded in the year 2020/2021 at a contract sum of Kshs.2,729,130. However, review of records revealed that the contractor failed to carry out the works as per the agreed work plan. Although Management indicated that the process of terminating the contract had been initiated by issuing a default notice to the contractor to pave way for retendering, documentation to support the same was not provided for audit. The project therefore, remains abandoned.

#### **1048.1.4 Abandoned Construction Works of ECDE Classroom and Pit Latrine at Matiero Primary ECDE**

The payment also includes a balance of Kshs.3,275,200 in respect of a contract for the construction of an ECDE classroom and a pit latrine at Matiero Primary. The contract was awarded in the year 2019/2020 at a contract sum of Kshs.3,600,000. However, physical verification of the project revealed that the project was incomplete and the contractor was not on site. Management explained, without providing evidence, that the

contract was terminated due to non-performance and re-tendering process has been initiated.

#### **1048.1.5 Delayed Completion of Construction Works of Inpatient Wards**

The payment on construction of buildings includes an expenditure of Kshs.19,986,978 in respect of a contract for construction of inpatient wards with operating theatre block at Magwagwa Health Center. The contract was awarded at a contract sum of Kshs.64,551,975 for a period of 36 weeks (9 months) from 27 March, 2019 to 27 December, 2019. Review of the contract file revealed that the project completion date was extended to 30 June, 2022. However, physical verification of the project, in the month of June, 2022 and review of the Clerk of Works progress report, revealed that the works were at 75% complete. The reason for the delay in completion of the project was not explained.

#### **1048.1.6 Delayed Commencement and Implementation of Contract**

The payments on construction of buildings also included Kshs.6,076,244 in respect of construction of Nyamira County Referral Hospital Covid-19 Isolation Complex for a negotiated contract sum of Kshs.95,860,834 awarded through restricted tendering method. The contract period was sixty (60) weeks from 27 January, 2021 to 26 August, 2022. By 30 June, 2022, the total payments to the contractor amounted to Kshs.40,620,175 or 42% of the contract sum. Further, Certificate No.3 for Kshs.25,156,851 had been submitted for payment by the time of audit. However, review of the contract documents revealed that the contract agreement between the County Government and the contractor was signed on the 25 September, 2020 and the order to commence works was issued on 27 January, 2021 resulting to unexplained four (4) months delay in commencement of works. The completion of works was extended by twenty (20) weeks to 26 August, 2022 without any explanation.

In addition, the contractor suspended the works for a period of twenty-eight (28) weeks from 27 September, 2021 to 11 April, 2022 without approval of the Project Manager and the Contract Implementation Committee but the Project Manager and the Contract Implementation Committee/Team did not invoke Clause 27.1 to lodge a claim for liquidated damages as provided for in the standard tender document for procurement of works.

Physical verification in the month of June, 2022 revealed that the project was incomplete as only construction works on slabs and pillars had been done and that the contractor was not on site.

#### **1048.1.7 Delayed Completion of Nyamira County Headquarters**

The payments on construction of buildings also included an expenditure of Kshs.30,053,255 in respect of a contract for the construction of Nyamira County Headquarters. The contract sum was Kshs.382,970,401 with the contract completion period of three (3) years from 31 December, 2018, when the contractor took possession of the project site, to 31 December, 2021. The contract period was subsequently

extended by six (6) months to 30 June, 2022. As at 30 June, 2022, a total of Kshs.197,438,129 or 52% of the contract sum, had been paid. However, physical verification conducted on 30 June, 2022 revealed that the project was at 51% and the contractor was not on site. It was therefore impossible for the project to be completed within the extended contract period. Further, the performance security balance of Kshs.19,148,520 issued from an Insurance Company expired on 30 June, 2022. In addition, the project's motor vehicle and its ownership documents were not provided for audit.

#### **1048.1.8 Unutilized Nyaronde Market Shed**

The payments on construction of buildings further included an expenditure of Kshs.4,103,840 on construction of Nyaronge Market Shed. However, physical verification during the month of June, 2022 revealed that the shed was complete but not in use.

#### **1048.1.9 Unutilized Riakimai Market Shed**

The payments on construction of buildings amount of Kshs.299,842,228 included payments of Kshs.3,888,041 on construction of Riakimai Market Shed. However, physical verification in June, 2022 revealed that the shed was complete but idle as it was constructed on a marshy, inaccessible parcel of land and there was no evidence of economic activity to warrant a market. Further, there was evidence of vandalization of the metal lockable cabinet doors and electrical works in the market shed.

#### **1048.1.10 Unutilized Modern Kiosks in Nyamira Town**

The payments on construction of buildings also includes an amount of Kshs.2,259,680 spent on the construction of modern kiosks in Nyamira Town. However, physical verification in June, 2022 revealed that the kiosks were complete but not in use.

#### **1048.1.11 Unutilized Nyamaiya Market Fence**

The payment also includes an amount of Kshs.3,441,830 on construction of Nyamaiya Market Fence. However, physical verification in June, 2022 revealed that the fence was complete but the market was not in use.

#### **1048.1.12 Irregular Payment of Incomplete Works on Kemera Market VIP Latrine**

The payment on construction of buildings included an amount of Kshs.1,683,310 for construction of Kemera Market VIP Latrine. However, physical verification in June, 2022 revealed that the project was incomplete despite the contractor having been paid the full contract sum of Kshs.1,683,310. The pending works included fixing door locks, tiling and installation of water tank.

### **1048.1.13 Delayed Completion of Construction Works**

The payments on construction of buildings further included an expenditure of Kshs.8,221,892 in respect of construction of Manga football pitch and running track. The tender was awarded at a contract sum of Kshs.20,301,660 in the financial year 2018/2019 and the contract period was extended to 31 December, 2021. Review of the expenditure records revealed that the contractor had been paid a total of Kshs.17,939,512 or 88% of the contract sum as at 30 June, 2022. However, physical verification of the project in the month of July, 2022 revealed that the project works remained incomplete. Outstanding works included fitting of goal posts, final drainage works at the edges of the pitch and levelling the field and the contractor was not on site.

### **1048.1.14 Unlabelled Projects**

The payments on construction of buildings further included payments totalling to Kshs.5,805,053 in respect of construction of Bodaboda sheds in different wards. However, physical verification done in the month of June, 2022 revealed that the labels on the projects did not include the financial years in which they were funded. As a result, it was not possible to relate the projects to the year under review.

### **1048.1.15 Unutilized Staff Twin House at Kiendege Talent Academy**

The County Executive entered into a contract for the construction of a staff twin house at Kiendege Talent Academy at a contract sum of Kshs.3,934,509 in the financial year 2018/2019. The completion date was 30 June, 2021 with full payment having been made. However, physical verification in July, 2022 revealed that even though the project was complete, it had not been put to use. No satisfactory explanation was provided why the staff twin house was not yet occupied.

## **1048.2 Construction and Civil Works**

### **1048.2.1 Delayed Completion of Construction Works of Manga Stadium Pavilion**

The payment on acquisition of assets included payments on construction and civil works amounting to Kshs.163,407,845 out of which an expenditure of Kshs.20,265,147 was in respect of a contract for the erection of Manga Stadium Pavilion. The tender was awarded in the year 2018/2019 at contract sum of Kshs.83,721,867 and the Project was to run for one and a half years. The contractor had been paid a cumulative amount of Kshs.72,789,381 or 89% of the contract sum as at June, 2022. The Contractor was granted a contract extension by the Management vide letter dated 14 December, 2020 up to 31 March, 2021. However, physical verification of the project on 04 July, 2022 revealed that the project remained incomplete, there was no ongoing works and mechanical and electrical works contained in the bill of quantities had not been done.

### **1048.2.2 Delayed Extension Works of Water Pipeline along Nyamaiya-Miruka**

The payment on construction and civil works included an amount of Kshs.4,139,999 paid to a contractor in respect of a contract for the extension of water pipeline from Nyamaiya

to Miruka. However, physical verification in June, 2022 revealed that the works were not complete and the contractor was not on site. Although the line was an extension of works done by Gusii Water and Sanitation Company Limited, it was not clarified if the completion of works by the County Executive arose out of any understanding with the Company.

#### **1048.2.3 Poorly Implemented Rehabilitation of Manga Water Supply**

The payment on construction and civil works amount of Kshs.163,407,845 also included an expenditure of Kshs.3,079,712 in respect of a contract for rehabilitation works of Manga Water Supply, which was awarded at a contract cost of Kshs.6,223,103. The masonry tank is situated at Sengera Manga Secondary School. However, there was no memorandum of understanding with the school concerning location of this facility within the school compound. Further, the project was not run by Gusii Water and Sanitation Company or the local community. In addition, the responsibility for revenue collection arising from sale of water and accountability for the same was not clear.

#### **1048.2.4 Failure to Provide Specific Inspection and Acceptance Reports on the Springs Protection Projects**

The payments on construction and civil works included an expenditure of Kshs.3,199,558 incurred on implementing spring protection of Rianyarimbasi, Riongera, Riorioki, Kiangombe, Riameki, A and B, Riamogaka, Rameni, Riamosigisi and another seven (7) springs. However, even though one (1) inspection and acceptance report for all the projects as a group was provided, specific inspection and acceptance reports for each project were not provided for audit review.

#### **1048.2.5 Supply, Installation and Commissioning of Solar Powered Street Lighting Project**

The payment on construction and civil works included an expenditure of Kshs.5,270,100 in respect of supply, delivery, installation and commissioning of solar powered street lighting project in Nyamira County at a contract sum of Kshs.10,540,200. The street lights were mounted in market centers across the County. However, bill of quantities for the project indicating the number of street lights to be erected was not provided for audit review. Physical verification of the project revealed that the market centers received inadequate number, with most centers having a single post, lighting a very limited area.

#### **1048.3 Stalled Project of Levelling of Nyamaiya Stadium Roads**

The County Executive made a payment of Kshs.3,100,000 in the financial year 2018/2019 to Mechanical Transport Fund for the levelling of Nyamaiya Stadium. The project implementation report as at 30 June, 2022 showed that the project was at a completion status of 10%. However, physical verification of the project in the month of July, 2022 revealed that the implementation of the project had stopped which Management attributed to land acquisition issues.

