GOVERNMENT OF NAIROBI CITY COUNTY



Paper land by theme Paper chese Nwanze Hon. 18/11/2025

THE NAIROBI CITY COUNTY ASSEMBLY

OFFICE OF THE CLERK

THIRD ASSEMBLY

(FOURTH SESSION)

NCCA/TJ/PL/2025(83)

18TH NOVEMBER 2025

PAPER LAID

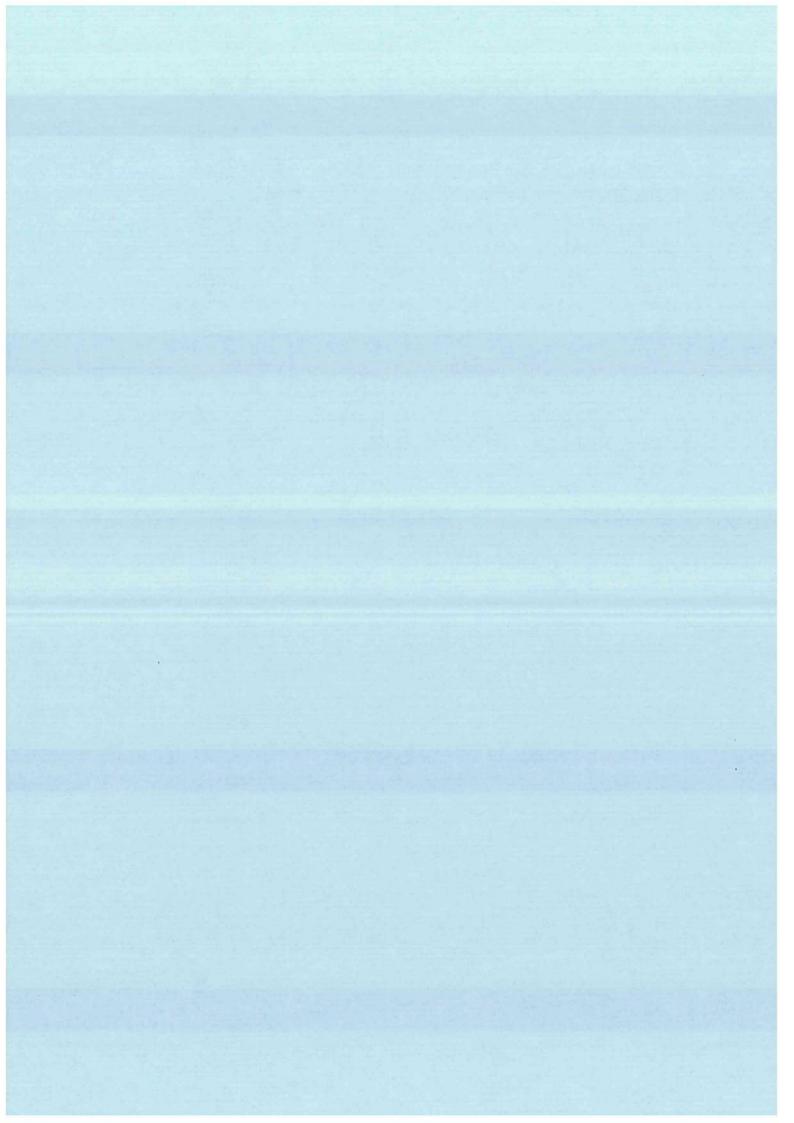
SUBJECT: REPORT OF A COMMITTEE

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 <u>Tuesday 18th</u> November 2025:

— THE REPORT OF SELECT COMMITTEE ON PUBLIC ACCOUNTS ON CONSIDERATION OF THE REPORT OF AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF NAIROBI CITY COUNTY EXECUTIVE FOR THE YEAR ENDED 30TH JUNE 2024.

(The Chairperson, Select Committee on Public Accounts)

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



NCCA/TJ/NTC/2025

COVERNMENT OF NAIROBI CITY COUNTY

THE NAIROBI CITY COUNTY ASSEMBLY

THIRD ASSEMBLY

(FOURTH SESSION)

18th November 2025



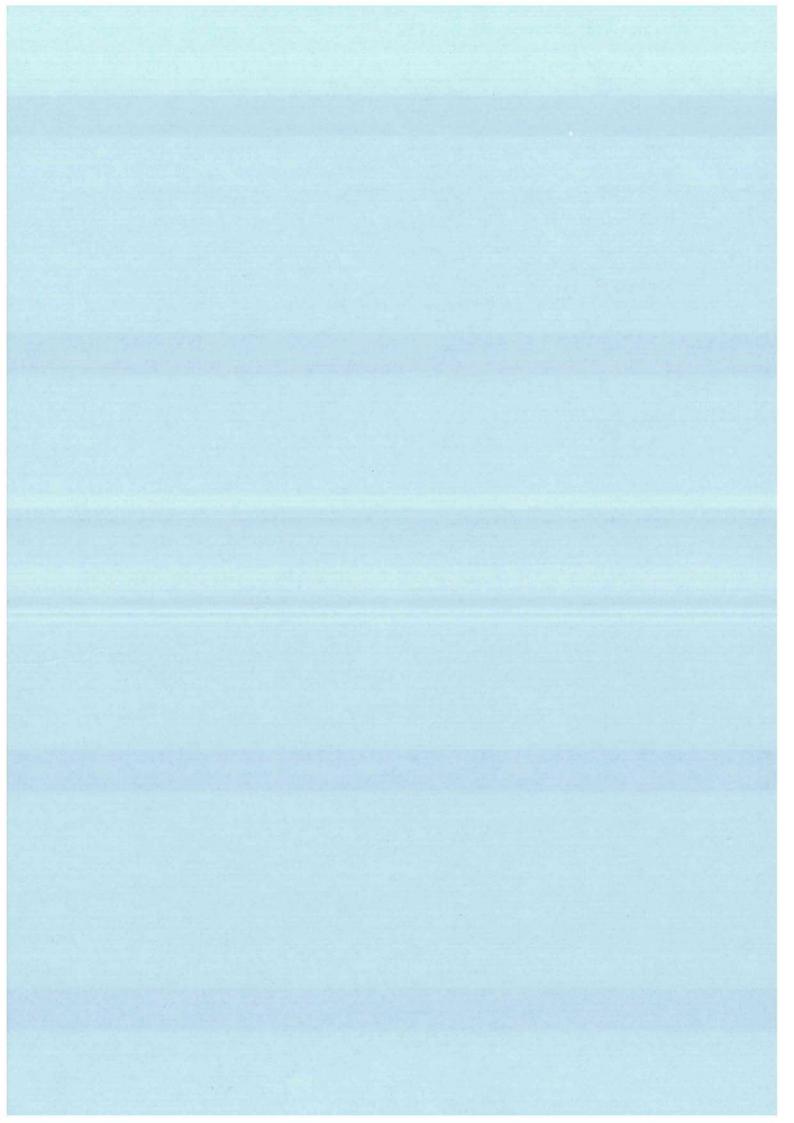
NOTICE OF MOTION

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 THE FINANCIAL STATEMENTS OF NAIROBI CITY COUNTY EXECUTIVE FOR THE YEAR ENDED 30TH JUNE 2024laid on the Table of the Assembly on 18th 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 Report of the Auditor-General on the Financial Statements of the Nairobi City County Executive for the Year Ended 30th June, 2024

Clerks Chambers
Nairobi City County Assembly
City Hall Buildings
NAIROBI

November, 2025

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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 Report of the Auditor General on the Financial Statements of the Nairobi City County Executive for the Year ended 30th June, 2024".

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

HON. CHEGE MWAURA, MCA CHAIRPERSON

DATE

1.0 INTRODUCTION

1.1 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.

1.2 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.

1.3 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.

