

GOVERNMENT OF NAIROBI CITY COUNTY



THE NAIROBI CITY COUNTY ASSEMBLY

OFFICE OF THE CLERK

THIRD ASSEMBLY

(FOURTH SESSION)

NCCA/TJ/PL/2025(77)

18TH NOVEMBER 2025

PAPER LAID

SUBJECT: REPORT OF A COMMITTEE

Pursuant to Article 229 (8) of the Constitution of Kenya, 2010 and Standing Order 196, I beg to lay the following Paper on the Table of this Assembly, today Tuesday 18th November 2025:

— **THE REPORT OF SELECT COMMITTEE ON PUBLIC ACCOUNTS
ON CONSIDERATION OF THE REPORT OF AUDITOR GENERAL
ON RECEIVER OF REVENUE FOR COUNTY GOVERNMENT OF
NAIROBI FOR THE YEAR ENDED 30TH JUNE 2023**

(The Chairperson, Select Committee on Public Accounts)

Copies to:
The Speaker
The Clerk
Hansard Editor
Hansard Reporters
The Press

GOVERNMENT OF NAIROBI CITY COUNTY



THE NAIROBI CITY COUNTY ASSEMBLY

OFFICE OF THE CLERK

THIRD ASSEMBLY

(FOURTH SESSION)



NCCA/TJ/PL/2025(77)

12TH NOVEMBER 2025

PAPER LAID

SUBJECT: REPORT OF A COMMITTEE

Pursuant to Article 229 (8) of the Constitution of Kenya, 2010 and Standing Order 196, I beg to lay the following Papers on the Table of this Assembly, today Wednesday 12th November 2025:

- **THE REPORT OF SELECT COMMITTEE ON PUBLIC ACCOUNTS ON CONSIDERATION OF THE REPORT OF AUDITOR GENERAL ON RECEIVER OF REVENUE FOR COUNTY GOVERNMENT OF NAIROBI FOR THE YEAR ENDED 30TH JUNE 2023**

(The Chairperson, Select Committee on Public Accounts)

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NCCA/TJ/NTC/2025

GOVERNMENT OF NAIROBI CITY COUNTY



*Notice Issued
Speaker kind of
Hon. Chege Mwangi
18/11/2025
[Signature]*

THE NAIROBI CITY COUNTY ASSEMBLY

THIRD ASSEMBLY

(FOURTH SESSION)

18th November 2025

NOTICE OF MOTION

Subject: Adoption of report of a Committee

Hon. Speaker, I beg to give notice of the following motion:-

— **THAT,** this Assembly adopts **THE REPORT OF SELECT COMMITTEE ON PUBLIC ACCOUNTS ON CONSIDERATION OF THE REPORT OF AUDITOR GENERAL ON RECEIVER OF REVENUE FOR COUNTY GOVERNMENT OF NAIROBI FOR THE YEAR ENDED 30TH JUNE 2023** laid on the Table of the Assembly on 18th November 2025.

(Chairperson, Select Committee on Public Accounts)

NCCA/TJ/NTC/2025

GOVERNMENT OF NAIROBI CITY COUNTY



THE NAIROBI CITY COUNTY ASSEMBLY

THIRD ASSEMBLY
(FOURTH SESSION)

12th November 2025

NOTICE OF MOTION

Subject: Adoption of report of a Committee

Hon. Speaker, I beg to give notice of the following motion:-

— **THAT, this Assembly adopts THE REPORT OF SELECT COMMITTEE ON PUBLIC ACCOUNTS ON CONSIDERATION OF THE REPORT OF AUDITOR GENERAL ON RECEIVER OF REVENUE FOR COUNTY GOVERNMENT OF NAIROBI FOR THE YEAR ENDED 30TH JUNE 2023 laid on the Table of the Assembly on 12th November 2025.**

(Chairperson, Select Committee on Public Accounts)

NAIROBI CITY COUNTY GOVERNMENT



NAIROBI CITY COUNTY ASSEMBLY

THIRD ASSEMBLY – FOURTH SESSION

THE REPORT OF THE SELECT COMMITTEE ON PUBLIC ACCOUNTS

ON

**THE CONSIDERATION OF THE REPORTS OF THE AUDITOR-GENERAL
ON THE FINANCIAL STATEMENTS OF THE NAIROBI CITY COUNTY
EXECUTIVE FOR THE YEAR ENDED 30TH JUNE, 2022**

Clerks Chambers
Nairobi City County Assembly
City Hall Buildings
NAIROBI

November, 2025

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1.0 CHAIRPERSONS FOREWORD

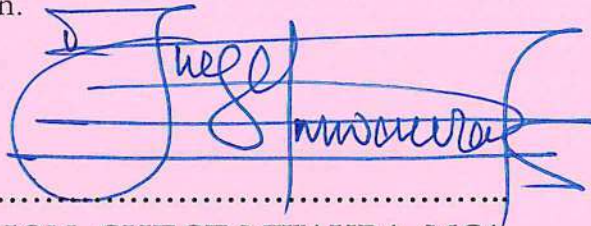
Honourable Speaker, on behalf of the Select Committee on Public Accounts and pursuant to the provisions of Standing Order 196(6), it is my pleasant privilege and honour to present to this Assembly the report of the Public Accounts Committee on the consideration of “**The reports of the Auditor General on the Financial Statements of the Nairobi City County Executive for the Financial Year 2021/2022**”.

Honourable Speaker, the County Assembly is responsible for holding accounting officers of the County Government entities accountable in the spending of public funds. Specifically, Article 229 of the Constitution of Kenya 2010 requires the Auditor General to submit annual audit reports to the County Assembly in order for the Assembly to take appropriate action. Once the report is submitted and laid on the Table of the Assembly, it is committed to the PAC for consideration and reporting. This report is therefore a culmination of a rigorous and a long exercise carried out by the Committee in its scrutiny of the report of the Auditor-General and the various responses by the Accounting Officers. In conducting this exercise, the Committee held sittings and a retreat during which it received both written and oral evidence from Accounting Officers and other witnesses on audit queries raised by the Auditor-General. In its scrutiny, the Committee was concerned in determining whether, in the years under review, Accounting Officers upheld key principles of public finance management namely; value for money, efficiency, and effectiveness in public spending.

Honourable Speaker, the Committee upon careful examination of the evidences brought before it identified various issues raised by the Auditor-General during the period under review that hamper service delivery. The issues include; an incompetent county treasury, accounting for expenditures, delayed procurement processes, engaging of incompetent service providers, corruption, poor project planning and implementation. To this end, as has become the Committee’s norm, the Committee has taken a pragmatic step of holding to account individual officers for their various acts of omission and/or commission that occasioned loss of public funds. In some cases, the Committee has invoked the provisions of Article 226(5) of the Constitution and recommended that the concerned officers make good the losses that have arisen under their watch, upon conclusive investigations by the relevant investigative agencies.

In conclusion, **Honourable Speaker**, I would like to thank all the Accounting Officers and witnesses who appeared before the Committee and provided responses, which provided valuable insights into the issues raised by the Auditor-General. I wish also to appreciate my fellow Honourable Members of the Committee, the Offices of the Speaker and the Clerk of the County Assembly, and the Office of the Auditor-General for their steadfast support. Special appreciation also goes to the Members of the Committee and the Secretariat who have had to go beyond the normal call of duty on numerous occasions.

Honourable Speaker, on behalf of the Public Accounts Committee, I now wish to lay the report of the Select Committee on Public Accounts and urge the Assembly to adopt it and the recommendations therein.

A handwritten signature in blue ink, appearing to read 'Chege Mwaure', is written over a set of horizontal lines. The signature is stylized and fluid.

HON. CHEGE MWAURA, MCA
CHAIRPERSON

10/11/2025

2.0 INTRODUCTION

2.1 Mandate of the Public Accounts Committee

The Public Accounts Committee derives its mandate from Standing Order 203 (2) of the Nairobi City County Assembly, which provides that: **“The Public Accounts Committee shall be responsible for the examination of the accounts showing the appropriations of the sum voted by the County Assembly to meet the public expenditure and of such other accounts laid before the County Assembly as the Committee may think fit”**.

The primary mandate of the Committee is therefore to oversight the expenditure of public funds by Nairobi City County Government entities, to ensure value for money and adherence to government financial regulations and procedures. The Committee further aims at ensuring that Nairobi City County public funds are prudently and efficiently utilized. The Committee executes its mandate based on annual and special audit reports prepared by the Office of the Auditor-General (OAG).

Article 229 (8) of the Constitution of Kenya 2010 provides that within three (3) months after receiving the report of the Auditor General, Parliament or the **County Assembly** shall debate and consider the report and take appropriate action. It is on this basis that this report has been produced by the Committee for consideration and adoption by the County Assembly.

2.2. Guiding principles

In the execution of its mandate, the Committee is guided by core constitutional and statutory principles on public finance management, as well as established customs, traditions, practices and usages. These principles include the following: -

(a) Constitutional Principles on Public Finance

Article 201 of the Constitution of Kenya, 2010 enacts fundamental principles aimed at guiding all aspects of public finance in the Republic. It states that the principles are, *inter alia*, *openness and accountability, including public participation in financial matters; public money shall be used in a prudent and responsible way; and financial management shall be responsible, and fiscal reporting shall be clear*. The Committee places high regard on these principles, among others, and has been guided by them in the entire process that has led to this report.

(b) Direct Personal Liability

Article 226(5) of the Constitution is unequivocal that: - *“If the holder of a public office, including a political office, directs or approves the use of public funds contrary to law or instructions, the person is liable for any loss arising from that use and shall make good the loss, whether the person remains the holder of the office or not”*. Consequently, Section 203(1) of the PFM Act, 2012 enacts that: - *“A public Officer is personally liable for any loss sustained by a county government that is attributable to-*

- (a) the fraudulent or corrupt conduct, or negligence, of the officer; or*
- (b) the officer's having done any act prohibited by sections 196, 197 and 198”*

The Committee considers this Constitutional and legal provisions as the basis for holding Accounting Officers and other Public Officers directly and personally liable for any loss of public funds that may occur under their watch.

2.3. Obligations of the Accounting Officer

Article 226(2) of the Constitution provides, inter alia, that: “*the Accounting Officer of a national public entity is accountable to the National Assembly for its financial management, and the Accounting Officer of a county public entity is accountable to the County Assembly for its financial management*”. Subsequently, Section 149(1) of the Public Finance Management (PFM) Act, 2012 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—*

- (a) *lawful and authorized; and*
- (b) *Effective, efficient, economical and transparent.”*

These provisions obligate all the Accounting Officers to appear before the PAC to respond to audit queries raised by the Auditor-General.

2.4. Committee Membership

The Committee comprises of the following members: -

- | | |
|--|--------------------|
| 1. Hon. Chege Mwaura, MCA | - Chairperson |
| 2. Hon. Abel Osumba Atito, MCA | - Vice-Chairperson |
| 3. Hon. Benter Juma Obiero, MCA | |
| 4. Hon. Redson Otieno Onyango, MCA | |
| 5. Hon. John Rex Omolleh, MCA | |
| 6. Hon. Stazo Omung'ala Ang'ila, MCA | |
| 7. Hon. Richardo Nyantika Billy, MCA | |
| 8. Hon. John Ndile Musila, MCA | |
| 9. Hon. Cyrus Mugo Mubea, MCA | |
| 10. Hon. Jane Musangi Muthembwa, MCA | |
| 11. Hon. Emmy Khatemeshi Isalambo, MCA | |
| 12. Hon. Fuad Hussein Mohamed, MCA | |
| 13. Hon. Fatuma Abduwahid Abey, MCA | |
| 14. Hon. Eutychus Mukiri Muriuki, MCA | |
| 15. Hon. Fredrick Njoroge Njogu, MCA | |
| 16. Hon. Rachel Wanjiru Maina, MCA | |
| 17. Hon. Aaron Kangara Wangare, MCA | |
| 18. Hon. Carrington Gichunji Heho, MCA | |
| 19. Hon. Mark Thiga Ruyi, MCA | |
| 20. Hon. Simon Maina Mugo, MCA | |
| 21. Hon. Paul Wachira Kariuki, MCA | |

22. Hon. Martin Mbugua Mwangi, MCA

23. Hon. Mary Wanjiru Kariuki, MCA

The Committee comprises of the following secretariat;

- | | |
|--------------------------|--------------------------|
| 1. Mr. Kevin Wasike | – Senior Clerk Assistant |
| 2. Mr. Benedict Ochieng | – Second Clerk Assistant |
| 3. Mr. Klinsman Munase | – Legal Counsel |
| 4. Mr. Anthony Nyandiere | – Hansard |

Honourable Speaker, The Select Committee on County Public Accounts is the avenue through which the County Assembly under the provisions of Article 96(3) of the Constitution carries out the post scrutiny of County Governments Budgets.

The Committee was constituted at the commencement of the First Session in October, 2022 pursuant to Standing Order 203 which requires the County Public Accounts Committee to be constituted after a general election and shall serve for a period of three sessions. Therefore, the Committee commenced its business to examine the reports of the Auditor-General on the Financial Statements of the County Executive for the financial year 2021/2022 in the Month of July, 2023 and held several meetings with the County Executive.

The sittings were primarily investigatory and the Committee received evidence from the County Executive Committee Member for Finance and Economic Affairs in accordance with Article 183 (3) of the Constitution of Kenya 2010. The main issues for investigation and determination were the various audit queries contained in the reports of the Auditor-General on the financial operations of the County Executive for the financial year 2021/2022.

Honourable Speaker, Article 201 of the Constitution outlines the principles of public finance management to be observed at both levels of Government. These include openness, accountability, public participation, prudent and responsible financial management.

This report is issued pursuant to the requirements of Articles 229(8) of the Constitution of Kenya 2010, where any breach of law has an attendant remedy, consequence or penalty in law, recommendations of this report do not preclude any liability that may arise as a result of any legal action within the breach of the prescribed law.

Honourable Speaker, this report contains examination of three (3) reports of the Auditor-General on the Financial Statements of the County Executive for the year 2021/2022; and identified various fiduciary risks that were considered and adopted by the Committee.

During the years under review, the County Executive considered under this report had challenges with submission of documents to the Auditors for verification during the audit exercise. The Committee noted that County Executive did not avail relevant supporting documents to the Auditor-General during the audit exercise, with only some managing to

provide them at a later date. The non- provision of documents therefore, left the entities unable to support expenditures of substantial amount of funds.

Honourable Speaker, the reports also revealed that County Executive was not able to apply proper accounting practices as stipulated by the Public Sector Accounting Standards Board. Financial Statements presented for audit verification exhibited various weaknesses including failure to do regular reconciliations, variances between financial statements and IFMIS balances; payment details and trial balance among other inconsistencies. This resulted in inadequate reporting and presented an inaccurate position of the financial position of the County Executive.

The reports further showed that County Executive had weaknesses in executing their budgets. The County Executive did not adhere to their approved budget ceilings set for programs, votes and sub-votes. Thus, there was over-utilization or under-utilization of appropriated funds. The Committee noted that the main cause for under-utilization of budgets was delay in exchequer releases from the National Treasury thereby hampering program implementation and budget execution. In some instances, funds were re- allocated to items that were not budgeted for without prior approval by the County Assembly.

The findings of the considered audit reports revealed that the County Executive made payments outside the Integrated Financial Management Information System (IFMIS) platform, contrary to the Public Finance Management Act, 2012. The practice of processing transactions outside the IFMIS platform could be an avenue to bypass financial controls and can lead to misappropriation of funds.

The reports also revealed that the County Executive abused the imprest process, from the request, approval, surrender and recovery. Imprests remained outstanding after their due dates of surrender, contrary to the provisions of Regulation 93 (5) of the Public Finance Management (County Governments) Regulation, 2015 which requires temporary imprest holders to account for or surrender imprests within seven days upon returning to their duty stations. Further, Management breached Regulations 93(6) by failing to recover the outstanding imprests from the salaries of the defaulters.

Honourable Speaker, during the years under review, the Committee noted that majority of the County Executive interrogated had not properly updated their assets registers despite the Inter- Governmental Technical Relations Committee (IGTRC) having handed over their report, hence exposing County assets to risk of loss, waste and misuse. Further, a number of County Executive Sectors had not updated their valuation Roll as required under Section 3 of the Valuation for Rating Act CAP 266. Thus, County was not collecting optimal revenue based on the prevailing land market values.

The Committee further noted that the reports revealed that County Executive had weak internal control systems on own source revenue collection and accounting. This was evidenced by utilization of revenue at source, failure to bank revenue collected on time and failure to maintain separate financial statements for funds established by the County. This exposed the County Executive to revenue leakages and contributed to failure by the County to meet own source revenue collection targets.