#### **1048.4 Partially Dysfunctional Revenue Automation System**

Included in the acquisition of assets total payments is an amount of Kshs.17,853,973 in respect of acquisition of intangible assets out of which an amount of Kshs.11,000,000



was paid to a supplier for the supply, delivery, customization, commissioning and maintenance of a revenue collection and management system at a contract sum of Kshs.39,500,000. The revenue automation was to be carried out for sixty (60) days starting from 23 May, 2019 to 23 August, 2019 with the supplier having received the full payment of Kshs.30,750,000. Physical verification in November, 2022 revealed that the supplier supplied two hundred and seventy-seven (277) revenue gadgets (point of sales) out of which hundred and forty-four gadgets (144) were not functional affecting revenue collection. Management did not provide evidence or efforts to return to the supplier for repair as provided for in the contract agreement.

In the circumstances, the expected benefits and value for money for the expenditure on acquisition of assets could not be confirmed.

#### **1049. Non-Remittance of Statutory Deductions**

Review of other important disclosures indicates that a balance of Kshs.317,581,759 outstanding in respect of pending accounts payable which included pending staff payables balance of Kshs.40,403,383. Included in the balance is Kshs.11,077,562 relating to accrued interests on unremitted contributions of Kshs.8,528,968 and actuarial deficits amount of Kshs.2,548,594 arising from delayed remittance of staff contributions to the Local Authorities Pension Trust (LAPTRUST) amounting to Kshs.1,598,624. The payment of interest on defrayment of delayed payments leads to nugatory payments which could have been avoided had the staff contribution been remitted on time. Further, records provided for audit revealed that the Management failed to remit the National Social Security Fund (NSSF) contributions amounting to Kshs.22,370,701 which dates back to 31 March, 2013. The amount attracted interest on late contributions and actuarial deficit of Kshs.20,511,373 and Kshs.2,548,594 respectively, contrary to Section 20(1) of the National Social Security Fund Act, 2013.

In the circumstances, the interest charges could have been avoided and Management was in breach of the law.

#### **1050. Non-Compliance with the Law on Minimum Development Expenditure**

The statement of comparison of budget and actual amounts; development reflects actual total expenditure of Kshs.1,282,308,891 which is 22% of the total expenditure amount of Kshs.5,756,254,979 reflected in the statement of receipts and payments. The County Government's development expenditure was less than the minimum limit of 30% set by Regulation 25(1)(g) of the Public Finance Management (County Governments) Regulations, 2015 which states that County Government actual expenditure on development shall be at least thirty percent.

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

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

### **Basis for Conclusion**

#### **1051. Weaknesses in Information Communication Technology Environment**

Review of the County Executive's Information Communication Technology (ICT) environment revealed that the County Executive did not have an approved Disaster Recovery Plan to mitigate against loss of data and information in case of systems failures. There was no formally approved IT security policy to ensure data confidentiality, integrity and availability and backups storage in a secure offsite storage facility so as to recover data in case any disaster such as fire or any unforeseen circumstances. Further, there were no policies in place which cover physical access and environmental controls.

In the circumstances, the integrity, security and reliability of the County Executive's financial data, including its Management Information System, could not be confirmed.

#### **1052. Lack of Human Resource Plans**

The County Public Service Board operated without Human Resource Plans as required by Section B2 of the Human Resource Policies and Procedures Manual for the Public Service, 2016 that requires every department to prepare human resource plans out of which annual recruitment plans will be developed and forwarded to County Public Service Board at the beginning of each financial year to enable it plan to fill the vacancies.

Further, the County Executive did not maintain a skill inventory for all its employees in their respective departments to develop, update and maintain a skills inventory for all officers in their respective State Departments for purposes of identifying the available, and the required skills to guide training, recruitment and succession management decisions.

In the circumstances, the County Executive operated without optimum number of personnel.

#### **1053. Use of Manual Payroll**

Review of personnel records revealed that an amount of Kshs.54,710,761 was processed manually (outside the IPPD system). Manual processing of payroll involves manual calculation of deductions and net pay by the human resource officers and regular monthly and/or annual updates which are prone to human error. It was not clear why Management did not pay all its employees using the IPPD.

In the circumstances, the existence of effective internal controls in the management of minimal payroll could not be confirmed.

## **COUNTY EXECUTIVE OF NAIROBI CITY - NO.47**

### **REPORT ON THE FINANCIAL STATEMENTS**

#### **Basis for Adverse Opinion**

##### **1054. Compensation of Employees**

The statement of receipts and payments and as disclosed in Note 6 to the financial statements reflects compensation of employee's balance of Kshs.4,982,191,769 which is a reduction of Kshs.1,448,091,389 or 23% from the prior year amount of Kshs.6,430,283,158. Although Management explained that the reduction was as a result of two hundred (200) staff members who had been seconded to the Nairobi Metropolitan Services (NMS) and others who had retired, details in support of the staff members transferred and those that retired during the year were not provided for audit.

In the circumstances, the accuracy and completeness of the expenditure amount of Kshs.4,982,191,769, incurred on compensation of employees, could not be confirmed.

##### **1055. Unsupported Expenditure on use of Goods and Services**

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflects use of goods and services total expenditure amount of Kshs.7,642,844,133. However, examination of records revealed the following anomalies;

###### **1055.1 Utilities, Supplies and Services**

Review of records in support of the utilities, supplies and services expenditure of Kshs.156,511,724 revealed that, payment vouchers amounting to Kshs.100,862,069 paid to Kenya Power and Lighting Company Limited (KPLC), were not supported with invoices and bills from the Company.

Further, included in Annex 2 to the financial statements are pending accounts payable balance of Kshs.26,270,995,418. The pending payable includes supply of services balance of Kshs.22,929,252,921 as at 30 June, 2022 which in turn includes balances of Kshs.304,812,436 and Kshs.120,674,506 as at 30 June, 2021 and 30 June, 2022 respectively owing to KPLC. However, the KPLC through letter referenced KPI/10B.2A/FNL/10/2 dated 9 March, 2022 indicates that the County owes the Company an amount totalling Kshs.1,460,542,895. The discrepancy in the two sets of records was not explained. In addition, it was established that the County committed to pay to KPLC an amount of Kshs.50,000,000 every month with effect from January, 2022. However, as at 30 June, 2022 only an amount of Kshs.156,511,724 had been paid instead of a total of Kshs.300,000,000 as committed in the letter.

Similarly, review of the pending bills for the year under review revealed that the County owed Nairobi City Water and Sewerage Company (NCWSC) an amount of Kshs.249,199,058, for bills dating back to 2016/2017 financial year. Bills for 2018/2019,

2019/2020, 2020/2021 and 2021/2022 have neither been paid nor included in the pending accounts payable. In addition, the Management did not provided documents in support of payments, if any, remitted to NCWSC.

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

#### **1055.2 Communication Supplies and Services**

The balance includes communication, supplies and services balance totalling to Kshs.54,863,887 which includes an amount of Kshs.8,001,724 paid for supply of laptops and telephones. However, the issue voucher and distribution list were not provided for audit indicating to whom the items were issued.

Further, physical inspection of sampled bin cards at County's general stores revealed one hundred and sixty-nine (169) communication equipment of unknown value, which were reflected as having been received in the stores but could not be physically confirmed.

#### **1055.3 Manual Insurance Costs**

The balance includes an amount of Kshs.679,635,812 in respect of insurance costs. Review of records indicate that, the County awarded National Hospital Insurance Fund (NHIF) a contract for provision of a comprehensive medical insurance group life and last expense cover for the County staff members on 8 September, 2021, for ten (10) months at a contract price of Kshs.691,807,590.

However, review of payment records revealed that the County paid NHIF an amount totalling to Kshs.764,635,812 resulting to unreconciled variance of Kshs.72,828,222. Management indicated that additional staff members were included under the existing cover. However, Management did not enter into an addendum contract with NHIF to support the extra amount paid, and instead continued to use the initial contract. Further, Management did not provide the list of the additional staff members included under the cover and the reasons for their omission in the initial contract.

#### **1055.4 Fuel Oil and Lubricants**

The balance also includes payments in respect of fuel, oil and lubricants amounting to Kshs.90,217,637. However, Management did not maintain updated fuel register and fuel statements from service providers indicating the vehicle, period and quantity of consumed fuel. In addition, the fleet department operated seven (7) fuel smart cards which were used to fuel the one hundred and seventy-six (176) County vehicles that were in good condition during the year under review. However, detailed analysis and ownership records for the vehicles were not provided for audit verification. The vehicle fueling system was prone to abuse since the fueling smart cards, which were not used exclusively for fueling a specific County vehicle, may be used to fuel any vehicle, including non-County vehicles.

Further, Management did not maintain data on the quantity of fuel consumed by each vehicle and most drivers did not record the odometer reading in the work tickets for each distance covered. It was not possible to reconcile fuel consumed with the distance covered in the work tickets.

#### **1055.5 Distribution of Goods**

The balance further includes an amount of Kshs.127,917,259 paid to seventeen (17) suppliers of various supplies such as sanitary and cleaning materials face masks sanitizers stationary furniture and fittings hairdressing equipment, education materials uniforms and tyres. However, the payment vouchers were not supported with the respective receipt and issue vouchers.

#### **1055.6 Supply of Goods Under Emergency Department**

The balance includes other operating expenses and emergency relief and refugee assistance amounting to Kshs.2,268,832,045 and Kshs.157,830,690 respectively. Review of expenditure records maintained by the Disaster and Emergency Department charged to the two components revealed that Management procured foodstuff totalling to Kshs.275,045,034 for Disaster and Emergency Department from a local company. However, records supporting the distribution of the foodstuff were not provided for audit.

Similarly, review of the payment and store records revealed that Management incurred an expenditure totalling to Kshs.37,669,760 in respect of emergency COVID response. However, supporting documents such as distribution list, acknowledgement of receipt, reports and approvals were not provided for audit. Further, review of the particulars of the items and the nature of the transactions revealed that these items although classified as emergencies, did not qualify to be categorized as emergencies.

In addition, review of records maintained in the stores revealed that Management procured fifteen thousand nine hundred (15,900) (high density) mattresses at a cost of Kshs.135,669,000 from a local merchant for disaster management. However, records indicating how, why and where the mattresses were distributed, were not provided for audit. The County may have paid for goods which were not received, resulting to loss of funds.