1.4 Committee Membership

The Committee comprises of the following members: -

- 1. Hon. Chege Mwaura, MCA
- 2. Hon. Abel Osumba Atito, MCA
- 3. Hon. Benter Juma Obiero, MCA
- 4. Hon. Redson Onyango Otieno, 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

- Chairperson
- Vice-Chairperson

- 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.

Following the tabling of the Report of the Auditor-General on the Financial Statements of the Nairobi City County Executive for the year ended 30th June, 2024 pursuant to the provisions of Article 229, the Committee commenced its business to examine the report and held several meetings with the County Executive Management.

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 2023/2024. The Committee further held meetings with various Accounting Officers for specific audit queries that the Committee felt required further interrogations.

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, during the year under review, the Report had a qualified opinion. However, the Auditor-General raised various queries which the Committee considered and interrogated the responses from the Management on each query.

Honourable Speaker, during the interrogations, the Committee noted that the County Executive had challenges with submission of documents to the Auditors for verification during the audit exercise. The Committee noted that County Executive did not avail some of the 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 County unable to support expenditures of substantial amount of funds.

The report 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 Committee further noted the reoccurrence of the audit on pending bills and legal costs which was in the previous year's report.

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. There were anomalies on compensation of employees including irregular payments, late remittances of staff deductions and payroll irregularities. 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 report also revealed that the County Executive had a challenge on procurement of various goods and services. There were several irregularies in procurement of goods and services including "Dishi na County" programme.

Honourable Speaker, during the year under review, the Committee noted that majority of the County Executive interrogated had not properly updated their assets register 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. In addition, it was noted that the County Executive had no several vital human resource policies in place such as an approved staff establishment document, human resource and procedure manual, career progression guidelines, succession plan policy amongst others.

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);
- iii. County Executive had officers active in the payroll with no pay; and
- iv. Officers whose bank remittances were higher than their net pay.

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.

3.0 CONSIDERATION OF AUDITOR GENERAL REPORT ON FINANCIAL STATEMENTS OF THE NAIROBI CITY COUNTY EXECUTIVE FOR THE YEAR ENDING 30^{TH} JUNE, 2024

3.1.1. Inaccuracies in Compensation of Employees

The statement of receipts and payments and as disclosed in Note 2 to the financial statements reflects compensation of employees amount of Kshs. 17,290,337,584. Included in this amount is basic salaries for permanent employees' expenditure of Kshs. 8,239,633,410 which differed with the Integrated Personnel Payroll Database basic salary amount of Kshs. 7,399,700,121 resulting to an unexplained variance of Kshs. 839,933,289. Further, the compensation of employees' expenditure increased from an amount of Kshs. 11,185,475,652 to the current year's expenditure of Kshs. 17,290,337,584 by Kshs. 6,104,861,932 or 55% of the prior year amount.

In the circumstances, the accuracy and completeness of the compensation of employees amount of Kshs. 17,290,337,584 could not be confirmed.

Management Response

The variance of Kshs 839,933,289 was as a result of payment of payroll related pending bills paid off IPPD (outside payroll) as tabulated below. These payments were made towards pension arrears (LapFund and LapTrust), NMS salary arrears, PAYE arrears, and third party deductions arrears.

ANALYSIS OF BASIC SALARIES FINANCIAL YEAR 2023 - 2024

IPPD (PAYRO	DATA OLL)	OFF PAY	OFF PAYROLL FY -23-24					AS REPORTE D IN FINANCIA L STATEME NTS
	A	В	C	D	E	F	H = (B+C+D+ E+F+G)	(A+H)
Month	Basic Salary	Lapfund Arrears	Laptrust Arrears	NMS Salary Arrears	PAYE Arrears	Third Party Deduction s Arrears	Total off Payroll	Total Payroll and Off Payroll
Jul -23	567,625,6 10	-	-	-	-	=	-	567,625,610
Aug - 23	586,267,9 22	5	-	3	В	-	-	586,267,922

Total	7,399,700,	421,405,981	26,864,631	137,229,448	52,675,748	201,757,482	839,933,289	8,239,633,41
Jun - 24	673,829,9 80	210,702,990	-	-		57,268,793	267,971,783	941,801,763
May - 24	601,266,6 56	-	-	-	-	-	-	601,266,656
Apr - 24	592,005,9 90	-	(w)	-	-	57,378	57,378	592,063,368
Mar - 24	620,312,5 65	105,351,495	26,864,631	62,042,676	-	7,203,235	201,462,038	821,774,603
Feb - 24	623,145,9 22	_	-	-	52,675,748	24,609,440	77,285,187	700,431,109
Jan - 24	640,757,3 79	-	-	-	2	88,869,263	88,869,263	729,626,642
Dec - 23	622,666,5 20	105,351,495	. =	=	•	9,821,500	115,172,995	737,839,515
Nov - 23	649,878,0 15		8	-	-	-	-	649,878,015
Oct - 23	645,097,8 75	-	<u>.</u>	=	-	-	-	645,097,875
Sep - 23	576,845,6 88	-	-	75,186,771	*	13,927,873	89,114,645	665,960,333

Analysis of pending staff payables that led to increase in the amount of basic salaries is attached in **Appendix 1**

The increase in compensation of employees by Kshs 6,104,861,932 was as a result of the following:

- 1. Kshs 2,691,410,692 being transfers to Nairobi Metropolitan Services (NMS) for July -Sep 2022 salaries. The deed of transfer of functions to Nairobi Metropolitan Services was due to end in November 2022 and prior to the termination NCCG had transferred a total of Kshs 2,691,410.692 to NMS between July-September 2022 for salaries and other emoluments for county staff transferred to NMS. In the financial statements for the FY 2022/2023 the amounts were accounted for as Transfers to Nairobi Metropolitan Services are required and therefore not forming of the NCCG component of Kshs 11,185,475,652 salaries in the FY 2022/2023.Following the termination of the deed of transfer all the staff reverted back to NCCG
- 2. Kshs 2,383,745,760 off payroll items paid in 2023/2024 to cater for pending staff statutory payments other claims and;
- 3. Kshs 1,029,705,480 being payment of salaries to 3,834 new employees recruited within the financial year. The breakdown is per the table below:

Item	Amount
NMS (July 2022 to September 2022) Salaries	2,415,017,379
NMS Casuals	210,515,661
NMS - Allowances, salary deductions and gratuity	13,448,208
NMS - Nacico deductions	52,429,444
	2,691,410,692
Salaries of 3,834 New Employees	1,029,705,479
Off Payroll Items 23 -24	
Casuals	363,543,675
CHVS	206,709,060
Gratuities	3,143,153
Lapfund Arrears	800,000,000
Laptrust Arrears	51,000,000
NMS Salary Arrears	260,517,323
PAYE	100,000,000
Retirees	42,189,676
Salary Advance Late Settlement Fee	103,929,930
Salary Arrears	73,265,389
Third Party Deductions Arrears	379,447,554
Sub - Total Off Payroll	2,383,745,760
Total	6,104,861,931

Committee Observation

The Committee noted unexplained payroll variances of Kshs. 839,933,289 and a sharp 55% increase in compensation of employees compared to the prior year. The explanations provided point to off-payroll payments and absorption of additional staff, but weaknesses in payroll controls persist.

Committee Recommendation

— The Committee recommends that the County Treasury and Human Resource directorate should strengthen payroll reconciliation, ensure all payments are processed through IPPD, and seek advisory from Salaries and Remuneration Commission before new recruitments.

3.1.2. Discrepancies in Cash and Cash Equivalents

The statement of assets and liabilities as at 30 June, 2024 reflects a balance of Kshs. 882,279,608 in respect of bank balances held in thirty-eight (38) bank accounts as disclosed in Note 9A to the financial statements. However, review of the cashbooks, bank statements and confirmations, bank reconciliation statements and board of survey reports revealed several anomalies;

i. The reported nil closing balance in the Kenya Revenue Account differs with the closing balance of Kshs. 1,478,245,240 as reflected in the bank reconciliation and cashbook, resulting to a variance of Kshs. 1,478,245,240 which has not been explained or reconciled.