Regarding human resource issues, the Audit reports revealed the following: -

- i. that some County staff were earning less than a third of their basic pay;
- ii. Some County Executive Sectors were still processing salaries and other benefits outside the Integrated Payroll and Personnel Database (IPPD); and
- iii. County Executive did not meet the threshold on ethnic inclusivity stipulated under Section 65(1)(e) of the County Governments Act, 2012.

The Committee further observed that the County Executive did not take action on the issues raised in the reports of the Auditor-General for previous financial years. This therefore implied that a number of recommendations proposed by the OAG were not implemented thus some audit queries had recurred for several financial years and remained outstanding.

Honourable Speaker, on internal controls, risk management and governance, the Committee noted that County Executive had not established Audit Committees contrary to Paragraph 167 of the PFM (County Government) Regulations, 2015. Further, the entities did not have Risk Management policies, Disaster Recovery Plan, ICT Policy and Business Continuity Plan to help prevent and mitigate against risks. This is contrary to Section 158(1) of the Public Finance Management (County Governments) Regulation 2015 which requires the County Government entities to develop risk management strategies which include fraud prevention mechanisms and a system of risk management and internal control that builds robust business operations.

In addition to the general observations and recommendations on cross cutting issues across the financial years interrogated and captured in the report, this report details further observations and recommendations for specific audit queries for the County Executive.

3.0 CONSIDERATION OF AUDITOR GENERAL REPORT ON FINANCIAL STATEMENTS OF THE NAIROBI CITY COUNTY EXECUTIVE FOR THE YEAR ENDING 30TH JUNE, 2022

1. Compensation of Employees

The statement of receipts and payments and as disclosed in Note 6 to the financial statements reflects compensation of employee's total expenditure 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 the 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, there were no details provided in support of the staff members transferred and those that retired during the year, for audit review.

In the absence of the support documents referred to above, it was not possible to confirm the accuracy and completeness of the expenditure Kshs. 4,982,191,769, incurred on compensation of employees, during the year under review.

Management response

The compensation of employees of Kshs. 6,430,283,158 reported in the financial statements for 2020/2021 included salaries and allowances for 6578 officers seconded to NMS whose payroll was transferred in September 2020 tabulated below:

Month	No. of employees	Gross payroll County (Kshs)
July 2020	10,992	1,154,386,014.95
August 2020	10,968	1,060,858,453.55

The payroll for the 6578 staff seconded to NMS was transferred to Executive office of the President in September 2020 which reduced the monthly payroll from Kshs 1,060,858,453.55 in August 2020 to Kshs 377,005,093.30 in September 2020 resulting in a variance of Kshs 683,853,360.25. Since the County paid salary for seconded staff for July and August 2020 then if NMS had taken over the payroll at the beginning of the financial year July 2020-2021, then compensation for employees for 2020/2021 would have been less by Kshs 1,366,770,720.50 (683,853,360X2) with the assumptions that the payroll will remain constant for twelve months' period. This is not the case as there were new appointments and exits that occurred during the financial year 2020/2021. This therefore partly explains the reduction of Kshs. 1,448,091,389 registered as compensation of employees in FY 2021/2022. The remaining variance of Kshs 81,320,668.50 is attributed to payroll variations that occurs on a monthly basis due to new appointments, transfers in, transfers out, retirements, resignations, deaths, suspensions, promotions, reinstatements etc. that normally occurs within a financial year. For instance, the wage bill trends as per IPPD excluding off payroll items for 2020/2021 and 2021/2022 is as below:

Actuals IPPD payroll summaries 2020/2021 and 2021/2022

F/Y 2020/2021			F/Y 2021/2022		
Month	No of Employees	Payroll Cost	Month	No of Employees	Payroll Cost
July	10,992	1,154,386,015	July	5,205	375,278,276.65
August	10,968	1,060,858,454	August	5,225	387,243,458.00
September	4,365	377,005,093	September	5,699	422,251,432.75
October	4,348	345,897,693	October	5,746	403,996,774.50
November	4,341	375,325,938	November	5,746	411,369,834.45
December	4,330	362,361,313	December	5,743	410,182,288.95
January	4,305	369,586,216	January	5,729	416,669,066.85
February	4,278	370,109,251	February	5,708	409,741,411.00
March	4,455	385,950,232	March	5,748	424,425,654.45
April	5,217	432,222,906	April	5,782	430,062,015.90
May	5,299	425,427,062	May	5,776	416,065,016.05
June	5,331	395,871,240	June	5,237	399,983,966.65
Total		6,055,001,411	Total		4,907,269,196

From the IPPD summary you note a variance of Kshs 1,147,732,215 between the two financial years attributable to monthly payroll variation. The balance of Kshs. 313,502,066.65 is attributable to off payroll items including casualls, retiree terminal benefits, service gratuities payments paid during the two financial years.

Payroll exits

MANDATORY RETIREMENT	201
RETIRE AT 50	3
DEATH	43
CONTRACT EXPIRY	40
RESIGNATION	12
ABSENCE	25
UNPAID LEAVE	1
TRANSFER OUT	5
DISMISSAL	2
SECONDMENT EXPIRY	1
SECONDMENT TO NMS – appendix	6578
TOTAL	6911

Payroll additions

INCOMINGS	TOTAL
REINSTATEMENT	16
NEW APPOINTMENT	744
RENEWAL OF CONTRACT EXPIRY	14
INCOMING ON TRANSFER	2
CONTRACT EXTENSION	1
TOTAL	778

Appendix 1a List of officers seconded to NMS and Payroll transferred in September 2020.

Appendix 1b New Employments during FY 2021-2022

Appendix 1c Staff exits during FY 2021-2022

Appendix 1d Deed of Transfer of functions to NMS

Appendix 1e Gazette Notice on Deed of Transfer of functions

Committee Observation:

The Committee observed that the reduction in employee compensation was largely attributed to the transfer of staff to NMS and retirements, but adequate supporting documentation was not provided to verify the accuracy and completeness of the figures. The payroll data showed significant variations, and the explanations provided were not fully substantiated.

Committee Recommendation:

- The Committee recommends that the County Executive for Boroughs Administration and Personnel should update the payroll system in line with the regulations governing public service and submit to the County Assembly detailed records of all staff movements, including secondments, retirements, and new appointments, to ensure transparency and accountability in payroll management within sixty (60) after the adoption of this report.

2. 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/I0/2 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.

Management Response

The total amount of Kshs. **1,460,542,895.00** relates to the outstanding amount of pending bills demanded by the Kenya Power & Lighting Co. in the above referenced letter ref: KPI/10B.2A/FNL/10/2 dated 9th March 2022. However, the above mentioned outstanding pending bill demanded by KPLC is being verified jointly by KPLC and NCCG to establish the status of all Electricity accounts for the Nairobi City County held by Kenya Power & Lighting Co. The report will address the status of the outstanding KPLC pending bills. The verification shall establish the exact amount owed to KPLC for subsequent payment. The Nairobi City County is planning to have a debt swap due to pending bills owed by the Kenya Power and Lighting Company for the charges in Way leaves.

While the Nairobi City County committed to remit ksh. 50,000,000.00 every month towards the settlement of the outstanding power bills as at the time the agreement, this was however not tenable due to cashflow challenges, the County remitted a total of ksh. **156,511,724.00** to KPLC and not ksh. **300,000,000.00** thereby realizing 52% towards the settlement of the outstanding debt. The cash flow constraints were due to unrealized Own Source Revenue.

Committee Observation:

The Committee noted discrepancies between the County's records and KPLC's claimed amount, as well as failure to meet the agreed monthly payment plan. Additionally, pending bills to NCWSC were neither fully paid nor accurately reflected in the financial statements.

Committee Recommendation:

- The Committee recommends that the County Executive Member for Finance should expedite the verification of outstanding utility bills with KPLC and NCWSC, ensure timely settlement of verified amounts, and improve the accuracy of pending bills reporting and submit a report to the County Assembly within sixty (60) days after the adoption of this report.

3. 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.

Management Response

NCC engaged a number of vendors to procure laptops and telephones as part of working tools for ICT staff which were distributed as per the attached distribution list. Attached is copies of payment vouchers for the various vendors who supplied the laptops and telephones.

Committee Observation:

The Committee observed a lack of proper documentation for the distribution of communication equipment, and physical verification revealed unaccounted items in the stores.

Committee Recommendation:

- The Committee recommends that the County Executive should develop guidelines to strengthen its asset management system, ensure all issued items are properly recorded and signed for, and conduct regular stock-taking and submit a report to the County Assembly within ninety (90) days after the adoption of this report.

4. 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.

Management Response

The County entered into contract with National Hospital Insurance Fund for the provision of Comprehensive Medical Insurance, last Expense, and Group Life at a premium of Kshs. 611,807,590 and in addition a provision of Ex-gratia/ excess of loss and Covid 19 Fund for Ksh. 50,000,000 and 30,000,000 respectively making total premium of Ksh. 691,807,590.

The County proposed to settle the premiums in three instalments of Kshs. 391,807,590, Kshs. 300million which was later split into three instalments of 100million each. At the close of financial year, the County had settled Kshs 491,807,590 with a pending bill of Kshs 200million.

According to clause 8.5 Obligations of NCCG specifically clause 8.5.6 states:

The NCCG shall jointly with NHIF carry out a reconciliation at the end of the contract period of all entries and exits and the NCCG shall pay premium for additional entries while NHIF shall refund exits based on data of staff dismissed or resigned.

The additional premiums of Ksh, 72,828,222 is a result of 727 additional staff additional staff less exits during the contract period. *Appendix 2.3*

Committee Observation:

The Committee noted an overpayment to NHIF without a supporting addendum to the contract, and no detailed list of additional staff covered was provided.

Committee Recommendation:

- The Committee recommends that the County Executive ensure all contract variations are properly documented and approved, and that reconciliations with service providers are conducted regularly.

5. 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 fuelling system was prone to abuse since the fuelling smart cards, which were not used exclusively for fuelling 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.

Management Response

Updated Fuel register

In line with Section K – of the Government **regulations** on use of Government transport, quantity of fuel consumed is posted on the work tickets.

A detailed fuel register indicating the vehicle, date of fuelling, fuel type, drivers' name, and quantity consumed, receipt number and price is in place. However, the Department experienced lack of staff including clerical officers.

The County is in the process of recruiting relevant staff who will later be deployed to the department to ensure timely and updated fuel records.

- Fuel statements from service providers

Kindly find attached the fuel statement from Vivo (K) Ltd as at the time of audit review (appendix 3).

- Detailed analysis and ownership records for the vehicles

Copies of County vehicle logbooks as at the time of the audit review are available and detailed analysis of the vehicles, plant and equipment as at the same time is hereby attached (Appendix 4)

- Fuelling smart cards that were not vehicle specific

The County has a large fleet of vehicles, plant and equipment. Managing many cards has proven untenable in the past due to high turnover of drivers, misplacement of the cards, loss of secret Personal Identification Numbers (PINs) and unreliable cashflows. To surmount these challenges

a fuel Card is assigned to a Transport officer for accountability, ease of monitoring, effectiveness and better control. For internal control, the Transport officer supervises fuelling and also verifies the fuel schedule against where the driver signs to acknowledge receipt of the fuel.

Committee Observation:

The Committee observed weak controls in fuel management, including lack of vehicle-specific fuel cards, incomplete fuel registers, and inadequate reconciliation of fuel consumption with work tickets.

Committee Recommendation:

- **The Committee recommends the County Executive should develop and implement a digital fuel management system, mandatory use of vehicle-specific fuel cards, and regular reconciliation of fuel usage.**

6. 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.

Management Response

Due to the emergency nature of covid-19 outbreak the health materials were directly delivered to the end users (hospitals and centres) without passing through the store. The receipt and issues vouchers for the other equipment are available for inspection by auditors. The stores received statements and stores issued vouchers for Kshs 127,917,259 have been provided in Appendix 2.5

Committee Observation:

The Committee noted that receipt and issue vouchers were not provided for goods distributed during emergencies, raising concerns about the proper use of public funds.

Committee Recommendation:

- **The Committee recommends that the County Executive should ensure all distributions must be properly documented and approved, and records should be readily available for audit even during emergencies.**

7. 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.

Management Response

Records on delivery note, stores issue voucher and the distribution list is attached. (Appendix 2.6)

Committee Observation:

The Committee observed a lack of supporting documents for the distribution of foodstuff, COVID-19 response items, and mattresses procured for disaster management.

Committee Recommendation:

- The Committee recommends that the County Executive should maintain detailed distribution records, including beneficiary lists and acknowledgement receipts, for all emergency procurements.

8. 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.

Management Response

Due to the emergency nature of covid-19 outbreak the health materials were directly delivered to the end users.

Committee Observation:

The Committee noted that goods procured for the Alcoholic Drinks Control Board were not received, and supporting documents were not provided.

Committee Recommendation:

- The Committee recommends that the County Executive should ensure all procurements, even for semi-autonomous entities, must follow due process and be properly documented and verified upon delivery.

9. 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.

Management Response

The mix up in dates in the memo was an oversight. However, goods procured were delivered and there was no loss of funds.

Committee Observation:

The Committee observed serious irregularities in the procurement process, including backdated invoices and appointment of an inspection committee before delivery.

Committee Recommendation:

- The Committee recommends that the County Executive Committee Member for Finance should investigate the matter and take disciplinary action against responsible officers and that future procurements must adhere to the Public Procurement and Asset Disposal Act 2015.

10. 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.

Management Response

The training for the drivers was held at Marble Arch Hotel. documents were provided to the auditors for verification (Appendix 2.9)

Committee Observation:

The Committee noted that the venue for the retreat was not disclosed, and supporting documents such as attendance registers and work tickets were not provided.

Committee Recommendation:

- **The Committee recommends that the County Executive should ensure all training and retreat expenditures must be supported with full documentation, including venue details, attendance lists, and activity reports and that such documentations are availed for audit.**

11. 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.

Management Response

The doctors were offering services in Mama Lucy, Pumwani and Mbagathi hospitals. All approvals and itinerary have been provided to auditors for verification

- The amount was erroneously left out in the pending Bills for 2020/21 Financial year and not yet paid to date
- A Letter dated 26th November 2018 addressed to His Excellency Governor Nairobi City County from Founder & CEO IHOPE indicating the goal of the medical mission for the foreign medical profession (copy attached)
- Approval for expenditure Memo ref.NCC/CS/2019/VOL.XXXVII/171 dated 26th June .2019(attached)

(Appendix 2.10)

Committee Observation:

The Committee observed that payments for the International HOPE medical team were not properly supported with original invoices, work plans, or official itineraries.

Committee Recommendation:

- The Committee recommends that the County Executive should ensure all travel-related expenditures are backed by original documents, approvals, and detailed itineraries and are availed for audit.

12. Other Unsupported Payments

Review of expenditure listing provided for audit revealed that an expenditure totalling Kshs. 113,216,907 was not supported by payment vouchers, approvals and tender documents as analysed in **Appendix 1** of this report.

Management Response

Documents were provided to auditors for verification.

Committee Observation:

The Committee noted that payments totalling Kshs.113 million lacked supporting vouchers, approvals, and tender documents.

Committee Recommendation:

- The Committee recommends that the matter be investigated further by the Ethics and Anti-Corruption Commissions for a possible loss of public funds.

13. 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.

Management Response

Documents were provided to auditors for verification.

Committee Observation:

The Committee observed that civic education materials worth Kshs.7.1 million were not properly recorded in the stores.

Committee Recommendation:

- The Committee recommends that the County Executive should ensure all procured goods must be taken on charge in the stores system and issued with proper vouchers.

14. 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 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.

Management Response

The authority to void transactions has been provided to the Auditors for verification.

Where the missing information was availed the payment was invoiced and paid in case where the details were not availed the payments were transferred to pending bills.

Committee Observation:

The Committee noted that a large number of transactions were invalidated without proper authorization, and some payments were returned due to missing payee details.

Committee Recommendation:

- **The Committee recommends that the County Executive should improve its transaction monitoring system, ensure all voided transactions are properly authorized, and track the status of returned funds.**

15. 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.

Management Response

This was a pending bill to KEMSA incurred by NCCG.

Committee Observation:

The Committee observed that the County continued to procure services already transferred to NMS, without proper documentation.

Committee Recommendation:

- The Committee recommends that the matter be investigated further by the Ethics and Anti-Corruption Commissions for a possible loss of public funds.

16. 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.

Management Response

The reallocations were regularized through the supplementary budget.

Committee Observation:

The Committee noted that expenditures were posted to wrong accounts without approved reallocations.

Committee Recommendation:

- The Committee recommends that the County Executive should ensure all reallocations are properly approved and reflected in the supplementary budget.

17. 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 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;

Bank Account	Financial Statement (Kshs.)	Bank Certificate (Kshs.)	Variance (Kshs.)
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
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.

Management Response

Bank statements, bank certificates, bank reconciliation statements, and cash have been provided for audit.