In the circumstances, the occurrence and valuation of expenditure amounting to Kshs.448,383,794 incurred on emergency services, could not be confirmed.

#### **1055.7 Unsupported Procurement of Goods**

The balance includes specialized materials and services of Kshs.757,304,469 which includes an amount of Kshs.16,649,000, which was incurred on account of supply and delivery of face masks and hand sanitizers amounting to Kshs.14,369,000 and Kshs.2,280,000 respectively, from two local suppliers for Nairobi City County Alcoholic Drinks Control and Licensing Board, a semi-autonomous entity which prepares its own financial statements. However, Management did not provide supporting documents such as receipt and issue vouchers for the goods and approval for the above payments which were made without a budget. Further, physical inspection of the goods at the Board's headquarters in South C revealed that the goods were not received at the facility.

### **1055.8 Irregularities in Procurement of Masks**

The balance includes specialized materials and services of balance of Kshs.757,304,469 which also includes an amount of Kshs.19,600,000 which was paid to a local company. The Deputy Director Public Health sought authority from the Chief Officer Health Services to procure masks for the County through Memo Ref. CHS/9/5/COVID-19/200/ac of 28 March, 2020. The approval was given on 28 March, 2020. However, it was noted that requisition for the purchase was done on 28 August, after approval to procure had already been done. Further, Local Purchase Order (LPO) to the bidder was issued on 16 April, 2020 before the requisition was done.

The bidder supplied the masks on 5 January, 2021 as per the delivery note No. 037 and invoiced the County as per invoice No. 078 of 5 January, 2020 one year before delivery was done.

Further, Inspection and Acceptance Committee was appointed on 12 January, 2021 six (6) days after delivery of the masks. The inspection and acceptance certificate was issued on 12 January, 2020 and the inspection report signed by members on the same date and before the appointment of the inspection and acceptance committee and before delivery.

In view of the inconsistencies in the procurement process, it was not possible to confirm the validity of the procurement and delivery of the goods amounting to Kshs.19,600,000.

### **1055.9 Retreats at Unknown Venue**

Note 7 to the financial statements reflect training expenses totalling to Kshs.162,446,923 which includes an amount of Kshs.2,981,200 in respect of payment for services to a supplier for facilitation of a retreat on County Organizers structure for 30 drivers at a rate of Kshs.5,220 for five (5) days, all totalling to Kshs.783,000; eighty (80) gala night dinner at the rate of Kshs.7,540 totalling to Kshs.603,200 and fifty (50) full conference for 5 days at the rate of Kshs.6,380 per person per day, totalling to Kshs.1,595,000. The grand total for the retreat services provided was Kshs.2,981,200, which was paid for a retreat whose venue was not disclosed for audit review. In addition, the County paid allowances to the drivers totalling to Kshs.1,700,000. However, the number exceeded the maximum of fifteen (15) days allowed for retreats. Further, supporting documents such as work tickets, signed attendance register and reports for the respective retreat were not attached in support of the expenditure.

### **1055.10 Domestic Travel and Subsistence**

The balance includes an amount of Kshs.273,070,829 in respect of domestic travel and subsistence expenditure which includes a payment of Kshs.8,599,072 paid to a local tours and travels company for provision of accommodation, transport, meals and laundry for the International HOPE medical team. Examination of records provided indicated that this expenditure was incurred on 14 May, 2019. However, the amount payable was not included in the pending bills list for the 2020/2021 financial year. Further, the payment was not supported by work documents indicating the kind of exercise undertaken and approvals for the expenditure from the departmental head. Further, the payment was supported by a copy of the invoice instead of the original invoice. In addition, list of the



doctors attached was not supported by official documents in respect of itinerary from the hospital in their Country of origin indicating the dates of arrival, work plans and duration of stay in the Country.

#### **1055.11 Other Unsupported Payments**

Review of expenditure listing provided for audit revealed that an expenditure totalling to Kshs.113,216,907 was not supported by payment vouchers, approvals and tender documents as analysed in **Appendix 1** of this report.

#### **1055.12 Goods not Taken on Charge**

Review of a sampled payment vouchers revealed that although Civic Education Materials totalling to Kshs.7,195,000 were said to have been procured and delivered to the stores as per the stores receipt vouchers, the stores Management did not provide stores receipt and issue vouchers for audit verification.

In the circumstances, the propriety, accuracy and completeness of expenditure amounting to Kshs.7,642,844,133 could not be confirmed.

#### **1056. Failure to Provide Transaction Status**

Review of expenditure analysis obtained from the Integrated Financial Management Information Systems, (IFMIS) revealed that 11,229 payment transactions with a total expenditure of Kshs.15,627,395,783 had been invalidated during the year under review. However, there was no documentary evidence provided to support authorization and reasons for invalidation of the transactions which had been presented to the Controller of Budget (CoB) for approval.

Review of payment transactions revealed that although the Management paid merchants in the year under review, payments totalling to Kshs.1,019,221,448 were returned back to the County accounts as a result of missing information from the payees. However, the current status of the returned amount was not provided for audit verification.

In the circumstances, unauthorized payments may have been made in place of invalidated transactions.

#### **1057. Irregularities in Procurement of Transferred Services**

Review of the deed of transfer of services to Nairobi Metropolitan Services (NMS) revealed that on 25 February, 2020, the County Government of the Nairobi City unequivocally transferred four of its core functions to the National Government. These functions included County Health Services, County Transport Services, County Planning and Development Services and County Public Works, Utilities and Ancillary Services. However, the County Management continued to execute some of these services which had been transferred to Nairobi Metropolitan Services, through award of a contract in respect to procurement of medical drugs and supplies totalling to Kshs.75,950,000 during the year under review. The contract was awarded to two local merchants at a cost of

Kshs.37,730,000 and Kshs.38,220,000 respectively. The supporting documents such as receipt vouchers, issue vouchers, inspection certificates and schedules or lists detailing how the drugs were distributed to various dispensaries and health centres were not provided for audit.

In the circumstances, the regularity of additional expenditure of Kshs.75,950,000 could not be confirmed.

#### **1058. Misallocation of Expenditure Items**

Audit verification of payment records revealed that various items amounting to Kshs.262,844,724 were posted to the wrong account items but Management did not provide approval for reallocations as required by the Section 154(2)(b) of the Public Finance Management Act, 2012.

In the circumstances, the classification and recording of the financial transactions could not be confirmed.

#### **1059. Unreconciled Bank Balances**

The statement of assets and liabilities reflects cash and cash equivalents balance of Kshs.1,489,166,265 as disclosed in Note 13 A and B to the financial statements. The amount relates to balances held in fifty (50) bank accounts operated by County Government of Nairobi City Executive during the year under review. However, forty (40) bank statements, bank certificates, bank reconciliation statements, and cash books were not provided for audit.

Further, review of the bank reconciliation statement for an account held at Development Bank revealed outstanding receipts in cash book not in bank statement and payments in bank not in cash book of Kshs.273,125,134 and Kshs.299,416,825 respectively. No explanation was provided to explain why receipts were not banked, and how expenditure was incurred without being accounted for in the cash book. It was also observed that the bank statement did not reflect bank charges despite the financial statements reflecting finance costs amounting to Kshs.4,944,596.

In addition, the County held a special purpose account at the Central Bank of Kenya with a bank balance of Kshs.87,273,852 but had not been included in the cash and cash equivalents balance. Similarly, the following balances were not in agreement with the bank confirmation certificates provided for audit, as detailed in the table below;

<b>Bank Account</b>	<b>Financial Statement (Kshs.)</b>	<b>Bank Certificate (Kshs.)</b>	<b>Variance (Kshs.)</b>
Central Bank of Kenya-Development A/C	772,117	182,446	589,671
Central Bank of Kenya-KRB RMLF A/C	7,358,321	4,432,659	(147,074,338)
Central Bank of Kenya-Recurrent A/C	69	1,921,031	(1,920,962)
Central Bank of Kenya-Special Purpose A/C	44,358,139	0	44,358,139

<b>Bank Account</b>	<b>Financial Statement (Kshs.)</b>	<b>Bank Certificate (Kshs.)</b>	<b>Variance (Kshs.)</b>
Central Bank of Kenya-Revenue A/C	1,272,610,648	1,926,115,791	(653,505,143)
Cooperative Bank - University of Maryland Health Services	0	10,015,718	(10,015,718)

In the circumstances, the accuracy and completeness of the cash and cash equivalents balance of Kshs.1,489,166,265 could not be confirmed.

#### **1060. Outstanding Imprests**

The statement of assets and liabilities reflects accounts receivable – outstanding imprests amounting to Kshs.8,374,380, as disclosed in Note 14 to the financial statements. However, accounting documents for issued imprests which include the memorandum cash books were not provided for audit. In addition, although, the outstanding imprest amount was due and ought to have been surrendered on or before 30 June, 2022, Management did not explain why the imprest had not been surrendered on the due dates or recovery measures taken against holders of the outstanding imprests.

In the circumstances, the accuracy and completeness of the outstanding imprest balance of Kshs.8,374,380 could not be confirmed.

#### **1061. Accounts Payable – Deposits and Retentions**

The statement of assets and liabilities reflects Nil balance on deposits and retentions. However, review records provided revealed that the County Government signed contracts with merchants for various projects totalling to Kshs.2,277,257, and paid an amount of Kshs.96,329,530 whose retention moneys totalling to Kshs.9,632,953 were deducted during the year under review. However, supporting records such as cash book, bank statement and deposit register were not provided for audit and the County did not reflect any deposits outstanding as at the end of the year. Further, Management paid retention monies to the contractors before the contracts were issued with certificates of practical completion and handing over reports.

In the circumstances, the accuracy and completeness of the deposits and retentions reflected in the financial statements, could not be confirmed.

#### **1062. Irregularities in Acquisition of Assets**

##### **1062.1 Irregular Construction of a Perimeter Wall**

During the year under review, Management paid an amount of Kshs.9,949,900 in respect of a contract awarded to a local limited company for construction of a perimeter wall and toilet at Riruta Health Centre where an amount of Kshs.4,000,002 had been paid leaving a balance of Kshs.5,949,898 outstanding. It was observed that the contract was executed by Nairobi City County Government on 26 June, 2020, certificate of interim completion was issued on 15 July, 2020 and inspection committee team appointed on 28 May, 2021. Following the transfer of health functions on 25 February, 2020 and upon

establishment of the Nairobi Metropolitan Services (NMS) on 25 February, 2020, the County Executive effectively extinguished all powers it previously had with respect to running of the health function so transferred. The County Government performed health functions which had been transferred and therefore did not have the mandate to do so, and the expenditure was not supported by any relevant authority.