Management Response

Nairobi City County does not have an account by the name Kenya Revenue Account as indicated above. The correct account name is County Revenue Fund account operated at Central Bank of Kenya. The reconciled cash book balance of Kshs. 1,478,245,240 as of 30th June, 2024 could not be included in cash and bank balances.

The statement of Receipts and Payments in the financial statements of the County Executive Shows **Transfers from the County Revenue Fund** as the only source of receipts/incomes in the County Executive's financial statements. The closing balance in the County Revenue Fund is not part of the transfers and hence the exclusion. The closing balance of 1,478,245,240 was disclosed in the County Revenue Fund financial statements under Note 9.

In short closing balances in CRF are not part of transfers, they are instead disclosed in CRF financial statements. By including them in the county executive's financial statements would not balance.

ii. The cash books and bank reconciliation statements for Kenya Community Health Promotion Account, Free Education Current Account, Waithaka Vocational Training Centre, Cooperative Bank Nairobi City County, NCC Centre for Disease Control Account, Embakasi District Hospital Account, Kenya Commercial Bank Current Account, Kenya Commercial Bank Trust Fund Account, KCB Loan Account No MG and HFC Nairobi City County Account were not provided.

Management Response

Kenya Community Health Promotion Account is a dormant account which has never transacted after it was opened at Central Bank of Kenya. We have initiated the process of closing the dormant account see attached letters in **Appendix A 2 (ii) (a)**

The cashbooks and bank reconciliation statements for Free Education Current Account, Waithaka Vocational Training Centre and NCC Centre for Disease Control Account are hereby attached in Appendix A 2 (ii) (a).

Embakasi District Hospital Account is operated by Mama Lucy Kibaki Hospital. The hospital prepares its own financial statements and which OAG audits separately and therefore has its own report.

Kenya Commercial Bank Current Account is a loan interest account for the dormant KCB loan whose loan account (KCB Loan Account No MG) is also dormant. Kenya Commercial Bank is in court over the matter and the County Executive has engaged the national treasury with a view of offsetting part of the Kshs 4.5 billion loan using moneys owed to the county in form of contribution in lieu of rates. Refer to letter to National Treasury in **Appendix A 2 (ii) (b)**

HFC Nairobi City County Account is also dormant. The executive wrote to the bank to close the account but the bank refused to receive the letter, vide **Appendix A 2 (ii) (c)**.

iii. The Bursary Fund A/C - Closing balance as reflected in the bank reconciliation statements is Kshs. 1,920,079 resulting in unexplained variance of Kshs. 332,747,926. Further, the board of survey report was not provided.

Management Response

The bank reconciliation statement and board of survey report for the bursary Fund account is attached in Appendix A 2 (iii) The Nil amount in the Cooperative Bank Revenue Account does not agree with the cashbook balance of Kshs. 3,481,353. Further, Equity Revenue Account with a closing balance of Kshs. 1,459,743 and another Equity Account with a closing balance of Kshs. 1,767,398 were not disclosed.

Management Response

Revenue collection accounts remit on a daily basis all funds collected to the County Revenue Fund Account.

The statement of Receipts and Payments in the financial statements of the County Executive shows **Transfers from the County Revenue Fund** as the only source of receipts/incomes in the County Executive's financial statements.

The balances in the revenue collection accounts at the end of the financial year are not to be included in the financial statements of the County Executive because the amounts in these accounts are not part of the transfers from the County Revenue Fund. However, these balances were disclosed in the Receiver of Revenue (ROR) financial statements.

iv. The KRA Revenue Collection Account - The nil balance differs with the bank reconciliation amount of Kshs. 22,042,109.

Management Response

Refer to ROR financial statements as indicated above.

v. The cashbook and bank reconciliations for Nairobi City County KISIP were not provided. Further, the board of survey report reflects cashbook balance of Kshs. Report of the Public Accounts Committee on the consideration of the report of the Auditor General on the Financial Statements of the Nairobi City County Executive for the Financial Year 2022/2023.

100,000,000 while Note 9 to the financial statements reflects Kshs. 182,395,897 resulting to unreconciled variance of Kshs. 82,395,897.

Management Response

The Nairobi City County KISIP bank account received Kshs 82,395,897 in three transactions the same day on 11th July 2024 (Kshs 65,816,752.40, Kshs 10,000,000.00 and Kshs 6,581,675.00). These transactions had been processed before the financial year 2023-2024 ended and recorded in the Cashbook. The funds related to the year under review only that they had not been transferred to this account within the year.

This variance of Kshs 82,395,897 has since been reconciled and updated Cash book and bank reconciliation statement for Nairobi City County KISIP II account is attached in **Appendix A 2 (vi)**

Committee Observation

Numerous variances and missing records were identified, including unexplained balances, dormant accounts, and unreconciled figures such as the Kshs. 82 million in KISIP and Kshs. 332 million in Bursary Fund.

Committee Recommendation

- The Committee recommends that the County Executive Committee Member for Finance should close all dormant accounts should be closed and a report submitted to the County Assembly within sixty days after the adoption of this report; and
- That the County treasury to conduct reconciliations on monthly basis, and all bank accounts consolidated under County Treasury oversight and the County Revenue Fund balances should be disclosed transparently.

3.1.3. Unexplained Double Payments in Bank Statements

Review of bank statements indicated instances of suppliers receiving payments twice for the same transaction totalling Kshs. 140,944,662. However, the payments were not explained. Further, analysis of the system payments revealed instances where a payee received amounts paid to two bank accounts within the year under review. Further, the system revealed different amounts paid to various bank accounts in respect of one payee.

In the circumstances, the propriety and validity of the expenditure of Kshs. 140,944,662 could not be confirmed.

Management Response

The double entries in the Bank statement are brought about by bounced payments mainly due to incorrect supplier (payee) bank details. In this circumstance, the payments are

normally re-invoiced for payment through the correct account details. This re-invoicing is what makes it look like a double payment. Refer to the returned RTGS.

Committee Observation

Audit revealed possible duplicate payments totaling Kshs. 140,944,662, explained by management as reprocessed RTGS due to bounced payments. However, adequate documentation was lacking.

Committee Recommendation

- The Committee recommends that the County Treasury should undertake a reconciliation of all flagged transactions be conducted and recovery measures instituted where actual double payments occurred;
- That the County Treasury should strengthen Internal controls on supplier bank details.

3.1.4. Misstatement of Accounts Payables

The list of pending bills provided for audit revealed that the County Executive accumulated total pending bills of Kshs. 118,315,753,589 resulting to an unexplained variance of Kshs. 478,485,041. Further, analysis of pending bill list provided revealed that the County Executive paid Kshs. 2,706,330,152 out of the total pending bills reported, however, the amount differs with the reported amount of Kshs. 2,546,724,587 as total paid within the year resulting to a variance of Kshs. 159,605,565.

Management Response

The variance of Kshs. 159,605,565 was total amount of pending bills paid in the Period-July 2024. The total amount reported of kshs. 2,706,330,152 out of the total pending payables was the cumulative amount paid to creditors from July 2023 to July, 2024 while a total amount of ksh. 2,546,724,587 was the total payments reported by end of the financial year on 30th June, 2024 covering July 2023 to June 2024. Hence the reported variance of Kshs. **159,605,565**.

The following is a schedule of the payments-pending bills settled by 30th June 2024.

PENDING BILLS UTILIZATION 2023-2024(KES)

O & M	370,601,377.49		
Development	291,855,955.25		
Development Pending	32,965,605.45		
Recurrent Pending	236,801,392.58		
Sub-total	932,224,330.77		
Statutory	1,614,500,256.00		

Note:

The following is a comparative schedule on the payments and the variance resulting on the payments.