Finance costs relate to bank charges and interest charged on county accounts held in commercial banks.

The difference between balance in the Financial statement and bank certificate is due to timing difference resulting to extension of the Financial year due to late disbursement of exchequer releases. (*Appendix 6*)

Committee Observation:

The Committee observed significant variances between bank statements and financial records, unreconciled transactions, and omissions of certain bank accounts.

Committee Recommendation:

- The Committee recommends that the County Executive Committee Member for Finance to conduct regular bank reconciliations, include all bank accounts in the financial statements, and resolve all outstanding variances.

18. 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.

Management Response

All the outstanding imprest amounting to ksh. 8,374,380 was surrendered or recovered through the payroll. Instructions to recover outstanding imprests was done by Head of county treasury to the Chief Officer Public service management vide memo NCC/FIN/DFM/013/2022 dated 23rd September 2022 and done as per the attached IPPD print out. *Appendix 7*

Committee Observation:

The Committee observed that while the imprests were eventually recovered, the initial failure to surrender them on time and the lack of provided accounting documents (memorandum cash books) at the time of the audit indicate weak internal controls over the management of imprests.

Committee Recommendation:

- The Committee recommends that the County Executive Committee Member for Finance should enforce stricter deadlines for the surrender of imprests and ensure that all supporting documentation is maintained and readily available for audit. The practice of recovering imprests through payroll should be formalized and consistently applied.

19. 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.

Management Response

The county did not have existing retention Bank account. However, the county has since opened an account. (*Appendix 8*)

Committee Observation:

The Committee noted with concern that the County did not have a dedicated retention account, failed to reflect retention money in its financial statements, and prematurely released retention funds to contractors without the required certificates of completion. This represents a significant breakdown in contractual and financial controls.

Committee Recommendation:

- The Committee recommends that the newly opened retention account be used for all future contracts by the County Executive. Furthermore, the County must ensure that all retention payments are strictly conditional upon the issuance of certificates of practical completion and are accurately recorded in the financial statements.

20. 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.

Management Response

The contract was entered by NCCG on behalf of the NMS. The newly created NMS was still setting up its operational structures.

Committee Observation:

The Committee observed that the County Executive engaged in the construction of health facility infrastructure after the health function had been legally transferred to the Nairobi Metropolitan Services (NMS). This action was ultra vires and without mandate, resulting in irregular expenditure.

Committee Recommendation:

- The Committee recommends that the County Executive should fast track all documentation held by the defunct Nairobi Metropolitan Services to ensure service delivery in the County within sixty (60) days after the adoption of this report.

21. 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 Jogo 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.

Management Response

The local purchase order had been erroneously dated 5th April 2021. However, the date was corrected to reflect the correct date of 5th May 2021 (LPO Copy attached). The installation of the equipment was proposed to be at Uhuru Market. The County engaged the stakeholders to identify the appropriate site for the installation. Stakeholders recommended reconsideration of the identified site for installation as it was market association's meeting ground. The machines belong to Trade and Industry directorate and are still secured at General Stores. The Directorate is in the process of identifying new site for installation of the machines to establish a centre of excellence. *Appendix 9.2*

Committee Observation:

The Committee observed serious procurement irregularities, including a misdated LPO and a lack of segregation of duties in the tender process. Most critically, the expensive equipment procured for a specific project remained idle in stores for over a year, denying the public the intended benefits.

Committee Recommendation:

- The Committee recommends that the Directorate of Trade and Industry should expedite the identification of a suitable site and install the equipment without further delay and submit a report to the Assembly within ninety (90) days after the adoption of this report; and
- The County Executive Committee Member for Finance should investigate the procurement irregularities and take disciplinary action against officers responsible for the flawed process and submit a report to the County Assembly within ninety (90) days after the adoption of this report.

22. 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 Kangundo Road Fire Stations. However, review of the procurement plan from Waithaka and Kangundo 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.

Management Response

There anomaly in the procurement of printers was corrected before the payments were made. A letter was made to the supplier requesting to collect the 14 computers which were procured erroneously due to wrong specification. Supporting documents for the procurement are attached. *Appendix 9.3*

Committee Observation:

The Committee noted a flawed procurement process characterized by incorrect specifications, over-procurement of items, and discrepancies in financial records across documents. The failure to deliver the equipment to the end-users further questions the validity of the entire expenditure.

Committee Recommendation:

- The Committee recommends that the County Executive should strengthen its procurement planning and verification processes. All procured goods must be delivered to and acknowledged by the intended users, and all documentation must be consistent and accurate before payments are processed.

23. 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.

Management Response

The sector provided all documents highlighted marked annex 1,2,3 and 4 vide a letter REF NCC/TSD/FIN/28/GL72 VOL. VII/83 dated 13th October, 2023 and received by the office of the Auditor General on the same day copy attached marked Appendix 10.

However, the sector hereby provides the documents marked as appendix 4 for audit review Kindly note that the sector receives supporting documents such as

1. School fees receipt as evidence of school fees payment;

2. 2.Acopy of the student's report form as evidence of student's performance and attendance in the school;
3. 3.A copy of the school fee structure for the year; and
4. A number of schools writes acknowledging receipt of fees paid.

Attached are samples of such returns with fee receipts, report form and fee structure marked appendix 1H

Attached are samples of letters acknowledging fees paid marked appendix 1J

The parents of the beneficiaries are communicated through phone calls and bulk messages to collect the school fees payment vouchers. The parents sign on the vouchers receiving lists acknowledging that they received scholarship voucher.

Attached are samples of vouchers receiving lists marked appendix 1K

Kindly note that complete information of the beneficiaries is captured in the application form while applying.

Attached are approvals by the committee marked appendix 1L

Committee Observation:

The Committee observed that while some documents were provided belatedly, the initial audit revealed a lack of adequate supporting documents, such as signed beneficiary registers and official school acknowledgements, to fully confirm the accuracy and legitimacy of the substantial bursary expenditure.

Committee Recommendation:

- **The Committee recommends that the County Executive Committee Member for Talent, Skills Development and Care should develop and implement robust and transparent bursary management system. This system must ensure that complete records, including signed beneficiary lists and official fee payment receipts from schools, are collected and maintained for every disbursement.**

24. 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.

Management Response

The County has now been able to adopt a single collection system called the Nairobi pay and all other revenue systems have been shut down.

The said letter dated 19 May, 2022 from a local bank that revealed that Nairobi City County Executive owed the bank an amount of Kshs. 566,278,045 should not be taken as a basis of establishing transaction for the period under review. This was a claim by the bank and could not reflect a true position of revenues collected by the said institution.

Severally the County had disputed the claim as per letters referenced NCC/FEP/REV/CFO/HW/085/21 dated 10th may 2021 from CFO finance to the Bank manager NBK which indicated the commission charged was way above total collection by the county in that particular month. Here the commission claimed was kshs 827,573,118 while the county had collected kshs 565,025,616 and letter referenced NCC/FEP/REV/CFO/HW/096/21 dated 24th may 2021

By the time of Audit, the County was not able to do a reconciliation because revenue sure system was closed and the data was not accessible. Effort to request for the same was unfruitful as the owners demanded full settlement before releasing any data.

Appendix on Termination of Contract

Committee Observation:

The Committee observed that the premature termination of the contract with National Bank has exposed the County to a significant potential financial loss of Kshs. 566 million, as

claimed by the bank. The County's inability to reconcile the collections due to system inaccessibility is a major governance failure.

Committee Recommendation:

- The Committee recommends that the County Executive should engage the National Bank to negotiate a settlement and conduct a forensic audit to determine the accurate amount owed. Legal counsel should be sought to mitigate the County's exposure to the claim for damages.

25. 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.

Management Response

During this period the revenue function was among the transferred functions to the National Government and despite the high expectations of improved revenue performance from prior years, the targets were however not met. The underperformance was therefore largely occasioned by the underperformance of own source revenues. This underperformance affected disbursements to both the transferred and non-transferred functions hence negatively affecting the implementation of planned activities.

The revenue function has since reverted back to the Nairobi City County Government and in a bid to address this perennial underperformance of own source revenues; NCCG has taken deliberate measures to stem this continued underperformance. These measures include the restructuring of the revenue administration structure to enhance efficiency and leveraging on technology to update our customer database that will not only improve revenue forecasting but also support enforcement.

Committee Observation:

The Committee observed a significant underperformance in both revenue collection and expenditure, which severely impacted service delivery. While the revenue function has since reverted to the County, the measures to address this underperformance need to be concrete and results-oriented.

Committee Recommendation:

- The Committee recommends that the County Executive Committee Member for Finance to develop a detailed and time-bound action plan to improve Own Source Revenue collection. This plan should include specific targets for the updated customer database, enforcement initiatives, and regular progress reports to the Assembly.

26. 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.

Management Response

The county Government in the year 2022/2023 developed a framework for managing audit recommendations. The County government is implementing the policy with aim of solving the Prior Year Matters. (Appendix 2)

Committee Observation:

The Committee observed with disappointment that the County Executive had not resolved audit issues raised in previous years, despite the development of a framework for managing audit recommendations. This indicates a lack of urgency and commitment to accountability.

Committee Recommendation:

- The Committee recommends that the County Executive should fully implement audit recommendations and provide a status report on all prior years audit issues within three months, detailing actions taken and completion dates for each matter.

27. Motor Vehicles

As disclosed in Note 1 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.

Management Response

The County has a challenge of historical debts (pending bills) which include Motor vehicles among others. The county is making follow up to identify all assets through the asset register. In the period FY 2014/2015 and 2021/2022, the County Procured Assorted Motor vehicles from various vendors among them were the twenty-three (23) vehicles in question as tabulated hereunder; -

Summary of vehicles procured; -

s/no	Vehicle Type	Vehicle make/Model	Units	Vendor
1	Pick Up Double Cabins	Foton Tunland	18No	Foton E.A Limited
2	Minibuses	Golden Dragon	2No	Stantech Motors Ltd
3.	Ambulances	Foton Microbus	3No	Foton EA Ltd

Current status of the said vehicles; -

S/n o	Vehicle Type	Make/Model	Registration Number	Year of Manufacture	Status of the Original Logbook	Physical Location	Remarks
1	Pick Up Double Cabin	Foton Tunland	KCD 220G	2014	Available		Vehicles available in different operational Status.
2	Pick Up Double Cabin	Foton Tunland	KCD 221G	2014	Available		
3	Pick Up Double Cabin	Foton Tunland	KCD 222G	2014	Available		
4	Pick Up Double Cabin	Foton Tunland	KCD 223G	2014	Available		
5	Pick Up Double Cabin	Foton Tunland	KCD 224G	2014	Available		
6	Pick Up Double Cabin	Foton Tunland	KCD 225G	2014	Available		

7	Pick Up Double Cabin	Foton Tunland	KCD 226G	2014	Available		
8	Pick Up Double Cabin	Foton Tunland	KCD 227G	2014	Available		
9	Pick Up Double Cabin	Foton Tunland	KCD 228G	2014	Available		
10	Pick Up Double Cabin	Foton Tunland	KCD 229G	2014	Available		
11	Pick Up Double Cabin	Foton Tunland	KCD 230G	2014	Available		
12	Pick Up Double Cabin	Foton Tunland	KCD 231G	2014	Available		
13	Pick Up Double Cabin	Foton Tunland	KCD 232G	2014	Available		
14	Pick Up Double Cabin	Foton Tunland	KCD 233G	2014	Available		
15	Pick Up Double Cabin	Foton Tunland	KCD 234G	2014	Available		
16	Pick Up Double Cabin	Foton Tunland	KCD 235G	2014	Available		
17	Pick Up Double Cabin	Foton Tunland	47CG004A	2014	Available		
18	Pick Up Double Cabin	Foton Tunland	47CG005A	2014	Copy available		Vehicle written off after an accident. Original logbook with the insurer.
19	Minibus	Golden Dragon	KCD 251G	2014	Available		Grounded
20	Minibus	Golden Dragon	KCD 252G	2014	Available		Serviceable
21	Ambulance Microbus	Foton	47CG027A	2014	Available		Grounded
22	Ambulance Microbus	Foton	47CG028A	2014	Available		Serviceable

23	Ambulance Microbus	Foton	47CG029A	2014	Available		Grounded
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Statement on vehicle ownership:

Ownership documents (Logbooks in the name of the Nairobi City County) for all the above-mentioned vehicles are available, copies of the logbooks hereby attached (**APPENDIX 1**)

Sixteen (16no) double cabin pick-ups were registered on 28th May, 2015, Two (2) Double Cabins were registered on 23rd October, 2015, Two (2) Minibuses were registered 6th may, 2015 while three (3) ambulances were registered 2nd March, 2015.

Level of serviceability; -

The vendor who supplied the double cabin pick-ups wound up despite being the sole dealer of the spare parts posing challenges in the supply of service parts. However, some parts are now available and the County has been able to maintain the vehicles.

Committee Observation:

The Committee observed that the County's asset management system is weak, as evidenced by vehicles being grounded, detained by suppliers, or of unknown whereabouts. The failure to transfer logbooks due to non-payment further complicates the assertion of ownership.

Committee Recommendation:

- The Committee recommends that the County Executive to conduct a comprehensive physical verification of all its assets, update the asset register, and clear all historical pending bills to secure ownership documents. A preventive maintenance schedule should be implemented to improve the serviceability of the fleet.

28. Legal Fees – Omitted Fee Note

The above balance includes pending bills totalling 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;

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 relates 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) 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) 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 valuer's 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.

Management Response

Defending County Matters

Any matter that the County is a party to, is served upon the Office of the County Attorney (OCA). As the legal representative in all civil matters for the County, the Office of the County Attorney has to defend any matter in which the County is sued. This is done through instructing the Internal/External Advocates in the panel. The county cannot leave the matters undefended because even if they are not defended and the county is a party, if a judgment is entered against the county, it will still be bound. The OCA has an obligation to defend the interests of the county in all civil legal matters and therefore cannot leave the matters undefended even if they arose from a county employee's negligence.

With the leave of the Court, a judgment in default can be issued against the government. Order 10 Rule 8 of the Civil Procedure Rules provides the court with a remedy to issue a judgment in default where the government fails to enter appearance.

Judgment in default against the Government [Order 10, rule 8.]

No judgment in default of appearance or pleading may be entered against the Government without the leave of the court and any application for leave shall be served not less than seven days before the return day.

Failure to defend a case may also lead to an adverse order or Orders and *ex-parte* judgment being issued or entered against the defaulting party, which may have significant financial, penal or any other implications.

An Extract of the Civil Procedure Rules is hereby attached as **Annexure 1**.

Over-rated fee notes

An Advocate's legal fee is due from the time they are instructed to take up conduct in a matter. Once a fee note has been raised by an Advocate, it is assessed in accordance with the Advocates Remuneration Order (ARO). The assessed amount, once agreed upon by the Advocate stands due for payment. Section 36 of the Advocates Act prohibits Advocates from undercutting by charging remuneration below that which is prescribed under the Order, such undercutting is an offence under the Act.

Advocates Practice Rules also forbid Advocates from charging fees in contravention of the Advocates Remuneration Order and from engaging in unfair practices to obtain clients. Rule 3 prohibits Advocates from holding out directly or indirectly as being prepared to charging professional business at less than the Advocates Remuneration Scales laid down by the Advocates Remuneration Order.

Beyond the minimum fees set out under the Advocates Remuneration Order, the legal fees charged are determined by the **value of the subject matter involved, complexity of the legal issues involved, length of litigation, the interest of the parties, position of the parties, volume of the pleadings filed, the level of the court in which the litigation is taking place and the expertise and particular skill set of the Advocate.**

For the period under review, the listed seven files were queried;

1. **Case No E371 of 2020;** Paul Ndore Musyimi -Vs- NCC, Governor, Speaker, County Assembly & Others
2. **ELC No. E011 of 2020;** Mohamed Issa & 2 Others -Vs- NCCG & 2 Others
3. **Case No. MISC 368 Of 2016;** Republic -Vs- CCN & Others *Exparte* Kepha Maobe & 365 Others
4. **ElRC Petition No E021 of 2021;** Michael Mbanya Wathigo Vs Nairobi City County, Ag. Governor, NCC & 2 Others
Ltd – Vs – Nairobi City County & 2 Others.
5. **ELC No.83 of 2016;** SIDCUP Enterprises Ltd Vs Nairobi City County & 2 Others
6. **HCC PET No 179 of 2019;** Martin Shikuku -Vs- NLC & Others
7. **HCC Civil Suit No 1885 of 1992;** Stephen Mwangi Muriithi -Vs- City County of Nairobi

The following are the responses to the specific issues raised by the Auditor General in the Seven (7) sampled files for the period under review:

1. CASE NO E371 OF 2020

PAUL NDORE MUSYIMI -VS- NCC, GORVENOR, SPEAKER, COUNTY ASSEMBLY & OTHERS

The County Executive gave instructions to **KWANGA MBOYA & Co. Advocates** to defend the County in a Consolidated matter seeking for nullification of the Nairobi County Assembly Appropriation Act, 2020/2021.