### **1062.2 Uninstalled Apparel and Garment Making Equipment**

Note 11 to the financial statements reflects acquisition of assets balance of Kshs.1,053,902,033 which includes purchase of office furniture and general equipment of Kshs.334,650,689. The office furniture and general equipment expenditure includes Kshs.28,357,500 in respect of a contract awarded to a local merchant to supply, deliver and install apparel and garment making equipment to the Jogoo Road. The machine was requested on 16 March, 2021, advertised in the Public Procurement Information Portal (PPIP) where three firms responded. The professional opinion was signed on 16 April, 2021 and a Local Purchase Order was raised on 5 April, 2021 before the professional opinion. The delivery note, invoice and stores receipt statements were dated 23 June, 2021. However, some members opened the tenders, evaluated them and inspected the goods said to have been delivered, contrary to Section 46(1) of the Public Procurement and Asset Disposal Act, 2015, which requires segregation of duties in the three parts of the procurement process. Further, physical inspection of the Market office in the month of September, 2022 revealed that the equipment had not been installed and were not in the store.

### **1062.3 Irregularities in Procurement of Laptops**

Note 11 to the financial statements reflects purchase of office furniture and general equipment of Kshs.334,650,689 which includes Kshs.18,432,620 paid to a local company for supply and delivery of 40 laptops, 40 printers, 40 photocopier machines and 80 computers to Waithaka and Kagundo Road Fire Stations. However, review of the procurement plan from Waithaka and Kagundo Road Fire Stations revealed that the department had requested for 5 photocopiers for each department totalling to ten (10) photocopiers and not forty (40) which were ordered through the LPO issued to the merchant, and those that were delivered. On 18 December, 2020 a memo was raised for the correction of the contract price stating that an oversight was noted and that the correct quantity required was 10 photocopiers. A committee was appointed on 17 December, 2020 and through their report advised the Management to return 14 photocopiers to the supplier leaving a balance of 26 photocopiers. The supplier was requested to collect 14 photocopiers which raises doubts on the transparency of the procurement process.

Three records had the following discrepancies; Local Purchase order indicated Kshs.21,887,120 inspection report indicated Kshs.20,022,720 while the stores receipt statement indicated Kshs.20,044,720.

Physical inspection carried out in the month of September, 2022 at Waithaka Station revealed that the equipment had not been delivered to the users. The local purchase order and delivery notes were not stamped by the general store's management.

In the circumstances, the expenditure amounting to Kshs.18,432,620 paid under acquisition of assets could not be confirmed.

#### **1062.4 Unsupported Scholarship and Bursaries**

Note 9 to the financial statements reflects other grants and payments totalling Kshs.799,090,730. Included in this amount is Kshs.641,260,040 in respect of scholarships and other educational benefits. The schedules provided by the Education Department of the County reflects payments of Kshs.433,760,040 and Kshs.207,500,000 for scholarship and other education benefits respectively totalling Kshs.641,260,040. However, Management did not provide adequate supporting documents such as acknowledgement from the school signed register by the beneficiaries as a proof that they received the scholarships complete information of the beneficiaries in the form of admission members, final primary school and approvals by the committee.

In the circumstances, the accuracy of the bursary and scholarship amounting to Kshs.641,260,040 could not be confirmed.

#### **Emphasis of Matter**

##### **1063. Possible Loss of Funds due to Premature Termination of Contract**

The County Government of Nairobi City (NCCG) had entered into a contract with National Bank of Kenya (NBK) for provision of automated revenue collection and value-added financial services through contract no. NCC/FIN&ECO/G-G/1/2018-2019 dated 10 June, 2019 to run for a period of five (5) years. This was to provide government revenue collection and management solutions and offer automated revenue collection services to manage service delivery, monitor and track revenue assets, monitor and track revenue collection activities, seal revenue leakages and enforce payment for services delivered.

Following the signing of deed of transfer of functions between the National Government and the County Government of the Nairobi City as per the gazette notice No.1609 of 25 February, 2020, the National Government was bestowed the responsibility of collecting and remitting all revenue accruing from the transferred functions. This led to the appointment of the Kenya Revenue Authority (KRA) as the principal agent for overall revenue collection.

Consequently, the Nairobi Metropolitan Services (NMS) engaged Kenya Revenue Authority (KRA) as an agent for the collection of the County revenue through a different platform, Nairobi Revenue Sure (NRS) at a cost which was not disclosed. This prompted the cancellation of the existing contract with the bank through letter dated 3 February, 2022 based on clause 16 of the contract.

On 24 February, 2022 National Bank of Kenya responded to the County indicating that they had invested heavily on the project through various channels which were still active including the mobile App, mobile short code service and service web portal which were still active. The Bank stated that it had supplied over 500 gadgets to various revenue staff members. The County had failed to pay the Bank a significant debt of Kshs.566,278,045,

contrary to clause 16.4 of the agreement and the Bank demanded immediate payment of the debt together with damages which were to be determined, for breach of contract in relation to pre-mature termination. Management has therefore exposed the County Government to loss of funds premature termination of the contract.

My opinion is not modified on the effect of the above matter.

## **Other Matter**

### **1064. Budgetary Control and Performance**

The statement of comparison of budget and actual amounts combined reflects final receipts budget and actual on comparable basis amounting to Kshs.39,627,536,000 and Kshs.28,209,671,039 respectively, resulting to an underfunding of Kshs.11,417,864,961 or 29% of the budget. Similarly, the County Executive incurred expenditure amounting to Kshs.27,643,066,558 against an approved budget of Kshs.39,627,536,000 resulting to an under-expenditure of Kshs.11,984,469,442 or 30% of the budget.

Although Management explained that the underperformance was a result of under collection of own generated revenue, measures on how the own generated revenue could be increased have not been articulated. Further, the underfunding and underperformance affected the implementation of planned activities and impacted negatively on service delivery to the public.

### **1065. Unresolved Prior Year 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 has not resolved the issues or given any explanation for not complying with the provisions of the Public Sector Accounting Standards Board in relation to format and contents of its financial statements, 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**

#### **1066. Pending Accounts Payable**

##### **1066.1 Motor Vehicles**

As disclosed in Note I on other important disclosures to the financial statements, pending accounts payable amounted Kshs.26,270,995,418 which includes supply of goods amount of Kshs.1,622,502,916, which further includes an amount of Kshs.146,020,847 incurred on procurement of twenty-three (23) motor vehicles from various private vendors, between 2014/2015 and 2021/2022 financial years. Management revealed that the log books for the vehicles were with the vendors and had not been transferred to the City County due to non-payment, the ownership of the vehicles could not be confirmed.



Further, out of the twenty-three (23) motor vehicles, seventeen (17) double cabin pickups which were procured from several dealers. However, physical verification of the vehicles revealed that eight (8) of the vehicles were grounded and not serviceable, two (2) vehicles were detained by the supplier, while one vehicle. The whereabouts of an additional vehicle procured from a third private dealer was not known.

## **1066.2 Legal Fees – Omitted Fee Note**

The above balance includes pending bills totaling to Kshs.22,929,252,921 in respect of supply of services which constitutes a contingent liability of Kshs.21,210,002,361 for firms engaged by the County Executive to provide legal services which excludes contingency liabilities of Nairobi Metropolitan Services (NMS).

Further, review of sampled files revealed that most of the legal costs arose from negligence on the part of the County employees. This exposed the County to loss of public funds as evidenced by the fee notes issued to the County for various legal cases. A sample of seven (7) of the legal cases and the related observations are detailed below;

### **1066.2.1 E 371 of 2020 - Over-Rated Fee Note**

#### **(i) Under Case No.E371 of 2020**

the County Executive gave instructions to an advocate to defend the County in a consolidated matter seeking for nullification of Nairobi City County Assembly Appropriation Act, 2020/2021. The County sought the services who raised a fee note of Kshs.1,675,485,000. The County revised the amount to Kshs.1,175,153,451, out of which Kshs.55,000,000 was paid to the advocate in the year under review. However, review of the Advocates Remuneration Act, 2014 revealed that the advocate based his fee at a rate of 3% of the total budget value of Kshs.37,454,976,280 instead of the amount in dispute of Kshs.6,073,343,662.

#### **(ii) Case No. ELC E011/2020**

The matter relate to a dispute in relation to 3 parcels of land in Kariobangi No. 90, 78 and 86 measuring 2 acres each, valued at Kshs.120,000,000. The advocate forwarded a fee note of Kshs.40,000,000. However, recalculation of the fee as per the advocates rate indicates the fee should not have been more than Kshs.10,000,000, resulting to an excess charged fee amount of Kshs.30,000,000.

#### **(iii) Under Case No. MISC 368 of 2016**

Review of documents revealed that the matter related to a dispute in relation to 40.4 ha of land with an estimated value of Kshs.300,000,000. However, advocate forwarded a fee note amount of Kshs.348,510,400 which was higher than the value of the land.

#### **(iv) E021 of 2021**

Review of documents Case No.E021 of 2021 revealed legal suit NBI ELRC Petition No. E021 of 2021, relating to a petition against appointment of Liquor Board Members. Had the Legal Department of the City County advised the Governor and Management in

respect of appointment of the Board of Members, the City County would not have lost an amount totalling to Kshs.24,000,000, related to the legal fees charged, on account of the petition.

**(v) HCCCELC NO. 83/16**

Review of documents legal suit No. HCCCELC NO. 83/16 revealed that this legal matter related to a dispute arising from double allocation of the same piece of land in Langata to Sidcup Enterprises and John Serewa, by the City County. However, the legal charges could have been avoided, had the City County Management in charge of land allocation ensured that the piece of land was allocation to only one person.