Vote Heads	Pending Bills Utilization F/Y 2023- 2024	July 2024 Payments	Total Payments
Operations and Maintenance	370,601,377	2,900,120	373,501,497
Development	291,855,955	-	291,855,955
Development Pending	32,965,605	-	32,965,605
Recurrent Pending	236,801,393	156,705,445	393,506,838
	932,224,331	159,605,565	932,224,331
Statutory	1,614,500,256	-	1,614,500,256
TOTAL	2,546,724,587	159,605,565	2,706,330,152
Development	324,821,561	-	324,821,561
Recurrent	2,221,903,026	159,605,565	2,381,508,591
Total	2,546,724,587	159,605,565	2,706,330,152

Committee Observation

Pending bills balances differed by Kshs. 478,485,041, while payment records also showed variances of Kshs. 159,605,565.

Committee Recommendation

- The Committee recommends that the County Treasury must maintain an updated debt register with accurate classification and ageing of bills;
- That an independent verification of pending bills should be completed annually and a report submitted to the County Assembly for noting.

3.1.5. Unreconciled Related Entities Balances

Included in the balance are pending bills of Kshs. 724,964,162 owed to Kenya Power Company. However, records at Kenya Power Company reflects a receivable balance of Kshs. 2,730,901,603 as at 30 June, 2024 resulting to an unreconciled and unexplained variance of Kshs. 2,005,937,441.

Management response

KPLC claimed Kshs. 2,730,901,603 from Nairobi City County Government. Kenya Power and NCCG conducted a joint physical verification of metering points and both parties thereafter agreed on a debt of Kshs. 1,515,000,000. It was later confirmed that between December 2020 and November 2022, the defunct Nairobi Metropolitan Services (NMS) had on behalf of Nairobi City County Government paid KPLC an additional Kshs. 706,800,736.35. Hence the stated amount of Kshs. 724,964,162 is accurate.

Committee Observation

A material variance of over Kshs. 2 billion exists between Kenya Power's records and County's books.

Committee Recommendation

— The Committee recommends that the County Treasury to conduct a joint reconciliation with the Kenya Power and a Lighting Company and report signed by both parties be produced and submitted to the Assembly within 60 days after the adoption of this report.

3.1.6. Long Outstanding Pending Accounts Payable

Analysis of the pending bills revealed that the County Executive had an opening pending bills balance of Kshs. 98,267,457,303 and total paid pending bills within the year of Kshs. 2,546,724,587. However, Management did not maintain an ageing analysis of the pending bills. It was therefore not possible to establish the duration the pending bills had remained outstanding. Management indicated that some of the long outstanding bills had remained outstanding for more than 10 years but did not explain why the bills were not settled during the year when they occurred.

Further, analysis of total County receipts of Kshs. 31,006,479,217 against total pending bills of Kshs. 118,794,238,631 revealed that in order to clear the pending bills, the County Executive might have to halt services to Nairobi citizens for over three (3) consecutive years, as the debt is 383% of the total receipt s for the County.

Management Response

The County executive debt register has aged all the debts and the aging analysis report has since been provided to the auditors.

Of the 98 billion, old government guaranteed loans amounting to Kshs 21 billion which the county government has written to the National Treasury to write them off and LapFund debts amounting to Kshs 27 billion, the court expunged the whole amount but there was a consent between Nairobi City County and LapFund of Kshs 8 billion out of which Kshs

800million was paid in financial year 2023-2024. Currently we owe the Fund around Kshs 7.4 billion.

On the issue of the magnitude of the pending bills, and in order to sustainably and permanently address this issue, Nairobi City County has turned to the National Government for debts owed to Nairobi City County to be used to offset County debts. NCCG is in talks with the Ministry of Defence and the National Treasury for compensation of the NCCG land in Embakasi that is used by Ministry of Defence. The land has been valued at Kshs. 70 billion.

NCCG is also negotiating for settlement of debts owed by National Government and its agencies in form of Contribution in Lieu of Rates (CILOR) amounting to over Kshs.2.7 billion.

Despite the county's limited fiscal space, the county spent Kshs. 2,706,330,152 in the financial year 2023 - 2024 in payment of pending bills

Committee Observation

The County's pending bills stand at Kshs. 118 billion (383% of annual revenue). A majority of them date back over a decade ago. This continues to undermine service delivery.

Committee Recommendation

— The Committee recommends that the County Treasury should develop a comprehensive arrears clearance plan in collaboration with National Treasury, prioritize genuine suppliers, and stop accumulation of new arrears.

3.1.7. Undisclosed Pending Bills

Analysis of pending bills listing and payment vouchers provided revealed that a total of Kshs. 791,013,848 in pending bills was not reported. This amount related to outstanding payment to three suppliers; Kshs.2,026,320 due to the Cooperative University of Kenya, Kshs.249,429,979 due to Techno Brain for breach of contract for supply, installation, configuration, customization, testing, commissioning and maintenance of an Integrated City Revenue Management System (ICMS) and Kshs.539,557,549 due to Hardi Enterprise Ltd being principal and interest amount after a Court ruling on breach of contract for hire of heavy equipment and vehicles.

Further, review of legal pending bills revealed that the County Executive had not disclosed all pending legal costs and the County Attorney explained that the process of assessing the pending bills is ongoing since some of the costs are as old as from 1980's.

In the circumstances, the accuracy and completeness of the pending bills totalling Kshs. 118,794,238,631 as at 30 June, 2024 could not be confirmed.

Management response

The verification of the above debts had not been verified at the time of the audit review and therefore the debt register had not been updated.

However, the County executive is geared towards verifying all County debts. The County treasury will update the debt register upon conclusion of the exercise

Committee Observation

Audit identified Kshs. 791 million not reported in pending bills, including court awards and breach of contract claims.

Committee Recommendation

- The Committee recommends that the County Treasury should ensure that all liabilities must be captured in the debt register;
- That the County Treasury should be held accountable for non-disclosure and that the County Executive Committee Member responsible for Finance to take disciplinary action against officers responsible for omission.

3.1.8. Over and Under Expenditure of Items in the Financial Statements

The statement of budgeted versus actual amounts reflects final receipts budget and actual on comparable basis of Kshs. 42,286,936,833 and Kshs. 31,871,477,161 respectively resulting to an underfunding of Kshs. 10,415,459,672 or 25% of the budget. Similarly, the statement reflects final expenditure amount of Kshs. 31,537,870,129 against actual receipts of Kshs. 31,871,477,161 resulting to under-utilization of Kshs. 333,607,032 or 1% of the budget.

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

Management Response

Management recognizes the underfunding of the Budget by 25% during the financial year. The factors that explained the underfunding of the budget includes the following: -

- The County did not achieve the projected revenue targets during the financial year,
- There were delays in disbursement of equitable share by National Government,
- Unforeseen delays in procurement processes,
- Delays in project implementation, and,
- Other unforeseen factors that affected service delivery in some departments.

Further, the underutilization of the final expenditure by 1% was mainly attributed to the late disbursement of equitable share, making it impossible to utilize all funds before closure of the system as at the end of financial year. The un-utilized funds were carried forward to the next financial year.

Committee Observation

The County under-collected revenue by Kshs. 10.4 billion (25%) and underspent by 1%, affecting service delivery.

Committee Recommendation

- The Committee recommends that the County Treasury in conjunction with the Nairobi Revenue Authority should enhance revenue mobilization strategies, including automation of revenue collection;
- That the budget absorption must be improved through timely procurement and project planning.

3.1.9. Commitments Over and Above the Approved Budget

The statement of comparison of budget and actual amounts (recurrent and development combined) for the year ended 30 June, 2024 indicated that the County had an approved final budget of Kshs. 42,286,936,833. Further, review of the statement of receipts and payments indicated that the County incurred a total expenditure of Kshs. 31,537,870,129 during the financial year. However, note 15 on other important disclosures indicates that the County committed an additional Kshs. 23,073,505,916 which translates to total expenditure and commitments for the year of Kshs. 54,611,376,045. This implies that the County overspent /committed a total amount of Kshs. 12,324,439,212 over and above the approved budget.