The Advocates based their legal fees on the subject matter which was Kshs. 37,500,000,000/- for the total budget in the financial year 2020/2021. The fee note was raised based on the amount in dispute because there was no way that the budget could be approved in part. The Appropriation Act was challenged as a whole and not only for the amount allocated to Nairobi Metropolitan Services (NMS). The fee note raised by the Advocate was **Kshs. 1,675,485,000.00/-**. The assessed fees by the County as per the Advocates Remuneration Order was **Kshs. 1,176,153,451.00/-**

The assessed legal fees were later reviewed by the County to Kenya Shillings Three Hundred and Fifty Million (**Kshs 350,000,000/-**) because the matter did not go to full hearing. Out of the assessed amount, the county committed and paid Kenya Shillings Fifty-Five million (**Kshs. 55,000,000/=**) leaving a balance of Kenya Shillings Two Hundred and Ninety-Five million (**Kshs. 295,000,000/=**) as evidenced by a memo dated 17th May, 2022, to the Chief Finance Officer by the then acting County Solicitor.

There was a settlement by the parties via a consent that was filed in court.

The relevant supporting documents relating to the same are as per **Annexure 2** herein:

1. Letter of instruction
2. Raised fee note
3. Assessed fee note
4. Memo to the Chief Finance Officer dated 17th May 2022
5. Payment voucher of Kshs. 55,000,000 dated 22nd June 2021
6. Ruling and Consent

2. ELC NO. E011 OF 2020

MOHAMED ISSA AND 2 OTHERS VS NCCG & 2 OTHERS

The dispute herein relates to three pieces of **Land Plot No. 90, 86 and 78** situated in Kariobangi South within Nairobi County. The Plaintiffs and or the Applicants claim that they were allotted the subject properties sometime in **1986**. They however further claim that, the defendants and in particular the County is intending to deprive them their Rights over the property hence the suit.

The County on being served with the pleadings relating to the matter on **16th September, 2020** duly instructed the firm of **M/S ARIO & COMPANY** to take conduct of the same on its behalf vide a letter of instructions dated **29th September, 2020**.

The firm in accepting to take conduct of the matter filed the relevant pleadings and thereafter presented a fee note in the sum of **Kshs. 40,000,000.00** which was subsequently assessed at **Kshs. 4,650,000.00**.

The said firm has since been paid the assessed fee in respect thereof.

Relevant supporting documents relating to the same are as per **Annexure 3** herein:

1. Instruction Letter
2. Raised Fee note
3. Assessed fee note
4. Payment voucher for **Kshs. 4,650,000.00**
5. Acceptance of the fee note

3. CASE NO. MISC 368 OF 2016

REPUBLIC -VS- CCN & OTHERS EXPARTE KEPHA MAOBE & 365 OTHERS

The matter inter alia is as a result of **NBI HCCC NO. 516 OF 1997** in which the county was sued by one **KEPHA O. MAOBE & 365 OTHERS** on behalf of residents of Kimathi Estate. The matter related to a dispute in relation to **40.4ha** of land.

The residents were against the sale of open space in the estate to a private developer resulting to the institution of the case seeking injunction orders restraining the defendants (City Council then & Another).

The county was represented by the firm of **KIPKENDA CHEBET & CO. ADVOCATES** who raised a fee note of **Kshs. 74,500.00** and a judgement was delivered in favour of the county and other defendants. The plaintiff appealed the decision vide **Civil Appeal No. NBI 8 OF 2004** where the county was ordered to pay party to party costs in the sum of **Kshs. 10,247,610.00** with interest at court rates.

The County failed to pay the amount in time necessitating the plaintiff to file the instant **Case Misc, Civil Application. No. 368 of 2016** for mandamus to compel the County to pay, and an order was issued to that effect followed by warrants of arrest of the CEC member of finance then.

The amount paid was **Kshs. 10,247,610.00** plus interest of **Kshs. 7,275,803.10**.

The relevant supporting documents are as per **Annexure 4** herein:

1. Fee note for **KIPKENDA CHEBET & CO. ADVOCATES**
2. Order for Mandamus
3. Ruling in respect of **MISC APPLICATION NO. 368 of 2016**
4. Payment Vouchers for payment of the party-to-party costs and Interests.

4. ELRC PETITION NO E021 OF 2021

MICHAEL MBANYA WATHIGO & OTHERS -VS- NAIROBI CITY COUNTY, Ag. GOVERNOR, NCC & 2 OTHERS

The Court was moved by way of Notice of Motion and a Petition in which the petitioners were challenging the appointment and subsequent gazettelement of the Nairobi County Alcoholic Drinks and Licensing Board through a **Gazette Notice No. 12029** dated **8th December 2017** published in **Volume CXIX NO. 180**.

They sought the court to declare that the appointments were illegal, improper and contrary to the legal provisions of the Constitution, and an order of Certiorari quashing the Gazette Notice and an order of Mandamus directing the 3rd Respondent to declare the Petitioners as duly appointed members of the board.

The Law firm of **KITHI & CO. ADVOCATES** was instructed to defend the interest of the county and the acting Governor in this Matter where they raised a fee note of **Kshs. 46,222,000/=**. However, on assessment, the same was reviewed to **Kshs 24,000,000/=** all inclusive. The same has been paid to the said firm. The county was sued and therefore had to defend the suit.

The Office of the County Attorney duly advised the Executive that since the Petitioners was never gazetted, their contention as to the said appointment was a nullity *ab initio*.

Relevant Documents relating to the same are as per **Annexure 5** herein:

1. Replying affidavit sworn by the then County Attorney.
2. Fee note raised
3. Fee note assessed
4. Three Gazette Notices appointing the Board Members

5. ELC NO. 83 OF 2016

SIDCUP ENTERPRISES LTD – VS – NAIROBI CITY COUNTY & 2 OTHERS.

The Plaintiff in this matter alleged that they were the registered proprietor as Lessee of a parcel of land situated in Langata, Nairobi County comprising of 3.865 ha of ILR No. 209/12226 Grant No. IR 66150. That pursuant to a letter issued by the County (2nd Defendant) dated 11th December, 2014, it commenced construction of a boundary wall on the suit premises. That the 1st Defendant (John Serewa Kaurai) trespassed on the suit premises and threatened to demolish the boundary wall founded on a purported letter of Allotment dated 1st July, 1999 issued by the County.

It prays for Judgment against the Defendants jointly and severally for a Permanent Injunction to restrain the Defendants from demolishing the boundary wall erected and a Declaration that the purported letter of Allotment issued by the County is illegal, null and

void and incapable of conferring any interest in and to the suit premises to the 1st Defendant.

The County in its Replying Affidavit and Witness Statement filed in Court defended itself that under Section 12 of the Physical Planning Act, CAP 286 Laws of Kenya it has authority to provide development and or demolition approvals upon such property where and when necessary.

That on 23rd November, 2014, a building plan for a proposed boundary wall on a Plot LR No. 209/12226 off Mbagathi Road was submitted for Approval consideration. After Evaluation, it was recommended for Approval in the Technical meeting of 11th December, 2014 after it was found to have met all the requirements.

Later, on 27th February, 2015, a complaint was received from the 1st Defendant claiming he was the rightful owner of the said plot. After consultation with the Director – Urban Planning, it was agreed that the building plan be disapproved as per condition “q” in the approval letter. It should be noted that at the time, the building plans were submitted, copies of ownership documents and rate receipts were attached confirming the Plaintiff was the owner. **That the County’s decision to revoke the approval granted was to ensure that no development would take place on the land till the rightful owner is determined as per the letter dated 5th March 2015 from the National Land Commission.**

From the documents in the file there are two title documents in relation to the dispute; an allotment letter dated 1st July 1999 from the Department of Lands, Ministry of Lands to one John Senewa Kaurrai who is the 1st defendant and a Grant conferring title of the property to SIDCUP Enterprises Limited.

It can be noted that the double allocation was not done by the County but by the Ministry of Lands and that the County was only coming in due to its decision to revoke the approval granted to ensure that no development would take place until the rightful owner is determined.

The plaintiff in the matter only sued the County due to its decision to revoke the building approvals granted to them previously and therefore this is not a case of double allocation by the County government.

The relevant supporting documents available are as per **Annexure 6** herein:

1. Letter from the National Land Commission dated 5th March 2015
2. Title with Grant Number I.R 66150
3. Letter of Allotment for I.R NO 209/12226.

6. HCC PET NO 179 OF 2019

MARTIN SHIKUKU -VS- NLC & OTHERS

The subject matter of the suit is a parcel of Land known as **Title no. Nairobi/Block82/1765** containing in **total 13.5 Acres**.

The Office of the Country Attorney's mandate is to represent the County Executive in Court on Civil Matters.

Once a Suit is served on the County Attorney's Office, the same must be defended and therefore an Advocate has to be instructed to take up the matter and defend the County's interest. Failure to defend can lead to an adverse order and ex-Parte judgment which may have significant financial implications.

The Advocate appointed/instructed is entitled to payment of Legal fees. The same is assessed in accordance with the Advocates Remuneration Order.

On the issue of double allocation, the Land was adjudicated by the National Land Commission and the County Government of Nairobi does not have in its possession any documents in relation to the land in question. However, the National Land Commission determined that the land revert back to its initial status as a public utility.

The relevant supporting documents areas per **Annexure 7** herein:

1. Letter from the City Planning Department.
2. Determination of the National Land Commission

7. HCC CIVIL SUIT NO 1885 OF 1992

STEPHEN MWANGI MURIITHI -VS- CITY COUNTY OF NAIROBI

The documents in our possession do confirm that the plaintiff in this matter was allocated 2 hectares of land within Jamhuri Estate Phase II vide a letter dated 17th November 1979.

The only document in our possession that points out that the Plaintiff was offered a different parcel of land is a letter dated 26th October 1992 wherein the Plaintiff was being offered two plots each measuring 0.7 hectares at Kariobangi South. It is not clear why this offer was not taken up.

From the documents in our possession, it is not clear why the 2 hectares at Jamhuri Phase II were re-allocated to another person. It is not clear who the alleged allottee of the suit premises was. However, vide a letter dated 12th June 1978, the Plaintiff had been notified that the General Purposes Committee had decided that the area in question had been vested in Council for use as an open space hence his request to be allocated the said land could not be acceded to since doing so would be contrary to the Council's policy.

In the Amended plaint dated 1st day of July 2004, the Plaintiff prayed for Kshs. 1,193,722,335.95 with interest at 18% per annum from 1st of July 2004 until payment in full,

general damages for breach of contract and exemplary damages. This constituted the Plaintiff's claim which was dismissed by the Court.

From the Judgment issued on 8th April, 2015, the Plaintiff failed to prove his case on the balance of probability. Consequently, the Court dismissed the Plaintiff's claim as stated in the Plaint save for refund of Kshs. 580,910/= with interest at Court's rate from the date of filing the amended Plaint on 1st July 2004. Further, the Defendant was awarded the cost of the suit. The relevant supporting documents are as per **Annexure 8** herein:

1. Amended Plaint
2. The Judgment dated 8th April 2015.

Non-Compliance with Office of the County Attorney Act, 2020

Annual Report from the Office of the County Attorney to the Governor

During the Financial Year 2021/2022 the annual report was not prepared as per Section 28 of the OCA, Act due to financial constraints. However, for the last financial year 2022/2023, the OCA is in the process of preparing the said report in order to comply.

Over- Expenditure

The total budget for the Legal Affairs Department for the year under review was Kshs. 820,191,479. Out of the total budget, the department was allocated Kshs. 407,334,400 and an additional Kshs. 200,000,000 in the 1st supplementary giving a total of Kshs. 607,334,400. Out of the total amount allocated, we committed a total of Kshs. 597,337,062 and paid Kshs. 505,363,387. The total allocation for the budget line for payment of other creditors during the 2nd Supplementary was Kshs. 1,300,000,000, out of which Kshs. 797,394,977 was paid.

The relevant supporting documents are as per **Annexure 9** herein:

1. Departmental Budget for the year under review
2. Other Creditors budget for the year under review
3. Approved Supplementary Budget

Human Resource Capacity

During the year under review a total number of six (6) counsels were deployed in the Office of the County Attorney. However, two Counsels were deployed in the Litigation department. The others were deployed in the other departments namely:

Conveyancing and contract negotiation, Legislative drafting and advisory and Prosecution. The ones attached to the litigation department could not handle the matters therefore necessitating the instructions to the external advocates.

The department however made attempts to recruit more counsels which was stopped by a court Order in a matter instituted by the County Government Workers Union contending that the advert should have made internally.

Nonetheless, in 2022/2023, the department managed to forward requests and six additional counsels were recruited.

Substantive County Solicitor

In the year under review, there was an advert/attempt for recruitment of a County Solicitor. A request for the same was forwarded to the County Public Service Board.

The relevant supporting documents are as per **Annexure 10** herein:

1. Combined and updated staff list.
2. Internal Advertisement
3. Letter to the County Public Service Board
4. Advertisement of posts in the Legal Department
5. Letter to the County Secretary
6. Letter to the County Public Service Board
7. The Structure of the Legal Services Directorate
8. Monthly Staff Returns and Personnel Occurrence Reports

Valuation

In assessment of legal fees, the OCA is guided by the Advocates Remuneration Order. However, a communication has also been done to all Counsels involved in assessment to consult the Valuation department to get the market values for land, for any matter involving a parcel of land in Nairobi. This value is then used for assessment of legal fees to ensure that Advocates fees are accurately assessed.

Risk Management Program

The OCA has come up with a legal awareness programme which aims at sensitizing all key officers from respective sectors and departments on compliance issues to minimize suits being filed against the County Government. Besides, the OCA has constituted an Internal Assessment Committee comprising of in-house Counsel to not only assess fee notes but also reassess all the fee notes which had been earlier presented.

All the relevant supporting documents are as per **Appendix 1.1.2** herein.

Committee Observation:

The Committee observed that the County is exposed to enormous contingent liabilities from legal fees. There is evidence of over-rated fee notes, a lack of proper consultation with the Attorney General, and insufficient internal legal capacity, leading to high costs from cases that could have been avoided through better governance.

Committee Recommendation:

The Committee recommends that: -

- All legal fee notes must be rigorously assessed by an internal Committee against the Advocates Remuneration Order, with mandatory input from the Valuation department for land-related cases;

- The Office of the County Attorney must be adequately staffed and its legal awareness program implemented across all departments to prevent litigation arising from employee negligence or procedural failures; and
- The County Executive must prepare and submit its annual legal report as mandated by law.

29. 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.

Management Response

The County has been striving to remit statutory deductions whenever they fall due. However, there are circumstances when this is not possible due to cashflow problem normally as a result of delays in disbursements from National Government through Equitable Share of Revenue. Notwithstanding the County has decided with Cooperative Bank to grant County Overdraft to settle salaries and allowances wherever they fall due. This is an arrangement that was implemented since January 2023 and currently in compliance with statutory timelines.

On the issue of unremitted pension, County staffs belong to different pension schemes as follows:

Defunct staff are members of either Local Authorities Provident Fund (LAPFUND) or County Pension Fund (CPF) and their contributions are defined respective pension scheme regulations whereby employer contributes 15% of basic and House allowance while employee contributes 12% of the same

For Staff devolved from National Government their pension scheme is covered under provisions of 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.

The County has been remitting pension contributions for period under review as per ADV reports submitted by Finance whereby gross salaries is paid through Cooperative Bank through EFT.

Committee Observation:

The Committee observed with grave concern the County's systemic and prolonged failure to remit statutory staff deductions, including pension contributions, LAPFUND dues, and tax obligations (PAYE, VAT). This has not only breached legal statutes but also exposed the County to massive penalties and interest, significantly increasing the pension debt burden and violating the rights of employees and retirees.

Committee Recommendation:

- The Committee recommends that the County Executive should prioritize the clearance of all outstanding statutory deductions. A structured debt repayment plan must be developed and implemented immediately, and the arrangement with Cooperative Bank to ensure timely remittance of salaries and deductions must be strictly adhered to. The County Treasury must provide quarterly reports on the status of these remittances.

30. 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 are

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.

Management Response

The County Executive failed to remit resultant tax amount as and when the taxes were due and payable to the Commissioner. However, the Executive remitted the outstanding amounts thereafter. Delay in the remittance of the outstanding taxes result from either low revenue performance or delayed release in the equitable share.

All pending payables to LAPFUND including principal and interest amounts were settled in the succeeding financial years.