**(iv) HC PET 179**

Review of documents provided revealed legal suit No. HC PET 179 of 2019 which related to a case between NCCE and Martin Shikuku, where land was invaded, subdivide and sold to third parties, whereby the City County was sued. The advocate handling this legal matter raised a fee note of Kshs.55,691,850, a cost which would have been avoided, had the City County Management not engaged in abuse of office which resulted to invasion, subdivision and sale of the land.

**(vi) HCCC No. 1885**

Review of documents provided revealed legal suit HCCC No. 1885 of 1992, which was partly paid as at the 2021/2022 financial year. This legal matter relates to a case where an officer of the City County allocated land with an estimated value of Kshs.23,816,088 to the complainant and reallocated the same parcel to a different person thereafter. The total cost relating to this legal matter, including penalties of 18% p.a of Kshs.23,816,088 charged from 1 October 1980 to date, claims of Kshs.1,702,959,645 and architect, quantity surveyor and valuers fees of Kshs.1,045,384 were charged to the County's budget. The total cost amounting to Kshs.1,704,005,029, is a cost which could have been avoided had the officer concerned not engaged in abuse of office.

It was noted that the City County Executive was exposed to a total potential loss of Kshs.3,383,218,730 in relation to legal services sought from private advocates, whose legal fees were in excess of the legal fees set out in the Advocates Act.

Further, Management did not provide evidence of any communication with the National Treasury, Attorney General and CECM Finance in relation to the legal expenses, contrary to Article 156 of the Constitution of Kenya which designates the Attorney General as the Principal Legal Adviser to the Government. The County Government also acted contrary to Section 17 of the Office of the Attorney General Act No.19 of 2012 which provides that no Ministry or Department shall engage the services of a consultant to render any legal services relating to the functions of the Attorney General without the approval of the Attorney General. Similarly, there was no criteria to classify cases that could be handled by the internal advocates and those that required external advocates, exposing the County to unnecessary extra-legal costs. In addition, the legal department did not provide

an effective risk management program to enable Management to avoid or minimize to a reasonable level, matters with high negative impact, which could expose the County to huge legal costs.

### **1066.2.2 Discrepancy Between Advocates Fees and Reviewed Assessments**

Cap 16 of the Advocates Act, 2014 provides a basis for remuneration for legal services. However, review of twenty-three (23) sampled fee notes for various cases provided for audit revealed significant discrepancies between the advocates fee of Kshs.3,428,367,610 and reviewed assessments by Management of Kshs.1,809,879,304 resulting to variance of Kshs.1,618,488,306. No explanation was provided for the significant discrepancies despite the fact that legal charges are guided by the standard remuneration order for legal fees.

There was no evidence of any measures taken by Management towards ensuring that any legal charges to the County is based on the standard remuneration order for advocates. In addition, the County did not have legal fees payment policy, a gap which exposes the County to possible exploitation by the advocates.

### **1066.3 Pending Staff Payables**

As disclosed in Note 2 on the important disclosures to the financial statements, pending staff payables amounted to Kshs.222,411,928 as at 30 June, 2022 which includes a balance of Kshs.8,794,324 in respect of interest charged on delayed payments due to Local Authorities Provident Fund (LAPFUND). This was contrary to Section 53A(1) of the Retirement Benefits Act, 2012, which requires remission of pension contributions within the statutory deadlines.

Further, analytical review of the payroll for the year under review revealed that an amount of Kshs.471,115,744 in respect of employer's contributions to the staff retirement benefits scheme was not remitted to the Pension Scheme contrary to Section D.39 (1) of the Public Service Human Resource Policies 2016, which provides that the Government will contribute 15% of an employee's monthly basic salary, drawn from the 75 Consolidated Funds, towards the employee pension while the employee will contribute 7.5% of his monthly basic salary towards the Scheme. In addition, these pension payables were not included in the pending bills and therefore the accuracy of the pending bills could not be confirmed.

Review of documents provided for audit also revealed that deductions totalling to Kshs.28,843,248 in respect of various contributions made by the staff members during the year under review were deferred. No explanation was provided for failure to remit the deductions. Similarly, Management had not remitted contributions amounting to Kshs.34,061,222, for fifty-eight (58) retirees for a period of thirty-five (35) months spread between 2013 to June 2019. These payables were also not included in the pending bills and therefore the accuracy of the pending bills could not be confirmed.

#### **1066.4 Other Pending Payables**

As disclosed in Note 2 on the important disclosures to the financial statements, other pending payables amounted to Kshs.72,878,965,572 which includes amounts due to National Government Entities of Kshs.986,734,337 in respect of Pay As You Earn (PAYE) of Kshs.762,382,808, Value Added Tax (VAT) of Kshs.118,553,546, and penalties of Kshs.105,797,983. The amount of PAYE and VAT were deducted but not remitted to the Kenya Revenue Authority (KRA), contrary to Section 37(1) of the Income Tax Act which requires an employer paying emoluments to an employee to deduct therefrom, and account for tax thereon, to such extent and in such manner as may be prescribed.

Further, the balance includes an amount of Kshs.71,609,409,396 due to third parties which includes amounts owed to LAPFUND of Kshs.28,499,298,304 which further includes an amount of Kshs.24,991,527,302 in respect of principal and interest. The penalties is charged at a rate of 3% per month on 15th of every month and additional 36% which was compounded annually, and had accumulated from the financial year, 2011. Comparison between the LAPFUND and the Defunct Local Authority balance and The National Treasury financial records revealed total outstanding balances of Kshs.12,166,812,887 and Kshs.1,331,028,494, while the financial statements reflect a balance of Kshs.15,266,472,473 and Kshs.13,232,825,831, resulting to unreconciled variances of Kshs.3,099,659,586 and Kshs.11,901,797,337 respectively.

In addition, included in the pending bills amount of Kshs.71,609,409,396 are historical Government loans of Kshs.15,328,285,000 and Kshs.3,815,640,000 from Kenya Commercial Bank (KCB). These loans, which date back to the year 1970s were issued to finance the Umoja II Housing Project and water infrastructure. However, Management did not have any contractual records with details of when the loans were taken, the principal amount and the interest rate applicable. Further, the KCB loan of Kshs.3,815,640,000 differs with the KCB bank loan statement of Kshs.4,504,199,426, resulting to an unreconciled variance of Kshs.688,559,426.

Review of records held at LAPTRUST reflected an outstanding balance of Kshs.23,031,271,451 in respect of principal and interest penalty amounts of Kshs.16,339,508,857 and Kshs.6,691,762,594 respectively. The interest was charged at a rate of 1.25% per month (15% p.a) compounded.

Had the County remitted the respective deductions by due deadlines since the financial year 2011, savings of Kshs.41,331,036,159 would have been made. There was no evidence of measures taken by Management to negotiate with the respective institutions.

In view of the discrepancies, the legality, completeness and accuracy of disclosure made of pending bills balance of Kshs.99,372,372,918 could not be confirmed.

#### **1067. Failure to Implement an Effective Risk Management Programme**

The Nairobi City County, through the procurement plan for the year under review, approved a budget of Kshs.19,900,000 for an automated case management system under the legal department. However, physical verification within the department in September, 2022 revealed that although very crucial and sensitive records were

maintained by the department, the records were managed manually, which poses a risk of loss of important documents. Further, the department did not have mechanisms to enable identification, assessment and management of legal risks, a situation which has exposed the County to significant legal costs. This was contrary to Section 31 of The County Attorney Act, 2016 which provides that all entities should have automated their records through an Information Management system by September 2019.

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

#### **1068. Non-Compliance with Office of the County Attorney Act, 2020**

As disclosed in Note 7 to the financial statement, the statement of receipts and payments reflects use of goods and services amount of Kshs.7,642,844,133 which includes other creditors totalling to Kshs.1,862,737,482 relating to payment of pending bills. The other creditors include an amount of Kshs.1,302,758,364 of pending legal dues, fees, arbitration and charges paid during the year under review. However, the approved final budget expenditure was Kshs.820,191,479 against actual amount of Kshs.505,363,387 allocated resulting to an unexplained over-expenditure of Kshs.797,394,977 whose approval for reallocation was not provided for audit.

Further, as a control measure and legal requirement, the Office of the County Attorney Act, 2020 requires the County Attorney to prepare and submit annual reports to the Governor and the County Assembly, with details outlined in Section 28 of the Act. However, there was no evidence that the reports were submitted as required, since the reports were not provided for audit review. It was not possible to confirm the number of cases which had been ruled in favor of or against the County. The County may also not efficiently plan and budget for legal costs.

In addition, review of the payroll records and staff establishment revealed that the County has a fully-fledged litigation department. However, it was not clear why the County was not defended by the legal officers in some of the legal cases. Review of the staff list provided for audit revealed that the department had six (6) legal counsels against a proposed number of thirty-five (35). This resulted to inefficient service delivery and hiring of expensive external legal services.

Section 17(1) of the Office of the County Attorney Act, 2020 provides that there shall be a County Solicitor who shall be competitively recruited and appointed by the County Public Service Board. However, the officer currently holding the position is on acting capacity and therefore cannot be held liable for any omission or commission as an Accounting Officer of the County Attorney. No explanation was received from the County Public Service Board for not appointing the Solicitor as per the Act.

It was also observed that, most of the legal suits relate to irregular allocation of parcels of land. The advocates engaged by the County base their fees on the market value of the land. Although the County has a department with qualified valuers, there was no evidence of professional advice to the legal department in respect of the accurate market prices, as documentary evidence to this effect was not provided for audit review.



In view of the anomalies, it was not possible to confirm the value for money delivered from legal expenditure amount totalling to Kshs.797,394,977 and Management was in breach of the law.

#### **1069. Irregular Payment to Council of Governors**

During the year under review, an amount of Kshs.5,020,000 paid to the Council of Governors with respect to exhibition booths for sixteen (16) participants, at a rate of Kshs.50,000 each for the period between 3 May to 5 May, 2021 in Makueni County. However, approval for the expenditure item in the budget and evidence of attendance were not provided for audit. This is contrary to Section 37(b) of the Intergovernmental Relations Act, 2012 which provides that the operational expenses of the Council of Governors shall be provided for in the annual estimates of revenue and expenditure of the National Government.

The above payment was irregular and Management was in breach of law.