Management Response

Although the reported total commitments for the year amounted to Kshs. 23,073,505,916 as highlighted above, these were manual adjustment in the debt register of historical pending bills and not actual budget commitments during the year under review. The IFMIS cannot allow commitments beyond budgeted amounts.

Kshs 16,028,213,484 was a manual adjustment carried out for purposes of recognizing the following statutory deductions (including penalties and interests). The amount shown here below was not committed/approved in IFMIS but reported in the financial statements for purposes of a true and fair view of the total expenditures for the period under review. Therefore, there was no over commitment of expenditure in the period under review.

S/No.	Description	Amount-Kshs
1.	Laptrust-penalties for the year 2023/2024	3,795,244,478.11
2.	Lapfund- penalties for the year 2023/2024	1,553,754,251.34
3.	Kenya Revenue Authority arrears	683,634,186.00
4.	Public Superannuation Scheme arrears	20,985,425.00
5.	Laptrust Actuarial deficit and interest	61,513,782.86
6.	Lapfund-inherited from the defunct city council of Nairobi (penalties)	9,913,081,361.14
TOTA	L	16,028,213,484.00

Committee Observation

Commitments exceeded the approved budget by Kshs. 12.3 billion, raising concerns of overcommitment.

Committee Recommendation

- The Committee recommends that the County Treasury should ensure that no expenditure or commitments should be incurred outside IFMIS;
- That pending statutory arrears should be budgeted and settled progressively to avoid misstatements.

3.1.10. Contingent Liabilities

Review of the documents provided revealed that Management had been subjected to eight thousand (1,086) ongoing legal cases. According to Management, the County had been subjected to several legal claims incidental to its operations and whose outcome and possible loss may not be foreseen or quantified. In the event that those contingent liabilities crystalize, the County may be exposed to huge cash outlay which may affect its ability to meet its obligations when they fall due, thus impacting on service delivery capacity.

Management Response

The Office of the County Attorney (OCA) has endeavoured to come up with a contingent liability register for the ongoing cases where the external advocates have been engaged to handle cases on behalf of the county. The contingent liability herein consists of the possible legal fees likely to be paid to those external advocates. In addition, the OCA has also included the possible compensation consisting of the costs and damages in the event the matter is decided against the County.

However, going forward, the contingent liability will only be based on possible compensation and costs and not legal fees since the OCA has recruited enough Counsel to handle litigation cases internally such that outsourcing will only be limited to very minimal cases where internal expertise is wanting.

The contingent liability registers for financial year 2022/2023 and 2023/2024 are attached herewith as Appendix E 3.

Committee Observation

The County faces over 1,000 ongoing legal cases, posing fiscal risks.

Committee Recommendation

— The Committee recommends that the County Attorney should finalize and publish a comprehensive contingent liability register, and develop a legal risk management framework to minimize future exposure. The framework to be submitted to the Assembly within ninety days after the adoption of this report.

3.1.11. Low Absorption of Development Expenditure

The statement of receipts and payments reflects total payments amounting to Kshs. 31,537,870,129 and the summary statement of appropriation - development reflects actual development expenditure amounting to Kshs. 2,733,867,951 which represents 9% of the total expenditure for the year contrary to Regulation 25(1)(g) of the Public Finance Management (County Governments) Regulations, 2015 which requires the County Government to spend at least 30% of the actual expenditure on development purposes.

Management Response

Nairobi City County is service oriented county where bulk of the monies are incurred in payment of non-discretionary expenditures. It is important to note that personnel emoluments take up the entire county's equitable share. The county relies on own source revenues to finance both recurrent and development expenditure. A substantial amount of OSR is used to finance key recurrent expenditure including public lighting, solid waste management, school feeding, bursaries and insurance for general insurance and medical cover for our staff as well as other operational and maintenance costs.

Committee Observation

Only 9% of total expenditure went to development, far below the legal 30% threshold.

Committee Recommendation

— The Committee recommends that the County Treasury should ensure that future budgets prioritize development spending and strictly adhere to PFMA thresholds.

3.1.12. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, Management had not resolved the issues as at 30 June, 2024.

Management Response

Management has come up with an audit implementation matrix where Auditors recommendations as highlighted in the Management Letter are addressed and implemented. Management also relies on Internal Auditors reports to improve on internal control weaknesses and manage risks identified in the reports

Committee Observation

The Committee noted with concern that several issues raised in previous audits remain unresolved, indicating weak follow-up mechanisms and recurring control lapses.

Committee Recommendation

— The Committee recommends that the County Executive should establish and strictly adhere to an audit implementation matrix with quarterly reporting to the Assembly to ensure timely resolution of prior audit queries.

3.1.13. Lack of Substantive County Secretary

The County Executive appointed the County Secretary in acting capacity with effect from 11 April, 2023 for a period of 6 months. Upon expiry of the six (6) months, the officer's acting authority was extended until 12 March, 2024. Review of documents and personal files indicated that as at the time of audit in November, 2024, the County Secretary's Office did not have a substantive office holder. Further, the officer in acting position continued acting for more than six months.

Management Response

The County Public Service Board is yet to advertise for the position.

Committee Observation

The County Secretary's position has remained in an acting capacity beyond the legally allowed six months, undermining stability and governance.

Committee Recommendation

— The Committee recommends that the County Public Service Board should fast-track the recruitment and appointment of a substantive County Secretary within 60 days after the adoption of this report to ensure compliance with the law and strengthen leadership.

3.1.14. Irregular Engagement of Casual Workers

The County Executive engaged revenue casual workers on a contract of service for a period of 3-months renewable. However, casuals' personal records were not maintained by the Human Resource Directorate to indicate how they were recruited and on-boarded for service. This was contrary to Sections 66, 67 and 68 of the County Governments Act, 2012 which requires all appointment or assignment of any duty in a County Public Service to be

in writing and the County Public Service Board to maintain a record of all applications received in response to advertisements inviting applications. Further the contracts for the contracted casuals were not provided.

Further, the casuals were paid a monthly salary of Kshs. 25,000 with a cumulative amount of Kshs. 4,500,000, whom were not subjected to statutory deduction including PAYE as required by law. Further, the County Executive engaged casuals in Health, Mobility and Environment sectors. However, there was no evidence of advertisement, shortlisting, interviewing and issuance of appointment letters. Therefore, the recruitment process was not competitive as required by the Constitution of Kenya on fair recruitment.

Management Response

Authority to hire casuals is sought from the County Public Service Board upon determining the nature of work and budgetary provision.

Preference is given to the local labour for ease of service delivery and movement within the project area. Before recruitment a meeting is held with the local administration where the bio data of the casuals is captured together with their skills. Attached please find the correspondences used for recruitment.

- Approval County Public Service Board
- Minutes of Recruitments
- Signed Master Roll
- Bio data Form

Appendix B 1.2

Committee Observation

The engagement of casuals lacked transparency, documentation, and competitive recruitment, and statutory deductions were not remitted.

Committee Recommendation

- The Committee recommends that all casuals should be regularized under the County Public Service Board guidelines with proper records maintained;
- That the County treasury should immediately subject payments to statutory deductions;
- That the County Executive should adopt competitive, transparent recruitment aligned with the provisions of the Constitution 2010.

3.1.15. Irregular Payment to Nairobi Metropolitan Staff (NMS) Staff

The County Executive paid Kshs. 146,277,985 in respect of payment for defunct NMS salaries and arrears due to the staff after the lapse of their contracts. However, the salaries were paid outside IPPD system contrary to the guidelines on salaries payment. Further, it was established that, after execution of the Deed of Transfer on 25 February, 2020, Nairobi Report of the Public Accounts Committee on the consideration of the report of the Auditor General on the Financial Statements of the Nairobi City County Executive for the Financial Year 2022/2023.