The historical Government loans of kshs. 15,328,285,000.00 is a debt inherited from the defunct Nairobi City Council. There are no records within the County Executive relating to the loans, rather the loans appear in the financial statements. However, the County Executive plans to have the loans written off by the National Treasury.

Committee Observation:

The Committee observed a critical lack of financial accountability, evidenced by massive, unreconciled historical debts, including unremitted statutory deductions and legacy loans

from the defunct City Council. The failure to reconcile these amounts with creditor institutions like LAPFUND and KRA and the plan to simply have loans "written off" by the National Treasury demonstrate a serious disregard for fiscal responsibility.

Committee Recommendation:

- The Committee recommends that the County Executive to engage immediately with LAPFUND, KRA, and the National Treasury to reconcile all outstanding balances. A clear and verifiable strategy for settling or managing these historic debts must be developed and presented to the County Assembly, moving beyond mere plans for write-offs.

31. Failure to Implement an Effective 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.

Management Response

Office of the County Attorney initiated the procurement process for the acquisition of the automated case management system, however, it was not effected due to cashflow challenges during the financial year.

Committee Observation:

The Committee observed that the Legal Department's continued reliance on a manual filing system, despite a budget being approved for an automated case management system, constitutes a breach of law and poses a severe risk to the security and integrity of crucial legal documents. The cited "cashflow challenges" are an insufficient justification for this failure.

Committee Recommendation: -

- The Committee recommends that the County Executive should ensure that the procurement and implementation of the automated case management system be treated as a matter of urgency in the subsequent financial year. The County Attorney must provide a definitive timeline for its rollout to ensure compliance with the law and improve efficiency.

32. 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 favour 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.

Management Response

During the Financial Year 2021/2022 the annual report was not prepared as per Section 28 of the OCA, Act due to financial constraints. However, for the last financial year 2022/2023, the OCA is in the process of preparing the said report in order to comply.

During the year under review a total number of six (6) counsels were deployed in the Office of the County Attorney. However, two Counsels were deployed in the Litigation department. The others were deployed in the other departments namely: Conveyancing and contract negotiation, Legislative drafting and advisory and Prosecution. The ones attached to the litigation department could not handle the matters therefore necessitating the instructions to the external advocates.

The department however made attempts to recruit more counsels which was stopped by a court Order in a matter instituted by the County Government Workers Union contending that the advert should have made internally.

Nonetheless, in 2022/2023, the department managed to forward requests and six additional counsels were recruited.

All the relevant supporting documents are as per **Annexure** herein.

In the year under review, there was no budget for recruitment of a County Solicitor.

There was an advert/attempt for recruitment in 2022. A request was forwarded to the County Public Service Board to recruit a substantive County Solicitor.

Committee Observation:

The Committee observed multiple breaches of the County Attorney Act, including significant over-expenditure without proper reallocation, failure to submit mandatory annual reports, chronic understaffing of the litigation department, failure to appoint a substantive County Solicitor, and a lack of consultation with the County's valuation experts. These failures have led to poor financial control, unplanned legal costs, and an over-reliance on expensive external lawyers.

Committee Recommendation:

The Committee recommends:

- The County Public Service Board should immediately commence the process of appointment of a substantive County Solicitor;
- The County Executive to strict adhere to the budgetary controls and all requirements for reallocations;
- The office of the County Attorney to submit annual legal report to the Governor and County Assembly; and

- **The County Executive to establish a mandatory protocol requiring the Legal Department to obtain official valuation reports for all land-related cases.**

33. Discrepancy Between Advocates Fees and Reviewed Assessments

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.

Management Response

Valuation

In assessment of legal fees, the OCA is guided by the Advocates Remuneration Order. However, a communication has also been done to all Counsels involved in assessment to consult the Valuation department to get the market values for land, for any matter involving a parcel of land in Nairobi. This value is then used for assessment of legal fees to ensure that Advocates fees are accurately assessed.

Committee Observation:

The Committee observed that the absence of a standardized legal fees payment policy leaves the County vulnerable to exploitation and overcharging by external advocates, despite the existence of the Advocates Remuneration Order.

Committee Recommendation:

- **The Committee recommends that the Office of the County Attorney should develop and implement a robust Legal Fees Payment Policy to ensure all fees are assessed consistently, fairly, and in strict compliance with the Advocates Remuneration Order within three months after the adoption of this report.**

34. 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.

Management Response

The approval Memo Ref No. NCC/CEC/CS/Vol.1/2021/112 for the expenditure item in the budget with respect to exhibition booths for sixteen (16) participants for ksh. 800,000 and ksh. 1,020,000 in respect member's accreditation / registration.

Others are Memo Ref: NCC/CEC/CS/Vol.1/2021/109 for ksh. 1,000,000, Memo Ref: NCC/CEC/CS/Vol 1/2021/108 for ksh. 2,000,000

The other letters and invoices from the Council of Governor's together with corresponding payment vouchers relating to the payment of ksh. 5,020,000 are also provided.

Voucher	Sub item Description	Payee	Payment Date	Amount kshs.
019487	Payment for exhibition booths	Council of Governors	8/18/2021	800,000
019484	Payment for support towards the 7 th Annual Devolution Conference in Makueni	Council of Governors	8/18/2021	2,000,000
019505	Payment for accreditation and registration for 51 participants	Council of Governors	8/18/2021	1,020,000
019485	Payment for contribution towards legal fees to assist matters filed by the council of Governor's	Council of Governors	8/18/2021	1,000,000
38206	Training Expenses – Other (Bud	Council of Governors	8/23/2021	200,000
	TOTAL			5,020,000

Since the payments relate to subscriptions, invoices from the Council of Governor's Secretariat are used to make the payments. **Appendix 4**

Committee Observation:

The Committee observed that the payment to the Council of Governors for exhibition booths and conference support was irregular, as the Intergovernmental Relations Act clearly stipulates that the National Government should bear the Council's operational expenses. The internal approvals do not rectify the fundamental illegality of the expenditure.

Committee Recommendation:

- The Committee recommends that the County Executive should engage the National Treasury to clarify the funding mechanism for County participation in Council activities, and the County should seek a refund for any ineligible payments.

35. Development (EED) Centres 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 neighbouring 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.

Management Response

As per the provisions of section 78(b) of the Public Procurement and Asset Disposal Act 2015, which reads-under the sub-title Opening of tenders “(b) at least one of the members shall not be directly involved in the processing or evaluation or evaluation of tenders.

This section clearly provides that when a procurement entity is appointing ad hoc committees, the tender opening committee can be appointed to the evaluation committee but at least one member shall not be part of the evaluation committee.

Both the opening and evaluation committees were ad hoc committees whose mandate in the procurement process ends once they are through with that particular appointment as per section 46 of PPADA, 2015 and its regulation.

Ad hoc committees once appointed can perform both opening and evaluation of tenders as long as one member and the secretariat changes. This was the case in this particular process. Bidder number 1 provided Kiambu business permit and the procurement was for Nairobi County suppliers; in addition, this particular firm was not prequalified under furniture and fittings pre-qualification list for the year 2018-2019 financial year.

The disqualification of Bidder number 3 had nothing to do with Bills of Quantity.

On the evaluation criteria of the tender document, there were mandatory requirements and all bidders were required to submit a certified CR12 by a lawyer. The CR12 submitted by bidder number 3 was not certified. On the checklist it was ticked as submitted, however there was a note underneath indicating that it was not certified.

Committee Observation:

The Committee observed apparent flaws in the procurement process, including questionable disqualifications of the lowest bidders and inadequate segregation of duties in the evaluation committee, which cast doubt on the transparency of the process and suggest the County may not have achieved value for money.

Committee Recommendation:

- The Committee recommends that the County Executive Member for Finance should investigate this specific procurement to ensure all disqualifications were justified and procedural requirements were fully met. Future procurements must ensure complete transparency and strict adherence to the principle of awarding contracts to the lowest evaluated bidder.

36. 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.

Management Response

As per the provisions of section 78(b) of the Public Procurement and Asset Disposal Act 2015, which reads-under the sub-title Opening of tenders “(b) at least one of the members shall not be directly involved in the processing or evaluation or evaluation of tenders.

This section clearly provides that when a procurement entity is appointing the evaluation committee the entire opening committee can be appointed to the evaluation committee but at least one shall not be part of the evaluation committee.

In addition, the payment to consultant was not made.

Committee Observation:

The Committee observed repeated breaches of procurement law across multiple projects, particularly the failure to ensure proper segregation of duties between tender opening and evaluation committees, and the omission of mandatory documents like professional opinions from the Head of Procurement.

Committee Recommendation:

- The Committee recommends that the County Executive should undertake mandatory training for all staff involved in procurement on the requirements of the PPADA, 2015, with a special emphasis on the need for distinct tender

opening and evaluation committees. The Head of Procurement must be held accountable in ensuring all mandatory reports and opinions are provided.

37. 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.

Management Response

The highest bidder was responsive to the County needs as per the specifications in the bid documents and had proven capacity to deliver the services. The arithmetic error in the documents submitted by bidder would have led to variation.

Committee Observation:

The Committee observed that the contract for internet services was wrongly awarded to the highest bidder instead of the lowest, resulting in a clear loss of public funds. The management's justification is inconsistent with the fundamental principles of public procurement.

Committee Recommendation:

- The Committee recommends that the County Executive should review this contract and take necessary action to recover the lost funds. The Procurement Department must be directed to strictly apply the law, which mandates the award of contracts to the lowest evaluated bidder who is technically qualified.

38. 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.

Management Response

As per the provisions of section 78(b) of the Public Procurement and Asset Disposal Act 2015, which reads-under the sub-title Opening of tenders “(b) at least one of the members shall not be directly involved in the processing or evaluation or evaluation of tenders.

This section clearly provides that when a procurement entity is appointing the evaluation committee the entire opening committee can be appointed to the evaluation committee but at least one shall not be part of the evaluation committee.

Committee Observation:

The Committee observed a recurring pattern of non-compliance in procurement, where the same individuals were appointed to both open and evaluate tenders, undermining the integrity of the process.

Committee Recommendation:

- **The Committee reiterates its recommendation for the County Executive to strictly adhere to the Public Procurement and Asset Disposal Act, particularly Section 46, to ensure clear segregation of duties in all procurement committees to prevent conflicts of interest and enhance transparency.**

39. 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 in case 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.

Management Response

Nairobi County Disaster Management Act 2015 has not been fully operationalized. It is currently under review for repeal as per attached memos. This will enhance operationalization of Nairobi County Disaster and Emergency council.

Committee Observation:

The Committee observed that the failure to operationalize the Disaster and Emergency Management Council, as required by law, leaves the County vulnerable and uncoordinated in responding to emergencies, risking the ineffective use of emergency funds.

Committee Recommendation:

- The Committee recommends that the County Executive treat this as a priority. The pending review and repeal of the current Act must be expedited, and in the interim, an interim coordination mechanism must be established to fulfil the Council's mandate and submit a report to the County Assembly within sixty days after the adoption of this report.

40. 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.

Management Response

The deduction was as per CARA 2021 where funds were deducted at source by the National Government.

Committee Observation:

The Committee observed that while the equipment was physically verified, the County could not provide a basis for the specific deductions of Kshs.153 million made at source by the National Government, raising questions about the accountability and value for money of the leasing program.

Committee Recommendation:

- The Committee recommends that the County Executive to formally seek a detailed billing and deduction schedule from the National Government for the medical equipment leasing program to ensure transparency and confirm the accuracy of all deductions. A report on the same to be submitted to the Assembly within sixty days after the adoption of this report.

41. 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 Guillotine 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.

Management Response

Space for installation of the 3.no machines was identified at the basement of main City Hall. The three machines are offset printing machine, Guillotine cutting machine and perfect binding machine. The requisition was done and forwarded to the procurement for award. Advertisement for award was done on 18th march 2024 and no one met the requirements. Advertisement on the same was done on 8th April and Closes on 14th April 2024.

Committee Observation:

The Committee observed that a significant investment in printing press machinery has been lying idle for years due to an apparent lack of pre-procurement feasibility study to confirm basic requirements like ceiling height, representing a gross wastage of public funds.

Committee Recommendation:

- The Committee recommends that the County Executive to urgently complete the installation of these machines;
- The County Executive Committee Member for Finance must investigate the officers responsible for this procurement failure for a possible disciplinary action and submit a report to the Assembly within sixty days after the adoption of this report; and
- The County Executive should ensure that rigorous feasibility studies are conducted for all future high-value procurements.

42. 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.

Management Response

Contract No. NCC/TRADE/RT/1259/2016-2017 for supply, delivery, installation and commissioning of weights and measures equipment was awarded to Gokhan Technical Services Limited around the month of October, 2016 with a price schedule as attached at annex 4.

The installation works commenced on 31st May 2019 for a period of three months and the scope included Foundation civil works, Weigh Office building works, supply of weighbridge deck and sensors, CCTV system set-up and equipment installation and calibration. These works were indeed supervised by engineers from then NMS as evidenced by annex 1 attached on appointment of a Resident Engineer by the Director Public Works and Transport.

Supply of 4 (four) Dormant platforms and 10 (ten) electronic counter scales were done through delivery Note by the contractor to the County General Stores on the 27th July, 2018 (annex 2 attached). A recent visit to the General Stores confirmed the existence of the said equipment at the stores. The dormant platforms and the electronic counter scales were to be utilized at the Kangundo Road Wholesale Market which was later converted into a retail market.

Upon completion of the works, the Director Public Works and Transport informed the CCO-Trade to appoint an inspection and acceptance team, which was then constituted and

issued a certificate as documented in annex 3 attached. The contractor had no mandate to get rid of the developer blocking access to the weighbridge, the only access being one way to and from the platform. (Appendix 11.2)

Committee Observation:

The Committee observed that a substantial investment in weights and measures equipment at Ukulima Market is non-functional. Critical components are stored away, the installed weighbridge is inaccessible, and the entire market is unused, exposing the investment to vandalism and representing a total failure to achieve value for money.

Committee Recommendation:

- **The Committee recommends that the County Executive should undertake a comprehensive review of this project with a view to either install the stored equipment in a functional facility or repurpose it to ensure the public derives benefit from the expenditure.**

43. 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 was 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.

Management Response

The projects were still ongoing. Before the expiring of the defects liability period the contractor is required to ensure that all works are up to standard.

Committee Observation:

The Committee observed that the construction and rehabilitation works for several local halls (Pumwani Kayole, Lumumba, Bahati, Joseph Kangethe, Mugomoini, and Waithaka) were incomplete and of substandard quality. Physical verification revealed significant deviations from the bill of quantities, including missing water tanks, inadequate manholes, poor roofing and tiling work, incomplete sewer connections, and inaccessible facilities. The Management's response that "the projects were still ongoing" is unsatisfactory, as these deficiencies represent fundamental failures to meet contractual specifications and basic construction standards, denying the public the intended use of these facilities.

Committee Recommendation:

- The Committee recommends that the County Executive to immediately issue a formal defect liability notice to the contractor, demanding the urgent rectification of all identified deficiencies in strict accordance with the approved bill of quantities and quality standards;
- The County Executive should withhold any further payments until all works are completed satisfactorily;
- The County Executive through the Engineering Department must enhance its project supervision to prevent the acceptance and payment for substandard and incomplete work in the future; and
- The County Executive to submit a progress report on the rectification of these halls to the County Assembly within three months after the adoption of this report.

44. 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.

Management Response

Ward development Programme is domiciled under finance sector, hence the projects under WDP were not transferred to NMS. NMS was providing technical support since NCCG staff in Mobility and Works Sector who provide technical input had been seconded to NMS.

Committee Observation:

The Committee observed that the County proceeded with the implementation of 155 Ward projects, an activity that required technical supervision from a sector (Public Works) that had been transferred to the Nairobi Metropolitan Services (NMS). This created a functional overlap, reliance on NMS for technical services, and raises questions about the mandate and efficiency of the County in executing these projects.

Committee Recommendation:

- The Committee recommends that the County Executive to fast-track all documentations from the defunct Nairobi Metropolitan Services and submit a

report to the County Assembly within sixty days after the adoption of this report.

45. 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.

Management Response

Transfer of functions to NMS caused delays in implementation of projects within the awarded contract period since the NCCG technical staff were seconded to NMS.

Committee Observation:

The Committee observed that multiple projects from the 2019/2020 financial year remained incomplete years after their contractual completion dates, with the secondment of technical staff to NMS cited as a primary cause. This indicates poor project planning and a failure to manage contracts effectively amidst the transition of functions.

Committee Recommendation:

- The Committee recommends that the County Executive to conduct a comprehensive review of all stalled projects, formally seek extensions of time where necessary, and develop a catch-up plan to complete these projects to avoid further loss of public funds.

46. 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.

Management Response

As per the contract the works were to be done on selected roads within Mlango kubwa ward, however the contractor failed to commence the works thus there were no physical works that were carried out on site.