#### **1070. Development (EED) Centers Supply and Delivery of Trapezium Tables and Chairs to Early Childhood**

During the year under review, Management paid an amount of Kshs.18,942,100 in respect of a contract awarded to a local company for the supply and delivery of trapezium tables and chairs to Early Childhood Development (ECD) Centers vide contract number NCC/EDU/SPORTS/T/344/2018-2019 of 7 October 2019, through open tender. However, there was no segregation of duties for the opening and evaluation panel since the same committee members opened and evaluated the tender documents. This was contrary to Section 46(1) of the Public Procurement and Asset Disposal Act, 2015 which provides that an Accounting Officer shall ensure that an ad hoc evaluation committee is established in accordance with this Act and Regulations made thereunder and from within the members of staff, with the relevant expertise.

Further, review of the list of bidders who responded revealed that thirteen (13) bidders went through preliminary evaluation. However, the checklist provided for audit revealed that bidder 1 who had a quote of Kshs.11,637,500 being the lowest most responsive was disqualified because he was a resident of a neighboring County. Had he been considered then the County could have saved an amount of Kshs.7,304,600. Bidder number 3 was disqualified because he did not issue a certified copy of the Bill of Quantities from the lawyer, which however, was ticked in the checklist as having been issued. This casts doubt on the transparency of the procurement process for the supply of furniture under this contract.

In the circumstances, it was not possible to confirm value for money and transparency in respect of purchase of the trapezium tables and chairs worth Kshs.18,942,100.

#### **1071. Non-Compliance with the Public Procurement and Asset Disposal Act, 2015**

During the year, Management paid an amount of Kshs.5,969,000 to a local consultant for consultancy services on disaster management and coordination. The completion period



was three (3) months. However, no evidence was provided to confirm the scope of services for the consultancy. The same officers who opened the tenders also evaluated them, contrary to Section 46(1) of the Public Procurement and Asset Disposal Act, 2015, which requires segregation of duties between the members of the tender opening committee and those of the tender evaluation committee.

Further, Management did not provide a professional opinion from the head of procurement as required by Section 84(1) and (3) of the Public Procurement and Asset Disposal Act, 2015. There were no letters to unsuccessful bidders as required by Section 87(3) of the Public Procurement and Asset Disposal Act, 2015. As at the time of audit there was no disaster management and coordination policy in place.

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

#### **1072. Loss of Funds on Provision of Internet Services and Wireless LAN**

Further, Management paid an amount of Kshs.46,496,259 which was paid to a supplier for provision of internet services and wireless Local Area Network (LAN) infrastructure to the County Executive for a period of 2 years. However, review of the contract documents revealed that two (2) bidders responded and the successful bidder was awarded the contract at a bid sum of Kshs.46,496,259. The evaluation committee was appointed vide memo ref: NCC/SCM/JK/047/2021-2022 dated 30 August, 2021 and the evaluation was carried out whose report indicated that both firms passed the preliminary and technical evaluation, with the successful bidder scoring 100%. However, the evaluation committee recommended an award to the highest evaluated bidder for a period of two years. The head of procurement approved the recommendation of the evaluation committee to award the tender to the successful bidder at a contract sum of Kshs.46,496,259. Further, it was established that an arithmetical error, which denied the lowest bidder marks, was omitted.

Whereas the law requires that the lowest most responsive bidder be awarded the contract, Management awarded the contract to the highest ranked bidder resulting to a loss of Kshs.12,017,507 which could have been saved and used for other purposes.

Physical inspection of two (2) sampled departments revealed that most of the offices including fourth floor - Human Resource Development department and some legal department offices did not have WIFI.

In view of the anomalies, it was not possible to confirm that value for money was achieved on the expenditure of Kshs.46,496,259.

#### **1073. Lack of Transparency in Procurement of Construction Material**

Note 7 to the financial statements reflects other operating expenses amount of Kshs.2,268,832,045 which includes expenditure of Kshs.9,213,780 paid to two bidders, for Kshs.2,390,000 and Kshs.6,823,780. However, review of the documents provided revealed that Management appointed the same members to serve in both opening and evaluation committee for the tenders, contrary to Section 46(4) of the Public Procurement and Disposal Act, 2015 which requires segregation of duties between the members of the tender opening committee and those of the tender evaluation committee.

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

#### **1074. Failure to Establish Nairobi City Disaster and Emergency Management Council**

Note 9 to the financial statements reflects other grants and payments totalling Kshs.799,090,730 which includes emergency relief and refugee assistance-civil contingency reserves of Kshs.157,830,690. However, review of the department's records revealed that Management did not establish a Disaster and Emergency Management Council contrary to Section 4(a)-(f) of the Nairobi City Disaster and Emergency Management Act, 2015 which provides that there should be a Disaster and Emergency Management Council in the County which should be responsible for setting relevant policies, approve plans and oversee the implementation of risk reduction, preparedness, response and recovery activities by all County agencies and other agencies performing roles related to disaster management.

Further, the County did not have clear guidelines on what constitutes disaster, emergency pandemic and which sector should coordinate this incase of any emergency. Absence of a Disaster and Emergency Council may result in uncoordinated, poorly planned, lack of accountability and inadequate facilities which may result to loss of funds.

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

#### **1075. Leasing of Medical Equipment Not Accounted For**

Note 9 of other important disclosures to the financial statements reflects an amount of Kshs.153,297,872 (2020-2021: Kshs.132,021,177) in respect of leasing of medical equipment deducted at source. Records provided for audit revealed that the equipment were distributed to Mama Lucy Kibaki Hospital and Mbagathi Hospital. Physical verification carried out on 9 November, 2022 revealed that the two hospitals had records indicating receipt and physical existence of the equipment. However, the basis for the deduction of Kshs.153,297,872 under the equipment in the year under review was not provided.

In the circumstances, it was not possible to confirm the value for money from the leased equipment at a cost of Kshs.153,297,872.

#### **1076. Delay in Installation and Commissioning of Machines**

##### **1076.1 Printing Press**

Review of records provided revealed that, the County procured four (4) state-of-the-art printing press machines at a cost of Kshs.51,297,261 in the 2016/2017 financial year. Physical verification carried out revealed that although the machines were delivered, three of the machines; perfect binder Kshs.10,025,743, offset printing machine Kshs.14,410,000 and Gullotine machine Kshs.7,575,286, had not been installed five (5) years after their procurement. Management's explanation was that the machines' height was more than the height of ceiling of offices in Nairobi City Hall and as a result they could

not fit, putting into question if feasibility study and user requisition and specifications had been carried out before initiation of the purchase.

## **1076.2 Weights and Measures Equipment**

During the year under review, Management paid an amount of Kshs.17,206,000 in respect of supply, installation and commissioning of weights and measures equipment at the new Ukulima Market. The installation works commenced on 31 May, 2019 for a period of three (3) months. The scope of works included foundation civil works costing, weigh office building works, supply of weighbridge deck and sensors, CCTV system set up costing, equipment installation and calibration, four (4) dormant platforms and ten (10) electronic counter scales.

Physical inspection of the market carried out in the month of November, 2022 revealed that machines with a cost of Kshs.7,696,000 comprising of equipment installation and calibration, 4 dormant platforms and 10 electronic counter scales had not been installed.

Further, it was observed that the partial machines which have been installed did not have enough space for a vehicle to negotiate corners, since the entry point to the market was occupied by a private developer. Further, the market has never been put into use, and this exposed the already completed works to vandalism and deterioration.

In addition, whereas the works had been supervised by Nairobi Metropolitan Services the payment for the works was made by the Nairobi City County Executive. No evidence was provided to confirm that NMS had authorized the County to pay.

In the circumstances, it was not possible to confirm value for money of expenditure totalling to Kshs.17,206,000.

## **1077. Irregularities in Construction and Civil Works**

### **1077.1 Incomplete Projects**

The statement of receipts and payments reflects an amount of Kshs.1,053,902,033 in respect of acquisition of assets and as disclosed in Note 11 of the financial statements. The amount includes Kshs.110,392,197 and Kshs.51,520,178 in respect of construction of buildings and refurbishment of buildings respectively out of which Kshs.30,378,478 relates to construction and rehabilitation of local halls across the County namely Pumwani Kayole, Lumumba, Bahati, Joseph Kangethe, Mugomoini and Waithaka halls.

However, physical inspection revealed that there were no water tanks which was in the bill of quantity, there was one manhole yet the bill of quantity had two manholes, roofing works were done poorly, tiling were done poorly and one room had no tiles, the buildings were not marked, the washrooms were not connected to the main sewer and the contractor had closed the social halls and were not accessible.

## **1077.2 Procurement of Transferred Services**

Review of the deed of transfer of services to Nairobi Metropolitan Services revealed that on 25 February, 2020, the County Government unequivocally transferred four of its functions to the National Government, which included County Planning and Development Services and County Public Work. However, the County Management continued to execute some of these services through procurement of construction and civil works, by initiating one hundred and fifty-five (155) Ward projects with a total cost of Kshs.2,299,277,257. The department did not have the technical capacity to supervise the works and they relied on engineers from the Nairobi Metropolitan Services for technical services, which resulted to inefficient and ineffective service delivery.

## **1077.3 Construction and Civil Works - Delayed Projects**

Note 11 to the financial statements discloses construction and civil works expenditure of Kshs.467,486,554 which includes an amount of Kshs.96,329,530 in respect of eight (8) projects paid during the year under review. Physical verification carried out in the month of November, 2022 revealed that although the projects related to the financial year 2019/2020 and were to take a period of six (6) months, they had not been completed as at the time of inspection.

### **1077.3.1 Contract for Non-Existent Road**

Management entered into a contract with a local contractor for rehabilitation of selected roads and drainage in Mlango Kubwa for a period of six (6) months vide contract No. NCC/WDP/T/042/2019-2020 at a contract sum of Kshs.13,795,798, which was ongoing according to the project status. However, physical inspection and interview of a sample of residents in the month of November, 2022 revealed that the project did not exist.

### **1077.3.2 Anomalies in Implementation of Road Projects**

Physical inspection of a sample of sixteen (16) road projects with a total cost of Kshs.241,780,160 which includes seven (7) fully paid with a total cost of Kshs.88,225,979. However, one (1) road project in Kilimani Ward with a cost of Kshs.13,055,183 under the County Government had a signpost belonging to Nairobi Metropolitan Service (NMS). Similarly, two (2) projects with a cost of Kshs.27,190,272, with poor drainage and workmanship, had Members of County Assembly's (MCA) signposts four (4) projects with a cost of Kshs.47,980,525 had no signage. This was contrary to Section 131 of the contract documents which states that the Contractor shall provide and erect publicity signs on the site as directed.