City County Executive seconded five thousand nine hundred and thirty-four (5,934) staff to Nairobi Metropolitan Services for a period of two years. However, at the end of the Deed of Transfer tenure, Nairobi Metropolitan Services handed back eight thousand four hundred and thirty-three (8,433) staff to Nairobi City County Executive. Therefore, out of the eight thousand four hundred and thirty-three (8,433) staff, two thousand four hundred and ninety-nine (2,499) were not part of the staff seconded to NMS in 2020, which implies that they were recruited by NMS, contrary to the provisions of Section 5.6 and Section 5.7 of the Gazette Notice and absorbed by Nairobi City County Executive.

Management Response

The Nairobi County has not absorbed the staff recruited by NMS through Public Service Commission but rather allowed them continue to serve the remainder of the respective contracts. Former NMS officers were given opportunity like any other Kenyan to apply for vacancies that the County Public Service Board advertised and those that may be declared vacant from time to time.

This is as per Nairobi City County Assembly resolution which adopted the report of the sectoral Committee on labour and social welfare on the enquiry regarding the absorption of Inspectorate officers employed by the Defunct Nairobi Metropolitan Services (NMS)

The payment of Kshs 146,277,985 relates to payment for salaries and allowances for 903 former NMS staff who continued working after the contracts signed with NMS lapsed. Since these staff continued working without valid contracts, an opinion was sought from County Attorney who advised that despite them not having a written contract the period they served is treated as implied contract. The County Public Service Board directed they be issued with one-month notice and they be paid with up to the date their contracts ended on 2nd July 2024. Attached please find the list of payment. Appendix 1.3

Committee Observation

Payments amounting to Kshs. 146 million were made outside IPPD, and 2,499 staff not seconded by NCC were absorbed irregularly.

Committee Recommendation

- The Committee recommends that the County Treasury must ensure all payroll is processed strictly through IPPD;
- That a forensic audit of the Nairobi Metropolitan Services staff absorption should be conducted to establish legality and recover any irregular payments within ninety days after the adoption of this report.

3.1.16. Irregular Payment of Salary to Dismissed Staff

Review of human resource documents indicated the following anomalies;

- i. Thirteen (13) staff dismissed were irregularly paid salary backdated for a period of up to 2 years. Justification and the cumulative amount paid for the period was not provided or explained.
- ii. The County Executive did not halt salary payment of these staff within a period of 10 days contrary to the provision of Public Service Human Resource Policy, 2016 that provides that, where a public officer is absent from duty without leave or reasonable or lawful cause for a period exceeding twenty-four (24) hours, and is not traced within a period of ten (10) days from the commencement of such absence, the officer's salary shall be stopped and action to dismiss the officer initiated.
- iii. Reporting of absence from duty without leave or reasonable or lawful cause by the immediate supervisor vide personnel occurrence report to Human Resource Department was not done within the stipulated timeline of 24 hours of no trace.
- iv. The County Executive did not have a disciplinary policy to guide the Management of disciplinary cases.

Management Response

Management acknowledges the delay in salary stoppage caused by unauthorized absence which normally results in over payment. The delay is normally caused by delays by immediate supervisor in reporting any unauthorized absence by an employee within 24 hours. This delay has been noted by the county Human Resource Management Advisory Committee (CHRMAC) in their meeting of 8th October 2024, the committee recommended to the County Public Service Board that where a supervisor delays in reporting staff on unauthorized absence and the officer is dismissed, the supervisor shall be surcharged the entire amount the over payment. (copy of the extract of CHRMAC Minutes attached) Appendix 1.4

On issue of disciplinary policy, the County adopted the Public Service Commission disciplinary policy which has also been incorporated in the draft County Human Resources Procedures Manual 2024.

Below is a summary of status on each employee

S/No	p/no	name	show cause letter date	salary stoppage	dismissal date	Remarks
1	20200284606	James Aema Makau	15/08/2023	18/8/2023	28/4/2023	The over-payment between 28/4/2023 to 1/8/2023 will be recovered from terminal dues

2	20200289973	Mary Wambui Muthia	08/02/2023	07/05/2023	06/05/2023	The over-payment between 6/5/2023 to 30/04/2023 will be recovered from terminal dues
3	20200289656	Fredrick Otieno Nyamuri	10/09/2023	10/07/2023	09/04/2023	The over payment between 09/4/2023 to 30/6/2023 will be recovered from terminal dues
4	202002915	Boniface Muia Musyoka	10/09/2023	10/07/2023	24/4/2023	The over payment between 30/6/2023 to 1/8/2023 will be recovered from terminal dues
5	20200307199	Paul Chege Rukunga	16/11/2023	15/11/2023	23/10/2023	The over payment between 23/10/2023 to 31/10/2023 will be recovered from terminal dues
6	2010104775	Abdulkhani Mohammed Abdullahi	13/6/2023	13/6/2023	01/03/2023	The over payment between 28/4/2023 to 1/8/2023 will be recovered from terminal dues
7	20170067188	Anne Kathambi Njeru	31/10/23	26/10/2023	25/7/2023	The over payment between 25/7/2023 to 30/9/2023 will be recovered from terminal dues
8	20200110988	Zipporah Wangui Karimi	29/9/2023	09/11/2023	19/7/2023	The over payment between 19/07/2023 to 31/10/2023 will be recovered from terminal dues
9	20210032459	Miriam Kanyiva Kilonzo	16/11/2023	11/08/2023	09/02/2023	The over payment between 31/7/2023 to 09/02/2023 will be

10	20170066430	Eunice Munyiva Kasoa	11/03/2023	30/11/2023	09/11/2023	recovered from terminal dues The over payment between 09/11/2023 to 31/10/2023 will be recovered from terminal dues
11	19970004623	Fatuma Ramadhan Salome	29/3/2023	15/7/2022	with effect from 2014	The case is under investigation for potential surcharge
12	20200286276	Alex Mangale Mwanyoha	13/4/2023	31/7/2023	13/2/2023	Officer appealed and reinstated into payroll with full benefits
13	20200293273	Alvin Isalambo Isuza	25/01/23	17/11/2022	08/08/2022	Officer appealed and reinstated into payroll with full benefits
14	19980009041	Adija Ramadhan Omari	22/11/2022	11/11/2022	01/10/2022	The over payment between 01/10/2023 to 31/10/2022 will be recovered from terminal dues
15	20170065513	Joseph Awili Omondi	05/08/2023	18/08/2023	09/11/2022	The over payment between 09/11/2022 to 31/07/2023 will be recovered from terminal dues

Committee Observation

Dismissed staff continued receiving salaries for up to two years, contrary to Human Resource policies, leading to financial losses.

Committee Recommendation

- The Committee recommends that the County Human Resource Management should implement strict supervisory accountability where delayed reporting of absenteeism attracts surcharges;
- That the disciplinary policies should be finalized and enforced and overpayments should be recovered without delay.