Committee Observation:

The Committee observed with extreme concern that the County paid for a road rehabilitation project in Mlango Kubwa Ward that, upon physical verification, was found to be non-

existent. This points to a severe breakdown in project supervision and a potential loss of public funds.

Committee Recommendation:

- **The Committee recommends that the County Executive Committee member for Finance to investigate this matter and officers responsible for certifying the works and authorizing payment must be held accountable; and**
- **The County Executive must explore all avenues to recover the funds paid and submit a report within sixty days after the adoption of this report.**

47. 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.

Management Response

Secondment of supervising team from roads and public works sector to NMS caused delays in implementation of works within the contract period, however upon settlement of the supervision arrangement with NMS the contractor resumed and executed the works to completion.

- (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.

Management Response

After the payment of first certificate the contractor resumed and executed the remaining works to completion.

- (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.

Management Response

The contractor suspended implementation of the works due to delayed payment of the first interim payment certificate. Due to continued use of the road and ingress of water into the road base the pavement failed.

- (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.

Management Response

Upon payment the contractor resumed the works and completed the works on culverts

Committee Observation:

The Committee observed widespread irregularities in road projects, including poor workmanship, missing signage, stalled projects despite substantial payments, and the use of incorrect signposts (e.g., NMS signs on County projects). This reflects a systemic failure in project management, supervision, and quality control.

Committee Recommendation:

- The Committee recommends that the County Executive to strengthen its project supervision units, enforce strict quality assurance mechanisms, and ensure that all projects are properly branded. All contractors who have been paid for incomplete or substandard work must be compelled to fulfil their contractual obligations.

48. 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.

Management Response

WDP wrote to the implementing sector (Mobility and Works) for the sector to process extension of contract period for stalled projects FY 2019-2020 and 2021-2022 that had been delayed due to delayed payments and also due to transition to NMS. (See attached Memo and Sample letters for request of extension of time).

Committee Observation:

The Committee observed that 77 projects, with a total value of over Kshs. 1.1 billion, were delayed without formal extensions of time, and their performance bonds had expired. This exposes the County to significant risk and represents a clear breach of procurement regulations.

Committee Recommendation:

- The Committee recommends that the County Executive to regularize all delayed projects by immediately processing and obtaining formal extensions of time; and
- The practice of allowing performance bonds to lapse must cease, and responsible officers should be disciplined for this negligence.

49. 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.

Management Response

For 2018/2019 2No. Projects did not commence since the contractor failed to possess the site. 1no. Project was retendered is Ongoing.

For 2019/2020 projects: 12 No. projects out of the 14 are stalled at 70% of completion due to non-payment. 2 No projects did not commence out of which one was terminated.

For 2021/2022, However as per the current status 30 out of 52 stalled projects are now complete, 13 are still stalled due to non-payment and 9 have terminated. (Current status attached, sample copies of termination letters attached).

Committee Observation:

The Committee observed an alarming situation where 68 road projects, with a total contract value of Kshs. 1.06 billion, were never implemented, and the contract periods elapsed. The failure to terminate these contracts or hold contractors accountable represents a gross mismanagement of public resources.

Committee Recommendation:

- The Committee recommends a forensic audit of all procured but unimplemented projects and a report submitted to the Assembly within ninety days after the adoption of this report; and
- All contractors who failed to perform should be blacklisted by the County Executive.

50. 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 insured to be able to operate. Management did not give reasons for failure to obtain insurance cover for the same. The idle equipment is 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.

Management Response

- (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.

Management Response

It is true that the County is not in possession of all logbooks for all vehicles, equipment and motor cycles. It is worth noting that transfer of all vehicles and equipment moved to the County from the National Government in 2013 during devolution in line with the new constitution (2010) have never been officially transferred. Therefore, the logbooks are still in possession of the parent ministries in the National Government. However, the County is aware of the ongoing transfer exercise and valuation of the moveable assets have been conducted under the Ministry of Devolution and the Mechanical and Transport Division – Ministry of Roads and Infrastructure. The logbooks will therefore be presented for verification once the process is complete.

In the period under review, the correct number of vehicles, plant, equipment and Motorcycles was Five hundred and Eighty-Nine (589No) and not Three Hundred and Eight (389). However, it should be noted that comprehensive inventory for the 389No was complete, the County was in the process of updating the inventory in line with the harmonized asset register provided by the National Treasury. Copies of the inventory are available for review (**Refer to appendix 2**).

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.

Management Response

The motorcycle in question was a donation to the County from a well-wisher. It should be noted that the motorcycle did have official handover and as such was taken to the County Central Garage for safe custody awaiting proper documentation. In the circumstances, the asset was not captured in the inventory until proper handover and transfer is completed.

- (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.

Management Response

Not all vehicles operate at any given time due to reasons such as repair and maintenance. The Management has embarked on instituting measures to ensure 100% fleet availability by having framework agreements that ensure prompt supply of vehicle service parts and lubricants. Further, the County has not disposed of unserviceable vehicles, plant, and equipment since 2017. With time serviceable fleet is likely to become unserviceable due to wear and tear and thus disposable, however, the County has no legal mandate to dispose of vehicles that were devolved from the National Government in 2013 until their transfer is completed. Such vehicles form the bulk of the unutilized fleet. In the contrary the vehicles do not incur repair and maintenance costs as they remain grounded at the NCCG central Garage yard and are marked for disposal. Once the disposal is completed, the county will be able to maintain an optimal size.

Furthermore, the County has several undesignated drivers who are called upon to perform duties from time to time. This is to ensure that the available fleet match with drivers and that there is no unutilized capacity at any given time to ensure efficient and effective management of public resources.

- (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.

Management Response

It is true that the County has not disposed of unserviceable vehicles, plant, and equipment since 2017. With time serviceable fleet is likely to become unserviceable due to wear and tear and thus disposable, however, the County has no legal mandate to dispose of GK -Plate vehicles that were devolved from the National Government in 2013 until their transfer is completed. Similarly, some vehicles were moved to Nairobi Metropolitan Services during the transfer of functions from the County to the National Government. This led to disconnect between who should dispose of unserviceable fleet. The County therefore intends to initiate the disposal once the transferred functions are reverted.

In line with the Government regulations (2006) Section K – All accidents involving Government vehicles must be reported to the Traffic Police within the stipulated timelines. In addition, the County has an internal unit i.e. Traffic Inspection Unit (TIU) where all incidents involving County fleet are reported which include recording of the driver's statement. Failure to report such incidents is punishable as per the existing Human Resource regulations including surcharge of the responsible officers for loss of County resources.

We however acknowledge that there could be delays in repair of accident vehicles by the insurer sometimes due processes that are beyond the control of the County.

- (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.

Management Response

The county has not recruited technical staff at the Central garage for more than 15 Years. The facility has been experiencing acute shortage of staff to less than 20 Mechanics and artisans against a huge workload of maintaining over Three hundred (300no) vehicles, plant and equipment. In the circumstances, the County has opted to outsource garage services as a stop gap measure. Additionally, the Garage lacks modern machines and equipment to handle specialized repairs such as fire engines and heavy plant and equipment.

In the meantime, the County is in the process of recruiting the staff and equip the garage with modern equipment to enable handling of repair and maintenance of specialized fleet. A budget Kshs. 10Million has been set aside for maintenance of the County Garage facility.

- (v) The private garage gave a quotation for repairs and the payment process was initiated but due to budgetary constraints it didn't go through. Then NMS came and the matter was sidelined, however with the current administration it has followed up and an updated quote was given for necessary action.

(VI) NMS was operating under the directorate of Executive Office of the President and therefore did not use the contracted County insurance provider.

(VII) We do not have details of the mentioned garage and it is common practice for service providers to hold on to County vehicles until payment is done. We will be glad to if you share with the County details of the mentioned vehicles in the above garage.

(VIII) Attached please find a list of County vehicles covered by the contracted insurance provider (APA) showing the estimated value of each vehicle and Machinery. On the 12 No. vehicles that were in private garages, the County has no direct engagement with them since they are contracted directly by APA insurance limited.

(IX) The question does not provide details of the said garage however all vehicles are accompanied with an LPO before repairs are undertaken. The Chief Mechanical Engineer can provide details of when and where the vehicle is repaired.

(X) County vehicles cannot be accepted by our service providers (garages) without an LPO. Further the Chief Mechanical Engineer will not accept/allow a vehicle without an LPO to leave the Central garage for repairs. The LPO determines the nature of repairs to be undertaken. When provided with the name of the garage and vehicles particulars, we can

elaborate further. Insurance cover will depend on how long the vehicle has been grounded and once it's operational a valid sticker will be issued.

(XI) Due to non-payment for services rendered, the garages were slow in repairs. This brought about the issue of vehicles being delayed at the service providers' premises past the contract period despite them having been taken when the contract was still running.

(XII) Attached is an inventory of status of Nairobi firefighting equipment. Requisitions had been made in the previous financial year but payments were not actualized due to budgetary constraints.

(XIII) A payment voucher has been raised to NTSA for payment of new County No. plates. The Voucher is currently in the IB awaiting payment.

Committee Observation:

The Committee observed a catastrophic failure in fleet management, characterized by a lack of a verifiable asset register, a huge mismatch between the number of vehicles and drivers, a large number of grounded and vandalized vehicles, impounded vehicles due to unpaid bills, inconsistent use of garages, and a lack of uniform registration. This has led to massive inefficiency and a colossal waste of public funds on insurance, repairs, and maintenance for a non-functional fleet.

Committee Recommendation:

The Committee recommends a complete overhaul of the County's transport management system. This includes:

- Conducting a full physical asset verification to create an accurate vehicle register.
- Urgently disposing of unserviceable vehicles through the proper legal channels.
- Settling all outstanding garage bills to recover County vehicles.
- Rationalizing the fleet size to match operational needs and driver capacity.
- Standardizing vehicle registration and improving maintenance protocols.

51. 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).

Management Response

A total of Kshs 4,950,902 as quoted was used on item 3111401 (Pre-feasibility, Feasibility and Appraisal Studies). This is the item that we use for capacity building Value chain actors, Service providers, developing the capacity building/ innovation concepts and also paying conference facility during those activities. The reports of the activities were attached on the payment vouchers reviewed. (attached please find Itemized budget for 2021/22 and the expenditure listing for the period)

The programme is supposed to end on 30th November 2023 according to the No cost extension letter from National Treasury hence a credit of Khs 22,683,840 in the programme operational account on 1st of August 2022. (Attached please find a copy of the letter for no cost extension).

Committee Observation:

The Committee observed that the Agricultural Sector Development Support Programme (ASDSP II) was largely inactive during its intended lifespan, with funds remaining unutilized. The failure to implement this program represents a missed opportunity for agricultural development and a breach of agreement with development partners.

Committee Recommendation:

- The Committee recommends that the County Executive to provide a detailed report on the status of the ASDSP II program, ensure all outstanding funds are utilized effectively before the new deadline, and submit all required feasibility reports for audit.

52. Non-Compliance with Law on Submission of Financial Statements

The County Management did not submit financial statements for three (3) of its fund's audits 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 law.

Management Response

Disaster and Emergency Fund, County Lottery Distribution Trust Fund and Ward Development Fund were line items in the budget. The expenditure relating to these items was incorporated in the annual financial statements for the county government.

The Ward Development Fund Act could not be implemented due to reservation raised by the Office of Controller of Budget on compliance with existing legislations.

Betting control act was declared null and void due to lack of public participation.

The county is in the process of repealing the emergency fund regulations to ensure compliance with existing laws. *Appendix 15*

Committee Observation:

The Committee observed that the County failed to submit separate financial statements for the Disaster and Emergency Fund, County Lottery Distribution Trust Fund, and Ward Development Fund, as required by law, citing that they were mere budget line items. This is a breach of the Public Audit Act.

Committee Recommendation:

- The Committee recommends that the County Executive to comply with the law by preparing and submitting separate financial statements for each of these funds; and
- The ongoing process to repeal or align the underlying laws with national legislation must be expedited and a report submitted to the County Assembly within three months after the adoption of this report.

53. 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.

Management Response

While employment Act section 19 (1) (3) provides no deductions shall not exceed 2/3 of employee earnings, the section states 'Without prejudice to any right of recovery of any debt due, and notwithstanding the provisions of any other written law, the total amount of all deductions which under the provisions of subsection (1), may be made by an employer from the wages of his employee at any one time shall not exceed two-thirds of such wages or such additional or other amount as may be prescribed by the Minister either generally or in relation to a specified employer or employee or class of employers or employees or any trade or industry.

This section therefore states without prejudice to right to right to recover any debt due to employer. The following

The County acknowledges that some officers have over-committed salaries beyond the 'third basic rule' due to the following reasons:

- Where a staff fails to report on duty without valid reason or authorization by his/her supervisor, such an officer is deducted salary equivalent to the number of days reported absent up to a maximum of 14 days thereafter salary is stopped on account of unauthorized absence
- Where an officer is recovered salary due to due the following reasons:
 - i. Failure to account for imprest
 - ii. Fines and surcharges resulting from performance of his duties
 - iii. Overpayments as a result of erroneous earnings
 - iv. Recovery of County debts especially house rents for officers residing in County
- Where statutory deductions are adjusted upwards especially PAYE, NSSF, NHIF etc. and an officer was already at the statutory limit of 1/3 rule will result in an officer earning less than 1/3 of basic salary.
- Where an officer is interdicted and paid half basic salary instead of full basic salary yet there were deductions already being made
- Withdrawal of Covid 19 tax relief of 2020

In the above circumstances the IPPD system is programmed in such a way that it gives priority in deducting amounts due to the Government which leads to an officer earning below a third of basic. However, these are temporary situations and in most cases are one-off occurrences and it's a form of punishment to ensure that staff conducts their duties according to the laid down regulations

Attached please find a list of employees who have committed their salary beyond a third rule and the reasons for the month of July 2021.

Committee Observation:

The Committee observed that the County routinely violates the law by making deductions that reduce employees' net pay below the legal one-third threshold. While some reasons for recovery are valid, the practice exposes employees to undue hardship and is illegal.

Committee Recommendation:

- The Committee recommends that the County Executive to review its payroll recovery processes to ensure compliance with the Employment Act and submit a status report to the County Assembly within three months upon adoption of this report;
- The County Executive should explore alternative recovery mechanisms that do not contravene the law and cause pecuniary embarrassment to staff.

54. Non-Compliance with the National Cohesion and Integration Act, 2008

The Nairobi City County Executive had employees from one ethnic community being more than 44% cent of the workforce 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.

Management Response

The staffs of Nairobi City County are classified into three four categories:

1. Staffs devolved from national Government
2. Staffs inherited from the Defunct City Council
3. Staffs employed by the County Public Service Board
4. County Executive made of Governor, Deputy Governor and County Executive committee members and advisors.

From the above, the County has no control on composition of staff inherited from former City Council as these are staff employed over 20 years ago even before the enactment of National Cohesion and Integration Act 2008. This law cannot therefore be applied retrospectively. The Staff inherited from Former City Council has that issue whereby one ethnic community represents over 52% of entire Inherited staff. However, this issue will be resolved through natural attrition as staffs cannot be discriminated due to ethnic bias. For other class of staff their composition complies with the law which can be seen in the composition of staffs recently employed by the County Public Service Board during the period July 2021 to June 2022 as tabulated below: -

PS/No	Ethnicity	Number	Percentage
1	Borana	4	0.459

2	Degodia	1	0.115
3	Embu	11	1.263
4	Kalenjin	24	2.755
5	Kamba	151	17.336
6	Kikuyu	305	35.017
7	Kisii	93	10.677
8	Luhya	99	11.366
9	Luo	126	14.466
10	Maasai	3	0.344
11	Mbeere	2	0.230
12	Meru	21	2.411
13	Miji-Kenda	2	0.230
14	Murule	1	0.115
15	Orma	1	0.115
16	Other kenyan	16	1.837
17	Somoli So State	2	0.230
18	Taita	4	0.459
19	Tharaka	5	0.574
Total		871	99.999

Committee Observation:

The Committee observed that the County's workforce is not compliant with the National Cohesion and Integration Act, as one ethnic community constitutes more than one-third of the employees, largely due to the inherited staff from the defunct City Council.

Committee Recommendation:

- The Committee recommends that the County Executive to develop and implement an affirmative action plan to ensure future recruitment and promotions comply with the National Cohesion and Integration Act. This should aim to achieve ethnic diversity, particularly for new vacancies, while respecting the rights of existing staff.

55. 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.

Management Response

Nairobi city County has an updated asset register and draft asset policy. The asset register is provided in a soft copy while the Draft asset policy is provided in **Appendix 1**

Committee Observation:

The Committee observed that the County lacks a complete and accurate fixed asset register, particularly for land, and did not provide a detailed analysis of asset classes. This undermines the credibility of the financial statements and exposes County assets to loss and misappropriation.