In addition, the following anomalies were observed in relation to contracts for works and services;

- (i) A Contract No. NCC/WDF/044/2018/2019 at a price of Kshs.16,146,040 was awarded to a contractor for grading, gravelling and drainage improvement for seven (7) feeder roads in Githurai. Out of the seven roads, only one road was done while six (6) projects had construction materials dumped and the contractor was

not on site revealed that the works had stalled for a long period. Efforts to reach the Engineer at NMS was not fruitful. It was established that the contractor had been paid an amount of Kshs.15,052,087. No explanation was provided for payment of services not rendered.

- (ii) Contract No. NCC/WDF/T/167/2021/2022 at a contract sum of Kshs.13,802,132 in respect of construction of Mariru Park Road in Mwiki Ward had been paid an amount of Kshs.11,361,510. However, the works were incomplete and the contractor was not on site.
- (iii) Contract No. NCC/WDP/T/064/2019-2020 totalling to Kshs.13,650,880 in respect of construction of Madoya Road, located between Outreach Church Ngei and Madoya Area in Huruma Ward had been paid an amount of Kshs.9,076,160. However, the road and the drainage had poor workmanship.
- (iv) Contract No. NCC/WDF/T/167/2021-2022 totalling to Kshs.13,972,200 in respect of rehabilitation of Kapsoit Road and the access road from Sony House off Kangundo Road in Umoja I was paid Kshs.12,488,768. However, the contractor had not done the works on culverts.

### **1077.3.3 Lack of Extension for Delayed Projects**

Review of records provided for audit revealed that seventy-seven (77) projects with contractual price of Kshs.1,102,108,473 and certified certificates of Kshs.781,316,859 had delayed completion. There was no evidence that extension of the contract period was sought for the delayed projects, contrary to Regulation 132(3) of the Public Procurement and Asset Disposal Regulations, 2015, which requires such request for extension of time be made and granted for the delayed projects, some of which were started in the 2018/2019 financial year.

The performance bonds had expired, and no explanation was obtained from the Management on measures undertaken to ensure that the completed works were not exposed to further deterioration and vandalism and management was also in breach of the law.

### **1077.4 Projects Procured but Not Implemented**

Review of Ward records revealed that Management signed contracts with different merchants for rehabilitation of sixty-eight (68) roads in the County, two (2) of which were to be implemented in the 2018/2019, fourteen (14) in 2019/2020 and fifty-two (52) in 2021/2022 financial years. The total cost of the projects was Kshs.1,062,016,963. However, physical inspection carried out revealed that the sixty-eight (68) projects had not been implemented and the contract period had elapsed as per the contract documents. No explanation was provided by Management for not implementing the projects or terminating the related contracts. Further, there was no explanation for commencing new projects before completing the ongoing projects.



Further, review of the financial evaluation reports revealed that the contractors had the financial capability to handle such huge projects. There was no explanation why these contractors who, according to the financial evaluation reports had the financial capacity to implement the huge projects, did not complete the projects as set out in the respective contracts. There was also no evidence of measures taken by Management to ensure that the projects were completed.

In addition, Management did not maintain a risk management and maintenance of risks register, contrary to Section 9.9 of the Public Procurement and Disposal General Manual, 2009 which provides that the greatest risks which must be mitigated in the management of procurement contracts.

There was also no evidence of payment of interest and damages by the bidders for delayed works, contrary to Section 140 of the Public Procurement and Asset Disposal Act, 2015 which provides interest on overdue amounts and liquidated damages.

In the circumstances, it was not possible to confirm value for money for the total expenditure amount by Kshs.1,062,016,963.

#### **1078. Irregularities in Fleet Management**

Annex 6 to the financial statements reflects non-current assets with net book value of Kshs.26,866,439,852 as at 30 June, 2022, which includes transport equipment totalling to Kshs.1,154,951,310. However, Management did not provide a motor vehicle register indicating the financier, engine number, chassis number, tag number, year of purchase, payment voucher number and the acquisition value. Further, various anomalies were observed on management of the fleet as highlighted below;

- (i) Records provided for audit revealed that the County had five hundred and eighty - nine (589) fleet of motor equipment which comprised of forty-one (41) equipment, one hundred and twenty (120) heavy vehicles, three hundred and sixty-seven (367) light vehicles and sixty-one (61) motorcycles. However, the Management did not provide the log books for the motor vehicles for verification. In addition, review of records for the mechanical department provided for audit revealed existence of a fleet of three hundred and twenty- eight (328) moving equipment resulting to inconsistency in the two sets of records.

Further, it was observed that a new motorcycle was grounded. However, the motorcycle was not reflected in any of the two lists provided for audit.

- (ii) Review of the staff list maintained by the Human Resource Department for the month of June, 2022 revealed that the City County has a total of one hundred and five (105) drivers with a fleet of vehicles of five hundred and eighty-nine (589). This mismatch between the number of drivers and size of the fleet of vehicles indicates inefficient management of the transport system, arising from procurement of unutilized fleet of vehicles which continue to incur repairs and maintenance costs, which could have been avoided if the County Management maintained an optimal size of motor vehicle fleet. No explanation was provided for maintenance of a motor vehicle fleet which was in excess of drivers.



In view of the avoidable repairs and maintenance costs incurred on the excess motor vehicle fleet, it was not possible to confirm that public resources were managed in an efficient and effective way.

- (iii) Physical verification carried out on a sample of the three hundred and sixty-eight (368) of the moving equipment on 15 September, 2022 revealed that one hundred and fifty-two (152) vehicles were grounded. No explanation was provided for failure to dispose the equipment to avoid further vandalism and costs. Further, eleven (11) vehicles were grounded as a result of accidents on various dates. However, no police abstract or claims for compensation from the insurance companies was provided for audit.
- (iv) The County Executive Management opted to repair and maintain its vehicles in private garages despite owning its garage. However, justification was not provided for audit review. A total of twenty-seven (27) vehicles were taken to the County's Central Garage for repairs more than two years ago whose exact timelines was not ascertained due to lack of track records from the department. The vehicles have not been serviced by the Management and no explanation was provided for failure to repair them.
- (v) A wheel loader was repaired. However, due non-payment, the equipment is currently at a private garage. No explanation was provided by the Management for failure to pay for the repairs, therefore exposing the wheel loader to vandalism and accrual of demurrage costs.
- (vi) A grader was taken to a private garage and a backhoe excavator was taken to the NMS Garage were not insurance to be able to operate. Management did not give reasons for failure to obtain insurance cover for the same. The idle equipment are exposed to vandalism and deny opportunity for service delivery to the public.
- (vii) Three (3) Nissan Single Cabin Pickup motor vehicles were impounded by the supplier due to non-payment of the purchase cost of the motor vehicles. A visit to a local garage revealed that the garage was repairing 12 County vehicles which had been brought at different times. A long outstanding bill of unknown amount by the County was the hindrance for release of the repaired vehicles. Further, physical verification at another garage revealed that, the garage was repairing 10 County vehicles which had similarly been brought at different times. Three of these vehicles were procured in the year 2016 at a cost of Kshs.9,000,000 and taken to the garage in 2016 for engine overhaul. To date the vehicles have not been released to the County due to non-payment. In addition, ten (10) motor vehicles were grounded another depot for more than two years. However, the reason for the grounding of the vehicles was not provided.
- (viii) An Insurance firm was paid an amount of Kshs.132,877,237 during the year under review for provision of insurance cover County motor vehicles. However, it was not possible to confirm the value for money on the expenditure as Management did not provide supporting documents in respect of insurance compensation for the

County's fleet of vehicles. In addition, twelve (12) vehicles of the County were repaired at various private garages but had not been released to the County because the insurance company had not compensated the mechanics. There was no evidence of measures taken by Management to obtain the serviced vehicles.

Further, fourteen (14) vehicles were at various private garages, repaired but impounded for lack of payments. However, these vehicles were not insured and therefore no compensation was obtained from insurance companies for the repair works done. Detailed review of records revealed that the vehicles were not included among those benefiting from the insurance cover. No explanation was provided by the Management on why the vehicles were not covered or compensated by insurance companies. The vehicles held by the garages for non-payment were not available to facilitate movement within the County and this may have affected efficiency of service delivery to the people of the City County.

- (ix) Six (6) vehicles were found at a yard undergoing repair. However, there was no approval from Management for the repairs. In addition, it was also not possible to confirm the period the vehicles had been in the yard due to lack of supporting documents in relation to the duration. This contravened Regulation 132(1) of the of the 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 — (a) preventative mechanisms are in place to eliminate theft, security threats, losses, wastage and misuse; (b) movement and conditions of assets can be tracked.
- (x) A visit to a repair yard indicated that a vehicle was at the repair yard. However, no Local Service Order (LSO) was issued from the County with details of the repairs required on the vehicle. The vehicle had been vandalized with number plates, battery and side mirrors missing. Further, it was also noted that the insurance for the vehicles had expired and been vandalized.
- (xi) A visit to a garage revealed that, the garage was repairing six (6) County vehicles which had been brought at different times and had been at the garage for over one year. Management explained that the County had an unpaid bill of Kshs.1,613,244 which had affected performance of the contractor. It was further observed that the framework contract between the County and garage had expired. However, the garage continued to provide services without a renewed contract.
- (xii) Review of a list of fire engines provided by County officials at the Headquarters revealed that the County had a fleet of seventy-one (71) fire engines. However, the analysis and status report on the firefighting equipment was not provided for audit review. As a result, it was not possible to confirm the status of the fleet.

In addition, physical verification of some equipment at various garages revealed that a motor vehicle was impounded at a garage since 2018 for non-payment of Kshs.206,929 while two other cars had been impounded since 2016 for non-payment amount of Kshs.105,400 and Kshs.301,636 respectively. It is not clear why the outstanding amounts

remained unpaid to enable release of the vehicles considering that the amounts were not significant.