3.1.17. Irregular Recruitment of County Staff

The County Executive recruited three thousand eight hundred and thirty-four (3,834) staff within the financial year under review. However, the recruitment was not supported with a recruitment plan, advertisement, long list and shortlists, interview reports and score sheets. Therefore, it was not possible to establish how the recruited staff were engaged and whether vacancies existed in the establishment. Further, review of personal files of the recruited staff indicated the following anomalies:

- i. An officer was appointed as Director Infrastructure and Information Security despite lacking academic qualifications of Master's Degree in Computer Science or any other ICT related discipline from recognised institution and strategic leadership development course lasting not less than four weeks from a recognised institution.
- ii. Another officer was appointed Assistant Director Infrastructure and Information Security but had not served in the grade of Principal Information Communication Technology (J/G N) or in an equivalent and relevant position in the Public Service for a minimum period of three (3) years. Review of the personal file indicated the Officer was a computer programme 1 J/G N and also lacked master's degree in Computer Science or any other/ICT related discipline from a recognized Institution.
- iii. Another officer appointed Assistant Director Infrastructure and Information Security job group P but had not served in the grade of Principal Information Communication Technology (J/G N) or in an equivalent and relevant position in the Public Service for a minimum period of three (3) years. Review of the personal file indicated the Officer was a system analyst job group L and also lacked master's degree in Computer Science or any other/ICT related discipline from a recognized Institution.
- iv. Also, another officer appointed as Senior ICT Officer had not served in the grade of Information Communication Technology Officer I or in an equivalent and relevant position in the Public Service for a minimum period of three (3) years as required in the scheme of service, rather the Officer was serving as a security warden in job Group 3 D.
- v. An officer was appointed Deputy Director Cultural Development (Job Q) but had not served in the grade of Senior Assistant Director of Culture or comparable and relevant position for minimum period of three years since he was appointed as Assistant Director Culture Development on 28 April, 2022. Further, the staff did not have masters in the following; cultural studies, anthropology, sociology, history or any relevant discipline.
- vi. An officer appointed Principal ICT Officer in May, 2023 had not served as Chief Information Communication Technology Officer or in an equivalent and relevant position in the Public Service for a minimum period of three (3) years. Review of the

personal file revealed that the staff was appointed as systems analyst (3) JG on 29 February, 2024. Further, review of payroll indicated that within the year, the staff changed job group 3 times.

Management Response

Provide: a recruitment plan, advertisement, long list and shortlists, interview reports and score sheets

i. An officer was appointed as Director Infrastructure and Information Security despite lacking academic qualifications of Master's Degree in Computer Science or any other ICT related discipline from recognised institution and strategic leadership development course lasting not less than four weeks from a recognised institution.

Management Response

The officer possesses the following skills: - Master in Business Administration, BSc in information/System, Advanced Diploma (IAD) KCCT Mbagathi (2005), Diploma IMIS (2004).

The officer had the relevant qualification as per the indents. Strategic Leadership Development Course (SLPD) was not a mandatory requirement as per the advertisement and PSC, 2020 guidelines.

The officer possesses the following qualification: - Bachelor of Science in Information Technology KCA University 2014, Diploma in information Technology K.N.E.C, Certificate in Micro-Computer Technology Part I and II, N+

The officer had served as a Computer Programmer 1 JG 'K' and was eligible for promotion in the 2023/2024 promotion cycle, where he was promoted to System Analyst 3. The Sector requested for advertisement of various positions internally wherein the Officer qualified and applied for appointment as a Principal ICT Officer at JG 'N'. The officer has also diligently offered services to the County for over 15 years. She was given a fresh appointment as Principal ICT officer JG "N" through a competitive process.

The details of the indents and qualifications for the said position had been approved at the County Executive Committee meeting and were extensively contained in advertisement.

ii. Another officer was appointed Assistant Director Infrastructure and Information Security but had not served in the grade of Principal Information Communication Technology (J/G N) or in an equivalent and relevant position in the Public Service for a minimum period of three (3) years. Review of the personal file indicated the Officer was a computer programme 1 J/G N and also lacked master's degree in Computer Science or any other/ICT related discipline from a recognized Institution.

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Management Response

The officer possesses the following qualification: - Bachelor of Science in Information Technology KCA University 2014, Diploma in information Technology K.N.E.C, Certificate in Micro-Computer Technology Part I and II, N+

The officer had served as a Computer Programmer 1 JG 'K' and was eligible for promotion in the 2023/2024 promotion cycle, where he was promoted to System Analyst 3. The Sector requested for advertisement of various positions internally wherein the Officer qualified and applied for appointment as a Principal ICT Officer at JG 'N'. The officer has also diligently offered services to the County for over 15 years. She was given a fresh appointment as Principal ICT officer JG "N" through a competitive process.

iii. Another officer appointed Assistant Director Infrastructure and Information Security job group P but had not served in the grade of Principal Information Communication Technology (J/G N) or in an equivalent and relevant position in the Public Service for a minimum period of three (3) years. Review of the personal file indicated the Officer was a system analyst job group L and also lacked master's degree in Computer Science or any other/ICT related discipline from a recognized Institution.

Management Response

The officer possesses the following qualification: - Bachelor of Science in Information Technology KCA University 2014, Diploma in information Technology K.N.E.C, Certificate in Micro-Computer Technology Part I and II, N+

The officer had served as a Computer Programmer 1 JG 'K' and was eligible for promotion in the 2023/2024 promotion cycle, where he was promoted to System Analyst 3. The Sector requested for advertisement of various positions internally wherein the Officer qualified and applied for appointment as a Principal ICT Officer at JG 'N'. The officer has also diligently offered services to the County for over 15 years. She was given a fresh appointment as Principal ICT officer JG "N" through a competitive process.

iv. Also, another officer appointed as Senior ICT Officer had not served in the grade of Information Communication Technology Officer I or in an equivalent and relevant position in the Public Service for a minimum period of three (3) years as required in the scheme of service, rather the Officer was serving as a security warden in job Group 3 D.

Management Response

The officer possesses the following skills: - Bachelor's Degree in Information Technology 2017, Kirinyaga University. The skills are relevant as per the indents.

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This being a competitive internal advert, any officer with the relevant qualification, was eligible to apply as equal rights were accorded to all internal officers and appointment accordingly.

v. An officer was appointed Deputy Director Cultural Development (Job Q) but had not served in the grade of Senior Assistant Director of Culture or comparable and relevant position for minimum period of three years since he was appointed as Assistant Director Culture Development on 28 April, 2022. Further, the staff did not have masters in the following; cultural studies, anthropology, sociology, history or any relevant discipline.

Management Response

The officer possesses the following skills: - Certified Human Resource Professional (CHRP(K), Master of Science - (Human Resource Development, Bachelor of Business Management (Human Resource 2014, Social Science Courses which are comparable as per indents, Diploma in HR Diploma in Supply Chain Management, Senior Management Course 2016.

The officer had the relevant skills as per the indents. She applied for the position and was appointed as Deputy Director Cultural Development JG "Q" through a competitive process. Further, the said officer was performing duties of an Assistant Director Human Resource Officer, a comparable and relevant position. The officer has also diligently offered services to the County for over 15 years.

vi. An officer appointed Principal ICT Officer in May, 2023 had not served as Chief Information Communication Technology Officer or in an equivalent and relevant position in the Public Service for a minimum period of three (3) years. Review of the personal file revealed that the staff was appointed as systems analyst (3) JG on 29 February, 2024. Further, review of payroll indicated that within the year, the staff changed job group 3 times.

Management Response

The officer possesses the following qualification: - Bachelor of Science in Information Technology KCA University 2014, Diploma in information Technology K.N.E.C, Certificate in Micro-Computer Technology Part I and II, N+

The officer had served as a Computer Programmer 1 JG 'K' and was eligible for promotion in the 2023/2024 promotion cycle, where he was promoted to System Analyst 3. The Sector requested for advertisement of various positions internally wherein the Officer qualified and applied for appointment as a Principal ICT Officer at JG 'N'. The officer has also diligently offered services to the County for over 15 years. She was given a fresh appointment as Principal ICT officer JG "N" through a competitive process.

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Committee Observation

The recruitment of 3,834 staff was not supported with plans, adverts, or interviews. Some officers were appointed without requisite qualifications or experience.

Committee Recommendation

- The Committee recommends that the County Public Service Board should audit all recent recruitments with a view of revoking irregular appointments within ninety days after the adoption of this report;
- That the County Public Service Board should ensure all future recruitment are competitive and merit-based.

3.1.18. Late Remittance of Staff Deductions

Review of the payment vouchers provided revealed the County Executive paid Kshs. 100,000,000 being payment of unremitted staff deductions to NCCG third parties and staff pension contribution. In addition, the County Executive incurred Kshs. 100,000,000 in respect of payment to Kenya Revenue Authority being payment for tax arrears. However, it was not established why the County had failed to remit the deductions when they fell due.