Committee Recommendation:

- The Committee recommends that the County Executive to finalize and implement its draft asset policy and ensure the fixed asset register is comprehensively updated, verified, and maintained henceforth. A report on the status of the draft policy be submitted to the Assembly within thirty days after the adoption of this report; and
- All County land must be identified, valued, and included in the register.

56. 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.

Management Response

An ICT policy has been formulated and approved by County Executive Committee and has been submitted to County Assembly for final approval. We have a disaster management plan and information security policy which will be updated. The county has plans to set up DR site for county system. Appendix 2

Committee Observation:

The Committee observed that the County operates its IT systems without critical safeguards such as an approved IT security policy, a disaster recovery plan, and an up-to-date antivirus program. This exposes County data to severe risks of loss, corruption, and cyber-attacks.

Committee Recommendation:

- The Committee recommends that the County Executive to urgently approve and implement the pending ICT policy, the establishment of a Disaster Recovery site, and the installation of robust cybersecurity measures to protect critical county data and ensure business continuity.

57. 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.

Management Response

There is an Electronic Document Management System that is currently being implemented. Digitization and Automation of records is ongoing. Records management policy is being finalized.

Committee Observation:

The Committee observed that the County has over 15 policies stuck at the draft stage and lacks a records management policy, leading to the loss of important documents. This indicates a weak control environment and a lack of commitment to institutionalizing sound governance practices.

Committee Recommendation:

- The Committee recommends that the County Executive to prioritize the finalization, approval, and implementation of all pending policies, starting with the records management policy, to strengthen the internal control framework.

58. 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.

Management Response

Change management document is currently being developed. A team of revenue streams champions have been identified and they will be working together to ensure that any changes required are in control.

Committee Observation:

The Committee observed that the County lacks formal change management processes for its financial systems, increasing the risk of unauthorized alterations, errors, and fraud.

Committee Recommendation:

- The Committee recommends that the County Executive to expedite the development and implementation of a formal change management policy for all its information systems to ensure integrity and security.

59. Unreconciled Number of Employees

Records maintained by the County revealed that the County had a total of four thousand eight hundred and ninety 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.

Management Response

The number of employees indicated in the table above (4,896) under the year of review was extracted from the data which was forwarded to procure medical cover for Nairobi City County employees and the number didn't include three hundred and twenty-one employees who were devolved from the National Government since their medical cover is catered by the National Government. The actual number of employees who were paid in the month of April 2021 was Five thousand two hundred and seventeen employees (5,217) as explained in table one below and as per the IPPD wage bill report attached.;

Table One

Total Number of Employees as Per April 2021 Payroll	
PAYGROUP	Total
AA (Devolved Employees)	321
AB (Devolved from Tsc)	8
AC (Defunct City Council)	3662
AY (State officers)	12
BA (Employed by County Public Service Board)	1214
Grand Total	5217

N/B Table one explains the correct status of the numbers of employees 5,217 as per April 2021 and not 4896 quoted under the year of review.

The 4,896 employees indicated above under the year of review did not include three hundred and twenty-one devolved employees as shown in table one above; please see the summary table below; table two which was used to procure the NHIF cover for NCCG employees without the three hundred and twenty-one devolved employees;

Table Two

Total Number of Employees As Per April 2021 Payroll Exclusive Devolved	
PAYGROUP	Total
AB (Devolved from Tsc)	8
AC (Defunct City Council)	3662
AY (State officers)	12
BA (Employed by County Public Service Board)	1214
Grand Total	4896

September 2021

The Total Number of employees 5,884 indicated in the table above under the year of review for was extracted from the staff register of September 2021. The staff register is the backbone of the IPPD system, the number comprises of fifty-three (53) employees who have exited service due to various reasons, three (3) were transferred to NMS and one hundred and twenty-eight (128) were on salary stoppages and did not earn salary in the month of September 2021 as explained in the table 3 below. The actual employees for September 2021 were Five thousand six hundred and ninety-nine as shown in Table 4 below and IPPD wage Bill report attached. The IPPD system is programmed in such a way that once an employee has been deleted in the system the employee stays for a grace period of three months to be deleted completely from the system, however the employee does not earn any salary since the employee has been deleted in the system.

Table 3

EXIT NAME/STOPPAGE NAME	NUMBER OF EMPLOYEES
Contract Expiry	26
Death	12
Dismissal	1
Resignation	1
Retire Mandatory	13
Transferred to NMS	3
Absence (duty)	67
Audit Query	57
Unpaid Leave	4
Grand Total	184

Table 4

September 2021 summary table

SEPTEMBER 2021 STAFF REG	
No of employees	5,883
exits & salary stoppages	184
Total Number of employees	5,699

Table 5

September payroll data as per pay group	
PAYGROUP	Total
AB (Devolved from Tsc)	6
AC (Defunct City Council)	3,518

AY (State Officers)	12
BA (Employed by County Public Service Board)	1,858
Grand Total	5,394
AA	305
	5,699

In conclusion table 6 depicts the actual number of NCCG employees in the payroll from April 2021 to September 2021, hence the numbers quoted in the table above under year of review are inaccurate and are not actual numbers of employees who were in April 2021 and September 2021 payroll data.

Summary table of Employees from April to September 2021

Table 6

Committee Observation:

Month	No. of employees	Additions	Stoppages & exits
April	5217	780	18
MAY	5299	95	13
JUNE	5331	37	5
JULY	5205	11	137
AUGUST	5225	46	26
SEPTEMBER	5699	491	17
		1463	216

The Committee observed significant discrepancies in the reported number of employees between different County records, indicating a lack of a single source of truth for human resource data and weak payroll controls.

Committee Recommendation:

- The Committee recommends that the County Executive to harmonize its Human Resource and payroll data to maintain one accurate and verifiable record of employees, clearly distinguishing between different staff categories (devolved, inherited, newly recruited).

60. 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.

Management Response

Qualifications for the 2178No. staff positions identified, the County has been updating the skills data for all employees of the County in the IPPD system and the process is usually ongoing especially for the newly recruited employees.

The County has a skills inventory where data is updated often. The County is still cleansing and updating IPPD data to match the current skills inventory. However, it's noted that the IPPD system has very few options of updating levels of education that is update is only up to Level/ A' Level certificate, Degree and Masters. There is no provision to capture CPS(K)/CPA(K), technical certificates or any other relevant qualification in the system.

Attached please find samples for qualifications for the 2178 employees that have been retrieved from the employee's personnel file and updated in the skills inventory, copies of the certificates they hold and County Public Service Board (CPSB) Internal promotions guidelines 2020. *Appendix 5.2*

Committee Observation:

The Committee observed that the qualifications of many staff members, including those in senior positions, as recorded in the HR system, do not match the requirements of their roles. This raises concerns about staff competency and the integrity of the promotion process.

Committee Recommendation:

- The Committee recommends that the County Executive to conduct a skills audit and verify the academic and professional credentials of all employees, especially those in management positions, to ensure they are suitably qualified for their roles.

61. 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.

Management Response

Training programme for drivers as per training needs assessment (TNA) FY2022/2023 is attached.

Committee Observation:

The Committee observed a lack of documented training programs for drivers and mechanical technicians and the absence of an approved fleet management policy, contributing to the inefficiencies in the transport department.

Committee Recommendation:

- The Committee recommends that the County Executive to implement the identified training needs for its transport staff and finalize the fleet management policy to guide the acquisition, use, maintenance, and disposal of vehicles.

62. 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.

Management Response

The County was not in a position to remit the premiums as per the provisions of the contract due to cash flow shortfalls whereby projected revenues did not match the operational expenditures including personnel emoluments. Therefore, operational expenditures were settled as per available cashflows leading to suspension of cover.

With regards to the claims since they were incurred during the period when the cover was suspended, the same will be net off during settlement of the pending NHIF claim of Kshs. 200million.

Committee Observation:

The Committee observed that the County's failure to remit NHIF premiums on time led to a lapse in medical cover, forcing the County to pay Kshs. 22.5 million in avoidable medical claims from staff. This represents poor financial management and a waste of public funds.

Committee Recommendation:

- The Committee recommends that the County Executive to prioritize the timely remittance of statutory and contractual deductions like NHIF to avoid such losses in the future. The outstanding NHIF debt must be settled to restore the medical cover.

4.0 SUMMARY OF ALL RECOMMENDATIONS OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF NAIROBI CITY COUNTY EXECUTIVE FOR THE YEAR ENDED 30TH JUNE 2022

Following the Committee's consideration of the "Report of the Auditor-General on the Financial Statements of Nairobi City County Assembly for the year ended 30th June 2022" and having considered responses from the Accounting Officer, the Committee urges the County Assembly to resolve as follows: -

1. Compensation of Employees

- The Committee recommends that the County Executive for Boroughs Administration and Personnel should update the payroll system in line with the regulations governing public service and submit to the County Assembly detailed records of all staff movements, including secondments, retirements, and new appointments, to ensure transparency and accountability in payroll management within sixty (60) after the adoption of this report.

2. Utilities, Supplies and Services

- The Committee recommends that the County Executive Member for Finance should expedite the verification of outstanding utility bills with KPLC and NCWSC, ensure timely settlement of verified amounts, and improve the accuracy of pending bills reporting and submit a report to the County Assembly within sixty (60) days after the adoption of this report.

3. Communication Supplies and Services

- The Committee recommends that the County Executive should develop guidelines to strengthen its asset management system, ensure all issued items are properly recorded and signed for, and conduct regular stock-taking and submit a report to the County Assembly within ninety (90) days after the adoption of this report.

4. Manual Insurance Costs

- The Committee recommends that the County Executive ensure all contract variations are properly documented and approved, and that reconciliations with service providers are conducted regularly.

5. Fuel Oil and Lubricants

- The Committee recommends the County Executive should develop and implement a digital fuel management system, mandatory use of vehicle-specific fuel cards, and regular reconciliation of fuel usage.

6. Distribution of Goods

- The Committee recommends that the County Executive should ensure all distributions must be properly documented and approved, and records should be readily available for audit even during emergencies.

7. Supply of Goods Under Emergency Department

- The Committee recommends that the County Executive should maintain detailed distribution records, including beneficiary lists and acknowledgement receipts, for all emergency procurements.

8. Unsupported Procurement of Goods

- The Committee recommends that the County Executive should ensure all procurements, even for semi-autonomous entities, must follow due process and be properly documented and verified upon delivery.

9. Irregularities in Procurement of Masks

- The Committee recommends that the County Executive Committee Member for Finance should investigate the matter and take disciplinary action against responsible officers and that future procurements must adhere to the Public Procurement and Asset Disposal Act 2015.

10. Retreats at Unknown Venue

- The Committee recommends that the County Executive should ensure all training and retreat expenditures must be supported with full documentation, including venue details, attendance lists, and activity reports and that such documentations are available for audit.

11. Domestic Travel and Subsistence

- The Committee recommends that the County Executive should ensure all travel-related expenditures are backed by original documents, approvals, and detailed itineraries and are available for audit.

12. Other Unsupported Payments

- The Committee recommends that the matter be investigated further by the Ethics and Anti-Corruption Commissions for a possible loss of public funds.

13. Goods not Taken on Charge

- The Committee recommends that the County Executive should ensure all procured goods must be taken on charge in the stores system and issued with proper vouchers.

14. Failure to Provide Transaction Status

- The Committee recommends that the County Executive should improve its transaction monitoring system, ensure all voided transactions are properly authorized, and track the status of returned funds.

15. Irregularities in Procurement of Transferred Services

- The Committee recommends that the matter be investigated further by the Ethics and Anti-Corruption Commissions for a possible loss of public funds.

16. Misallocation of Expenditure Items

- The Committee recommends that the County Executive should ensure all reallocations are properly approved and reflected in the supplementary budget.

17. Unreconciled Bank Balances

- The Committee recommends that the County Executive Committee Member for Finance to conduct regular bank reconciliations, include all bank accounts in the financial statements, and resolve all outstanding variances.

18. Outstanding Imprests

- The Committee recommends that the County Executive Committee Member for Finance should enforce stricter deadlines for the surrender of imprests and ensure that all supporting documentation is maintained and readily available for audit. The practice of recovering imprests through payroll should be formalized and consistently applied.

19. Accounts Payable – Deposits and Retentions

- The Committee recommends that the newly opened retention account be used for all future contracts by the County Executive. Furthermore, the County must ensure that all retention payments are strictly conditional upon the issuance of certificates of practical completion and are accurately recorded in the financial statements.

20. Irregular Construction of a Perimeter Wall

- The Committee recommends that the County Executive should fast track all documentation held by the defunct Nairobi Metropolitan Services to ensure service delivery in the County within sixty (60) days after the adoption of this report.

21. Uninstalled Apparel and Garment Making Equipment

- The Committee recommends that the Directorate of Trade and Industry should expedite the identification of a suitable site and install the equipment without further delay and submit a report to the Assembly within ninety (90) days after the adoption of this report; and

- The County Executive Committee Member for Finance should investigate the procurement irregularities and take disciplinary action against officers responsible for the flawed process and submit a report to the County Assembly within ninety (90) days after the adoption of this report.

22. Irregularities in Procurement of Laptops

- The Committee recommends that the County Executive should strengthen its procurement planning and verification processes. All procured goods must be delivered to and acknowledged by the intended users, and all documentation must be consistent and accurate before payments are processed.

23. Unsupported Scholarship and Bursaries

- The Committee recommends that the County Executive Committee Member for Talent, Skills Development and Care should develop and implement robust and transparent bursary management system. This system must ensure that complete records, including signed beneficiary lists and official fee payment receipts from schools, are collected and maintained for every disbursement.

24. Possible Loss of Funds due to Premature Termination of Contract

- The Committee recommends that the County Executive should engage the National Bank to negotiate a settlement and conduct a forensic audit to determine the accurate amount owed. Legal counsel should be sought to mitigate the County's exposure to the claim for damages.

25. Budgetary Control and Performance

- The Committee recommends that the County Executive Committee Member for Finance to develop a detailed and time-bound action plan to improve Own Source Revenue collection. This plan should include specific targets for the updated customer database, enforcement initiatives, and regular progress reports to the Assembly.

26. Unresolved Prior Year Matters

- The Committee recommends that the County Executive should fully implement audit recommendations and provide a status report on all prior years audit issues within three months, detailing actions taken and completion dates for each matter.

27. Motor Vehicles

- The Committee recommends that the County Executive to conduct a comprehensive physical verification of all its assets, update the asset register, and clear all historical pending bills to secure ownership documents. A preventive maintenance schedule should be implemented to improve the serviceability of the fleet.

28. Legal Fees – Omitted Fee Note

- All legal fee notes must be rigorously assessed by an internal Committee against the Advocates Remuneration Order, with mandatory input from the Valuation department for land-related cases;
- The Office of the County Attorney must be adequately staffed and its legal awareness program implemented across all departments to prevent litigation arising from employee negligence or procedural failures; and
- The County Executive must prepare and submit its annual legal report as mandated by law.

29. Pending Staff Payables

- The Committee recommends that the County Executive should prioritize the clearance of all outstanding statutory deductions. A structured debt repayment plan must be developed and implemented immediately, and the arrangement with Cooperative Bank to ensure timely remittance of salaries and deductions must be strictly adhered to. The County Treasury must provide quarterly reports on the status of these remittances.

30. Other Pending Payables

- The Committee recommends that the County Executive to engage immediately with LAPFUND, KRA, and the National Treasury to reconcile all outstanding balances. A clear and verifiable strategy for settling or managing these historic debts must be developed and presented to the County Assembly, moving beyond mere plans for write-offs.

31. Failure to Implement an Effective Management Programme

- The Committee recommends that the County Executive should ensure that the procurement and implementation of the automated case management system be treated as a matter of urgency in the subsequent financial year. The County Attorney must provide a definitive timeline for its rollout to ensure compliance with the law and improve efficiency.

32. Non-Compliance with Office of the County Attorney Act, 2020

- The County Public Service Board should immediately commence the process of appointment of a substantive County Solicitor;
- The County Executive to strict adhere to the budgetary controls and all requirements for reallocations;
- The office of the County Attorney to submit annual legal report to the Governor and County Assembly; and

- The County Executive to establish a mandatory protocol requiring the Legal Department to obtain official valuation reports for all land-related cases.

33. Discrepancy Between Advocates Fees and Reviewed Assessments

- The Committee recommends that the Office of the County Attorney should develop and implement a robust Legal Fees Payment Policy to ensure all fees are assessed consistently, fairly, and in strict compliance with the Advocates Remuneration Order within three months after the adoption of this report.

34. Irregular Payment to Council of Governors

- The Committee recommends that the County Executive should engage the National Treasury to clarify the funding mechanism for County participation in Council activities, and the County should seek a refund for any ineligible payments.