- (xiii) Review of motor vehicle records provided for audit revealed that some vehicles were bearing the green number plates of the defunct City Council, while others had GK number plates and others had normal private number plates. The lack of uniformity in registration of County's motor vehicles may result to challenges in identification of the vehicles. This contravened Regulation 132(1) of the 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 — (a) preventative mechanisms are in place to eliminate theft, security threats, losses, wastage and misuse of assets.

In the circumstances, it was not possible to confirm the existence, ownership and security of the County equipment, motor vehicles and other valuable assets.

#### **1079. Failure to Implement Donor Funded Project**

Note 13 A to the financial statements reflects cash and cash equivalent balance of Kshs.1,489,166,265 which includes a balance of Kshs.22,683,840 in respect of the Agricultural Sector Development Support Programme II (ASDSP II). The Programme was a continuity of ASDSP I which was concluded in June, 2017 and whose aim was to contribute to transformation of crop, livestock and fishery production on commercially oriented enterprises, which was to ensure sustainability of food and nutrition security for the 47 Counties. This programme was financed by the Government of Sweden, Kenyan Government and other Development Partners for a five-year period between 1 July, 2017 and June, 2022. Information provided for audit indicated that the programme did not commence due to non-remittance of funds from the Ministry of Agriculture and Livestock, and the County Government.

Review of the operations of the ASDSP II programme Special Purpose Account (SPA) held at a local Bank revealed that the project had an opening balance of Kshs.8,051,855 as at 1 July, 2021 and closing balance of Kshs.1,986,313. The payment vouchers provided for audit revealed that an expenditure of Kshs.5,965,542 which included Kshs.4,950,902 and Kshs.933,900 were spent on pre-feasibility and appraisal studies, extended concept innovation and travelling allowances. However, the feasibility reports were not provided for audit. In addition, the operational account bank statement revealed that additional amount of Kshs.22,683,840 from the Central Bank was credited in the account on 1 August, 2022.

There was no documentary evidence that the project was extended after expiry of its terms and conditions on 30 June, 2022.

In the circumstances, it was not possible to confirm the status of and value for money on the project due to lack of documents on the project status and disbursement of the Agricultural Sector Development Support Programme II (ASDSP II).

### **1080. Non-Compliance with Law on Submission of Financial Statements**

The County Management did not submit financial statements for three (3) of its funds audit namely, Disaster and Emergency Fund, County Lottery Distribution Trust Fund and Ward Development Fund. This was contrary to Section 47(1) of the Public Audit Act, 2015 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.

### **1081. Non-Compliance with Third Rules in Basis Salary**

During the year under review, the City County Executive made deductions and recoveries from its employees' salaries in excess of two thirds of their basic pay. In some cases, employees remained with negative net pay.

Management indicated that this was a result of implementation of half salary due to imprest recovery, contributory pension scheme for devolved employees, overpayment recovery due to absenteeism and termination of COVID-19 tax relief. However, this salary below one-third status may lead the affected staff members to engage in undesirable activities resulting in loss of funds by the County. The affected staff members may face pecuniary embarrassment arising from their inability to meet their personal obligations.

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

### **1082. Non-Compliance with the Law on Staff Ethnic Composition**

The Nairobi City County Executive had more than 44% cent of the workforce from one ethnic community. This was contrary to Section 7(1) of 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. Further, Section 7(2) of the Act states that no public establishment shall have more than one third of its employees 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**

#### **1083. Lack of an Adequate Assets Register**

A summary of non-current asset register at Annex 6 to the financial statements reflects property, plant and equipment with a net book value of Kshs.26,866,439,852 as at 30 June, 2022, which is made up of ten (10) classes of non-current assets. This balance excludes an unknown value of land which is owned by the City County Government, which casts doubt on completeness of the County land reflected in the financial statements.

Further, Management did not provide an analysis of each class of asset in support of the balances reflected in the summary of non-current assets register. The County did not provide an updated fixed asset register in support of the balances in the financial statements.

In the absence of an updated assets register, it was not possible confirm the effectiveness of controls over fixed assets, status, accuracy, completeness and their existence.

#### **1084. Lack of Approved Information Technology Security Policy and Disaster Recovery Plan**

Review of the Information and Communication Technology (ICT) of the County revealed that there was no Information Technology Policy, Data Recovery Plan (DRP) and IT Security Policy. The policies described above are vital for effective and efficient management of the County's IT resources, with the aim of ensuring that data stored in its systems does not lose its integrity and is readily available when required. In addition, the County had not installed antivirus programs in its systems and did not have mechanisms for ensuring that there is up-to-date security on all systems software.

Further, the County did not have an IT Steering Committee, which is critical in providing oversight and formulating policies to ensure provision of IT services by the IT Department, to assist in the achievement of organizational objectives in an efficient, effective and economical manner.

Similarly, the County did not have a disaster recovery plan and had not implemented a backup and retention strategy. Also, the County's backups were not stored in a secure offsite storage facility. Further, formal documented and tested emergency procedures were not provided for audit. Management had no back up and retention strategy to ensure continuity of operations in case there was a system failure and did not conduct regular review and risk assessment of its operational areas.

In the absence of a comprehensive approved policy framework, the system users were not guided on the rules and procedures to follow in order to minimize risk of errors or loss of data confidentiality, integrity and availability. It was also not possible to confirm the recoverability of data in the event of a system crash.

#### **1085. Weakness in the Internal Controls Systems**

The County Management did not have a records management policy which specifies standardization practices, guidelines on management of records at the registry and automation of records systems which has resulted to misplacement and loss of important records. Further, Management had over fifteen (15) policies at draft level. It was not clear why the policies were not finalized, approved and implemented.

In the circumstances, the existence of an effective check and balance could not be confirmed.

## **1086. Undocumented Program Change Management**

The audit revealed that the County had not documented and approved processes to manage upgrades made to all financial and performance information systems. This implies that changes to the financial system could occur without the completion of formal change request documentation.

In the absence of a sound and approved framework, there were no rules and procedure guidelines for users of the system, which ensures minimization of risk of errors and fraud, confidentiality, integrity and availability of data.

## **1087. Weakness in Human Resources Management**

### **1087.1 Unreconciled Number of Employees**

Records maintained by the County revealed that the County had a total of four thousand eight hundred and eighty seven (4,897) employees. However, this number differed with the Payroll Registration for the month of September which reflected five thousand eight hundred and eighty-four (5,884), resulting to a variance of nine hundred and eighty-seven (987) employees between the two set of records.

Management explained that the number reflected in its records was based on the County employed staff members and that the additional staff members were those seconded from the National Government. However, a list of the additional nine hundred and eighty-seven (987) staff members seconded to the County from the National Government was not provided for audit.

In the absence of the list of additional staff, it was not possible to confirm that the nine hundred and eighty-seven (987) staff members were part of the approved staff establishment for the County.

### **1087.2 Unconfirmed Human Resource Skills**

Review staff members list for the month of June, 2022 revealed that some staff members were promoted to senior positions in the County. However, their educational or professional skills in the staff list maintained at the Human Resource data records did not match the requirements for the respective positions. This may have resulted either from lack of training to the staff members or failure to update their personal files data in the payroll. The Management did not provide evidence to confirm the academic, professional and experience required for the two thousand one hundred and seventy-eight (2,178) staff positions in the County.

### **1087.3 Learning, Development and Skills Gap**

However, the Management did not provide evidence of training programmes for the drivers and mechanical technicians. Further, it was observed that the Fleet Management Department did not have records for all the drivers in respect of skills and competence and also did not have an approved policy framework to guide the operations of its fleet



management, including acquisition and disposal of County fleet and allocation of drivers and vehicles to senior officers.

#### **1087.4 Avoidable Medical Claims**

Review of records maintained by the County revealed that despite having signed a contract with National Hospital Insurance Fund (NHIF) for a medical cover for its staff members, the premiums were not remitted to the Fund on time which resulted to discontinued services. Following the absence of the medical cover, the staff members paid their medical expenses and claimed from the County amounts of Kshs.22,563,844. Had the Management remitted to the NHIF the premiums as per the terms of the contract for staff medical cover, the claims amounting to Kshs.22,563,844 would have been saved for utilization on other purposes.

In the circumstances, existence of an efficient and effective system on use of public funds could not be confirmed.

## Appendix A: List of County Executives and Audit Opinions given on their Financial Statements

### 1. Certificates with Unqualified Opinion

None

### 2. Certificates with Disclaimer of Opinion

None

### 3. Certificates with Qualified Opinion

S/N	County Code	County Executive	Opinion
1	1	Mombasa	Qualified
2	2	Kwale	Qualified
3	3	Kilifi	Qualified
4	5	Lamu	Qualified
5	6	Taita/Taveta	Qualified
6	7	Garissa	Qualified
7	10	Marsabit	Qualified
8	11	Isiolo	Qualified
9	12	Meru	Qualified
10	13	Tharaka-Nithi	Qualified
11	14	Embu	Qualified
12	15	Kitui	Qualified
13	16	Machakos	Qualified
14	17	Makueni	Qualified
15	18	Nyandarua	Qualified
16	19	Nyeri	Qualified

S/N	County Code	County Executive	Opinion
17	20	Kirinyaga	Qualified
18	21	Murang'a	Qualified
19	23	Turkana	Qualified
20	24	West Pokot	Qualified
21	25	Samburu	Qualified
22	26	Trans Nzoia	Qualified
23	27	Uasin Gishu	Qualified
24	28	Elgeyo/Marakwet	Qualified
25	29	Nandi	Qualified
26	31	Laikipia	Qualified
27	34	Kajiado	Qualified
28	35	Kericho	Qualified
29	36	Bomet	Qualified
30	37	Kakamega	Qualified
31	38	Vihiga	Qualified
32	39	Bungoma	Qualified
33	40	Busia	Qualified
34	43	Homa Bay	Qualified
35	44	Migori	Qualified
36	45	Kisiii	Qualified
37	46	Nyamira	Qualified

#### 4. Certificates with Adverse Opinion

S/N	County Code	County Executive	Opinion
1	4	Tana River	Adverse
2	8	Wajir	Adverse
3	9	Mandera	Adverse
4	22	Kiambu	Adverse
5	30	Baringo	Adverse
6	32	Nakuru	Adverse
7	33	Narok	Adverse
8	41	Siaya	Adverse
9	42	Kisumu	Adverse
10	47	Nairobi City	Adverse



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