35. Development (EED) Centers Supply and Delivery of Trapezium Tables and Chairs to Early Childhood

- The Committee recommends that the County Executive Member for Finance should investigate this specific procurement to ensure all disqualifications were justified and procedural requirements were fully met. Future procurements must ensure complete transparency and strict adherence to the principle of awarding contracts to the lowest evaluated bidder.

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

- The Committee recommends that the County Executive should undertake mandatory training for all staff involved in procurement on the requirements of the PPADA, 2015, with a special emphasis on the need for distinct tender opening and evaluation committees. The Head of Procurement must be held accountable in ensuring all mandatory reports and opinions are provided.

37. Loss of Funds on Provision of Internet Services and Wireless LAN

- The Committee recommends that the County Executive should review this contract and take necessary action to recover the lost funds. The Procurement Department must be directed to strictly apply the law, which mandates the award of contracts to the lowest evaluated bidder who is technically qualified.

38. Lack of Transparency in Procurement of Construction Material

- The Committee reiterates its recommendation for the County Executive to strictly adhere to the Public Procurement and Asset Disposal Act, particularly Section 46, to ensure clear segregation of duties in all procurement committees to prevent conflicts of interest and enhance transparency.

39. Failure to Establish Nairobi City Disaster and Emergency Management Council

- The Committee recommends that the County Executive treat this as a priority. The pending review and repeal of the current Act must be expedited, and in the interim, an interim coordination mechanism must be established to fulfil the Council's mandate and submit a report to the County Assembly within sixty days after the adoption of this report.

40. Leasing of Medical Equipment Not Accounted For

- The Committee recommends that the County Executive to formally seek a detailed billing and deduction schedule from the National Government for the medical equipment leasing program to ensure transparency and confirm the accuracy of all deductions. A report on the same to be submitted to the Assembly within sixty days after the adoption of this report.

41. Printing Press

- The Committee recommends that the County Executive to urgently complete the installation of these machines;
- The County Executive Committee Member for Finance must investigate the officers responsible for this procurement failure for a possible disciplinary action and submit a report to the Assembly within sixty days after the adoption of this report; and
- The County Executive should ensure that rigorous feasibility studies are conducted for all future high-value procurements.

42. Weights and Measures Equipment

- The Committee recommends that the County Executive should undertake a comprehensive review of this project with a view to either install the stored equipment in a functional facility or repurpose it to ensure the public derives benefit from the expenditure.

43. Incomplete Projects

- The Committee recommends that the County Executive to immediately issue a formal defect liability notice to the contractor, demanding the urgent rectification of all identified deficiencies in strict accordance with the approved bill of quantities and quality standards;
- The County Executive should withhold any further payments until all works are completed satisfactorily;
- The County Executive through the Engineering Department must enhance its project supervision to prevent the acceptance and payment for substandard and incomplete work in the future; and

- The County Executive to submit a progress report on the rectification of these halls to the County Assembly within three months after the adoption of this report.

44. Procurement of Transferred Services

- The Committee recommends that the County Executive to fast-track all documentations from the defunct Nairobi Metropolitan Services and submit a report to the County Assembly within sixty days after the adoption of this report.

45. Construction and Civil Works - Delayed Projects

- The Committee recommends that the County Executive to conduct a comprehensive review of all stalled projects, formally seek extensions of time where necessary, and develop a catch-up plan to complete these projects to avoid further loss of public funds.

46. Contract for Non-Existent Road

- The Committee recommends that the County Executive Committee member for Finance to investigate this matter and officers responsible for certifying the works and authorizing payment must be held accountable; and
- The County Executive must explore all avenues to recover the funds paid and submit a report within sixty days after the adoption of this report.

47. Anomalies in Implementation of Road Projects

- The Committee recommends that the County Executive to strengthen its project supervision units, enforce strict quality assurance mechanisms, and ensure that all projects are properly branded. All contractors who have been paid for incomplete or substandard work must be compelled to fulfil their contractual obligations.

48. Lack of Extension for Delayed Projects

- The Committee recommends that the County Executive to regularize all delayed projects by immediately processing and obtaining formal extensions of time; and
- The practice of allowing performance bonds to lapse must cease, and responsible officers should be disciplined for this negligence.

49. Projects Procured but Not Implemented

- The Committee recommends a forensic audit of all procured but unimplemented projects and a report submitted to the Assembly within ninety days after the adoption of this report; and
- All contractors who failed to perform should be blacklisted by the County Executive.

50. Irregularities in Fleet Management

- The Committee recommends a complete overhaul of the County's transport management system. This includes:
 - Conducting a full physical asset verification to create an accurate vehicle register.
 - Urgently disposing of unserviceable vehicles through the proper legal channels.
 - Settling all outstanding garage bills to recover County vehicles.
 - Rationalizing the fleet size to match operational needs and driver capacity.
 - Standardizing vehicle registration and improving maintenance protocols.

51. Failure to Implement Donor Funded Project

- The Committee recommends that the County Executive to provide a detailed report on the status of the ASDSP II program, ensure all outstanding funds are utilized effectively before the new deadline, and submit all required feasibility reports for audit.

52. Non-Compliance with Law on Submission of Financial Statements

- The Committee recommends that the County Executive to comply with the law by preparing and submitting separate financial statements for each of these funds; and
- The ongoing process to repeal or align the underlying laws with national legislation must be expedited and a report submitted to the County Assembly within three months after the adoption of this report.

53. Non-Compliance with Third Rules in Basis Salary

- The Committee recommends that the County Executive to review its payroll recovery processes to ensure compliance with the Employment Act and submit a status report to the County Assembly within three months upon adoption of this report;
- The County Executive should explore alternative recovery mechanisms that do not contravene the law and cause pecuniary embarrassment to staff.

54. Non-Compliance with the National Cohesion and Integration Act, 2008

- The Committee recommends that the County Executive to develop and implement an affirmative action plan to ensure future recruitment and promotions comply with the National Cohesion and Integration Act. This should aim to achieve ethnic diversity, particularly for new vacancies, while respecting the rights of existing staff.

55. Lack of an Adequate Assets Register

- The Committee recommends that the County Executive to finalize and implement its draft asset policy and ensure the fixed asset register is comprehensively updated, verified, and maintained henceforth. A report on the status of the draft policy be submitted to the Assembly within thirty days after the adoption of this report; and

- All County land must be identified, valued, and included in the register.

56. Lack of Approved Information Technology Security Policy and Disaster Recovery Plan

- The Committee recommends that the County Executive to urgently approve and implement the pending ICT policy, the establishment of a Disaster Recovery site, and the installation of robust cybersecurity measures to protect critical county data and ensure business continuity.

57. Weakness in the Internal Controls Systems

- The Committee recommends that the County Executive to prioritize the finalization, approval, and implementation of all pending policies, starting with the records management policy, to strengthen the internal control framework.

58. Undocumented Program Change Management

- The Committee recommends that the County Executive to expedite the development and implementation of a formal change management policy for all its information systems to ensure integrity and security.

59. Unreconciled Number of Employees

- The Committee recommends that the County Executive to harmonize its Human Resource and payroll data to maintain one accurate and verifiable record of employees, clearly distinguishing between different staff categories (devolved, inherited, newly recruited).

60. Unconfirmed Human Resource Skills

- The Committee recommends that the County Executive to conduct a skills audit and verify the academic and professional credentials of all employees, especially those in management positions, to ensure they are suitably qualified for their roles.

61. Learning, Development and Skills Gap

- The Committee recommends that the County Executive to implement the identified training needs for its transport staff and finalize the fleet management policy to guide the acquisition, use, maintenance, and disposal of vehicles.

62. Avoidable Medical Claims

- The Committee recommends that the County Executive to prioritize the timely remittance of statutory and contractual deductions like NHIF to avoid such losses in the future. The outstanding NHIF debt must be settled to restore the medical cover.

5.0 CONCLUSION

The Committee having considered both the **“Report of the Auditor-General on the Financial Statements of Nairobi City County Executive for the financial year 2021/2022”** and oral/written responses by witnesses it invited, has made various recommendations that require implementation by the CEC Member, Finance and Economic Affairs, Accounting Officers and state agencies. The recommendations are aimed at deterring future misappropriation of public funds.

6.0. ANNEXURES

Annex	Title
Annex 1	Minutes Sittings
Annex 2	Management Responses
Annex 3	Supporting Documents

MINUTES OF THE 55TH SITTING OF THE NAIROBI CITY COUNTY ASSEMBLY SELECT COMMITTEE ON COUNTY PUBLIC ACCOUNTS HELD ON SATURDAY, 4TH OCTOBER, 2025 AT 10:00 A.M. AT SERENA HOTEL, MOMBASA COUNTY.

MEMBERS PRESENT:

1. Hon. Chege Mwaura, MCA – Chairman
2. Hon. Abel Osumba Atito, MCA – Vice-Chairman
3. Hon. Emmy Khatemeshi Isalambo, MCA
4. Hon. Rachel Wanjiru Maina, MCA
5. Hon. Paul Wachira Kariuki, MCA
6. Hon. Eutychus Mukiri Muriuki, MCA
7. Hon. Cyrus Mugo Mubea, MCA
8. Hon. Mary Wanjiru Kariuki, MCA
9. Hon. Mark Thiga Ruyi, MCA
10. Hon. Jane Musangi Muthembwa, MCA
11. Hon. Martin Mbugua Mwangi, MCA
12. Hon. Billy Richardo Nyantika, MCA
13. Hon. Carrington Gichunji Heho, MCA
14. Hon. Redson Otieno Onyango, MCA
15. Hon. Fredrick Njoroge Njogu, MCA
16. Hon. Fatuma Abduwahid Abey, MCA
17. Hon. Benter Juma Obiero, MCA
18. Hon. Simon Maina Mugo, MCA
19. Hon. Stazo Elijah Omung'ala Ang'ila, MCA
20. Hon. John Ndile Musila, MCA
21. Hon. Aaron Kangara Wangare, MCA

MEMBERS ABSENT:

1. Hon. Hussein Fuad Mohammed, MCA
2. Hon. John Rex Omolleh, MCA

IN-ATTENDANCE – OAG

1. Mr. Jeff Otieno

SECRETARIAT

1. Mr. Kevin Wasike – Senior Clerk Assistant
2. Mr. Benedict Ouma – Clerk Assistant
3. Mr. Klinsman Munase – Legal Counsel
4. Mr. Anthony Nyandiere – Hansard Officer

MIN.231/NCCA/PAC/OCTOBER/2025 – PRELIMINARIES

The Chairman called the meeting to order at thirty minutes past Ten O'clock and the opening prayers were said by Hon. Fredrick Njogu, MCA. The Chairman then welcomed Members present to the meeting and took them through the agenda which was adopted for consideration as proposed by Hon. Aaron Kangara, MCA and seconded by Hon. Mark Thiga, MCA as follows: -

1. Preliminaries (prayers and adoption of the agenda),

2. Consideration and adoption the draft report on the Reports of the Auditor-General on the Financial Statements of the County Executive for the years ended 30th June, 2022;
3. Consideration and adoption the draft report on the Reports of the Auditor-General on the Financial Statements of the County Executive for the years ended 30th June, 2023; and
4. Consideration and adoption the draft report on the Reports of the Auditor-General on the Financial Statements of the County Executive for the years ended 30th June, 2024.
5. Any Other Business, and
6. Adjournment.

MIN.232/NCCA/PAC/OCTOBER/2025 – CONSIDERATION AND ADOPTION THE DRAFT REPORT ON THE REPORTS OF THE AUDITOR-GENERAL ON THE FINANCIAL STATEMENTS OF THE COUNTY EXECUTIVE FOR THE YEARS ENDED 30TH JUNE, 2022.

The Secretariat tabled and took the Committee through the draft report on the consideration on the Report of the Auditor-General on the Financial Statements of the County Executive for the years ended 30th June, 2022. The Committee deliberated on the report and adopted the same for tabling in the Assembly as proposed by Hon. Wanjiru Kariuki, MCA and seconded by Hon. Martin Mbugua, MCA.

MIN.233/NCCA/PAC/OCTOBER/2025 – CONSIDERATION AND ADOPTION THE DRAFT REPORT ON THE REPORTS OF THE AUDITOR-GENERAL ON THE FINANCIAL STATEMENTS OF THE COUNTY EXECUTIVE FOR THE YEARS ENDED 30TH JUNE, 2023.

The Secretariat tabled and took the Committee through the draft report on the consideration on the Report of the Auditor-General on the Financial Statements of the County Executive for the years ended 30th June, 2023. The Committee deliberated on the report and adopted the same for tabling in the Assembly as proposed by Hon. John Ndile, MCA and seconded by Hon. Fredrick Njogu, MCA.

MIN.234/NCCA/PAC/OCTOBER/2025 – CONSIDERATION AND ADOPTION THE DRAFT REPORT ON THE REPORTS OF THE AUDITOR-GENERAL ON THE FINANCIAL STATEMENTS OF THE COUNTY EXECUTIVE FOR THE YEARS ENDED 30TH JUNE, 2024.

The Secretariat tabled and took the Committee through the draft report on the consideration on the Report of the Auditor-General on the Financial Statements of the County Executive for the years ended 30th June, 2024. The Committee deliberated on the report and noted that some issues were pending for further deliberations with the County Executive. The Committee was to meet the County Executive Members for Health and Environment to finalise the deliberations. After further deliberations, the Committee adopted the report for tabling in the Assembly as proposed by Hon. Fatuma Abey, MCA and seconded by Hon. Stazo Elijah Omung'ala, MCA subject to conclusion on pending issues.

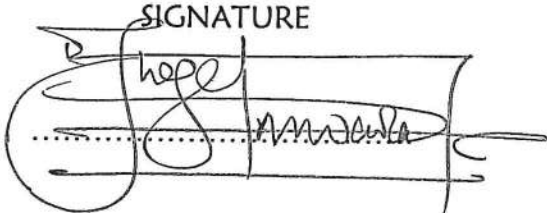
MIN.235/NCCA/PAC/OCTOBER/2025 – A.o.B & ADJOURNMENT

The being no other business and the time being twenty minutes past One O'clock, the Chairman adjourned the meeting. The next meeting was scheduled to be by a way of notice.

CONFIRMED AS A TRUE RECORD OF THE PROCEEDINGS

CHAIRPERSON

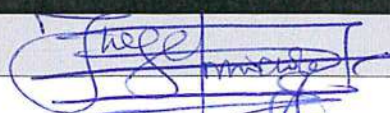


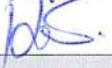


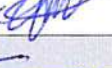
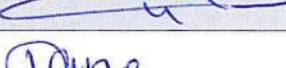
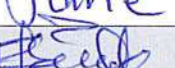

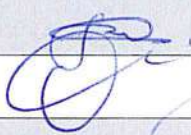


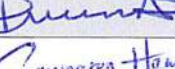

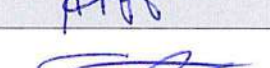

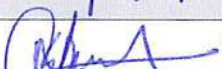
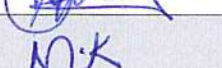

SIGNATURE

A handwritten signature in black ink, written over a set of three horizontal lines. The signature is stylized and appears to be "Shope".

DATE

15/10/2025

We Members of the Public Accounts Committee (PAC) do hereby affix our signatures to this report to affirm the correctness of the contents and support for the report: -

S/N	Honourable Member	Signature
1.	Hon. Chege Mwaura, MCA - Chairperson	
2.	Hon. Abel Osumba Atito, MCA - Vice - Chairperson	
3.	Hon. Benter Juma Obiero, MCA	
4.	Hon. Redson Otieno Onyango, MCA	
5.	Hon. John Rex Omolleh, MCA	
6.	Hon. Stazo Omung'ala Ang'ila, MCA	
7.	Hon. Richardo Nyantika Billy, MCA	
8.	Hon. John Ndile Musila, MCA	
9.	Hon. Cyrus Mugo Mubea, MCA	
10.	Hon. Jane Musangi Muthembwa, MCA	
11.	Hon. Emmy Khatemesi Isalambo, MCA	
12.	Hon. Fuad Hussein Mohamed, MCA	
13.	Hon. Fatuma Abduwahid Abey, MCA	
14.	Hon. Eutychus Mukiri Muriuki, MCA	
15.	Hon. Fredrick Njoroge Njogu, MCA	
16.	Hon. Rachel Wanjiru Maina, MCA	
17.	Hon. Aaron Kangara Wangare, MCA	
18.	Hon. Carrington Gichunji Heho, MCA	
19.	Hon. Mark Thiga Ruyi, MCA	
20.	Hon. Simon Maina Mugo, MCA	
21.	Hon. Paul Wachira Kariuki, MCA	
22.	Hon. Martin Mbugua Mwangi, MCA	
23.	Hon. Mary Wanjiru Kariuki, MCA	