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

Management Response

During the year under review, the county paid all statutory deductions in full while paying staff salaries. The above mentioned payments related to pending bills from previous years.

Committee Observation

Kshs. 200 million in statutory deductions and arrears was paid late, exposing the County to penalties.

Committee Recommendation

— The Committee recommends that the County Treasury should establish a compliance calendar to prioritize remittance of staff deductions at source to avoid future breaches.

3.1.19. Employees Sharing Bank Accounts

Review of the bank remittance for the year ended 30 June, 2024 revealed that the months of April, May and June, 2024 had seven thousand, seven hundred and seventy-seven (7,777), six thousand, one hundred twenty-three (6,123) and six thousand, eight hundred and three (6,803) staff respectively sharing same bank accounts, same agent code and same branch code.

Management Response

A review of the bank list for May 2024 does not indicate any member of staff sharing the bank accounts as per the findings of the auditor. However, there are circumstances where Report of the Public Accounts Committee on the consideration of the report of the Auditor General on the Financial Statements of the Nairobi City County Executive for the Financial Year 2022/2023.

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staff can share agent code and branch code which reflects the bank and branch where employees receive salaries but not bank account number. The auditor did not provide detail of staff sharing bank accounts for management to countercheck and confirm the claim. Management will follow up the query should specifics be provided.

We have attached the bank listing file for May 2024 as generated by IPPD as a text file and the converted excel version of the same and no duplicate bank accounts have been found. An extract of the bank listing from the IPPD as shared with the auditor and samples of the original bank reference data printouts as extracted from IPPD which show that each employee has a unique bank account number and no duplication has been found.

Appendix 1.7.1A – Converted bank listings excel file for May 2024 - soft copy Appendix 1.7.1 B - Original bank list for May 2024 text file format - soft copy

Committee Observation

The audit flagged thousands of staff allegedly sharing bank accounts, though management disputes this.

Committee Recommendation

— The Committee recommends that the County Treasury to undertake an independent payroll data reconciliation with KRA, NSSF, and banks to confirm authenticity of staff accounts within sixty days after the adoption of this report to eliminate ghost workers.

3.1.20. Duplicates Names

Review of bank remittances for the year ended 30th June 2024 revealed that in the month of August 2023, seventy-four (74) staffs were sharing all names.

Management Responses

We confirm that the 74 staff share the same names, which is a normal occurrence for such a cosmopolitan County as Nairobi. However, the 74 staff have different national id no's, KRA Pins, dates of birth, designations, workstations, job groups, and dates of first appointment (Appendix 1.7.2 – hard copy)

Committee Observation

The 74 staff were flagged as having duplicate names, raising risks of fraud.

Committee Recommendation

— The Committee recommends that the County Human Resource Management should establish and strictly implement unique biometric identifiers in payroll systems and conduct a headcount to confirm staff authenticity within ninety days after the adoption of this report.

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3.1.21. Officers Active in the Payroll with No Pay

Analysis of the payroll indicated that there were six (6) officers active in the payroll without salaries.

Management Response

NETTPAY	Response
SAMISKITHIDE HITTIKANSERS	Officer on full salary however
	was being recovered a surcharge
	of Kshs 40,704 per month
	making him earn zero net salary.
	The officer has finished paying
0	the surcharge
	The officer on full salary
	however was being recovered un-
	surrendered imprest which made
0	him earn zero net salary
	Officer on suspension but
0	dismissed wef 5th June 2024
	Officer on suspension but
0	dismissed wef 5th June 2024
at a sutting acquire (v)	Officer on suspension but
0	dismissed wef 5th June 2024
	Officer on suspension following
	conviction awaiting dismissal by
0	CPSB
	0 0 0 0

Committee Observation

Some officers remained active but received zero salaries due to surcharges, suspension, or dismissal.

Committee Recommendation

— The Committee recommends that the County Human Resource Management to ensure that the payroll reflect only active, valid staff, suspended/dismissed officers should be removed promptly to enhance payroll accuracy.

3.1.22. Officers Whose Bank Remittances were Higher than their Net Pay

Net salaries for officers in the County were recomputed and checked against what was remitted to the bank and it was established that some officers received a higher salary than what was computed as their net earnings for the period under review. The total overpayment for the period amounted to Kshs. 5,395,449.

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Management Response

The IPPD system is automated to ensure total deductions do not exceed total earnings. Where the system detects such anomaly, for instance when a staff member's loan repayments increase to the point where the total deductions become more than the total earnings, then the system automatically defers any discretionary deductions. The system randomly picks any deduction that contradicts the above rule and defers until such a time the total earnings exceed total deductions. When this occurs, the IPPD net pay and the remittances to the bank will not match. See attached analysis **Appendix 1.7.4**.

Committee Observation

Overpayments of Kshs. 5.3M and gross salaries exceeding SRC ceilings by Kshs. 8.4M were noted, alongside IPPD-voucher variances of Kshs. 1.39B.

Committee Recommendation

— The Committee recommends that the County Human Resource Management must reconcile payroll on monthly; adhere to the Salaries and Remuneration Commission ceilings; and recover overpaid salaries immediately.

3.1.23. Officers Paid Gross Salaries Higher than the SRC Recommendation

Analysis of gross salaries for County Executive staff to the subject criteria which set the maximum budget ceiling for the financial year at Kshs. 3,791,451,767 and maximum gross salaries for the various job groups revealed some officers were paid gross salaries higher than the maximum recommended amounts for their job groups resulting to an overpayment to the officers by an amount of Kshs. 8,432,25

Management Response

The Salaries paid to County employees under SRC pay structure are as per SRC circular Ref.NO SRC/TS/29(81) dated 10th August 2023 which is system-predefined and effected by the State Department for Public Service. County employees who previously worked the defunct Nairobi City Council (as opposed to those who joined from the National Government at the advent of devolution) are paid as per the Collective Bargaining Agreement signed in 2012 which is also system-predefined.

The SRC structure above does not cover other additional allowances which form terms and conditions for employees that are cadre-related. For instance, the SRC circular does not include work-related allowances like overtime, risk allowances, non-practicing, sitting allowances, salary arrears on promotion, annual leave allowances, extraneous duty allowances, meal allowance for betting staff, mortuary allowances for funeral home staff etc. The amounts indicated as over-payment are work-related allowances governed by existing circulars, CBA and HR policies.

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Committee Observation

The committee notes that some officers earned salaries beyond SRC ceilings, attributed to legacy CBAs and additional allowances not factored in SRC circulars. This undermines standardization of public pay.

Committee Recommendation

— The Committee recommends that the County Executive Management should strictly harmonize salaries in line with SRC structures, review legacy CBA payments, and recover unjustified overpayments.

3.1.24. Officers not Deducted P.A.Y.E

Analysis of payroll data for the year under review against the statutory deduction of P.A.Y.E revealed some officers were not deducted statutory deductions including PAYE amount at various times during the year. The total amount not taxed during the year under review was Kshs. 148,642,687.

Management response

P.A.Y.E is not deducted from staff members registered with the National Council for People Living with Disabilities. There are 174 such staff. Also, P.A.Y.E is not charged on staff who earn below Kshs 24,001. A total of 2,811 staff fall in this category as they are in job group A-E and therefore are below the tax threshold. (Appendix 1.7.6 soft copy and list officers with KRA exemption certificates)

Committee Observation

Audit revealed non-deduction of PAYE amounting to Kshs. 148M, partly due to exemptions but also weak controls.

Committee Recommendation

- The Committee recommends that the County Executive Management should verify all exemptions with KRA, ensure strict compliance with tax laws, and penalize officers responsible for lapses.
- 3.1.25. Variances between IPPD Payroll Computation and Payment Vouchers Analysis of payroll data for the year ended 30 June, 2024 revealed an unexplained variance of Kshs. 1,393,234,865 between IPPD and payment voucher amounts.

Management Response

The salary payment vouchers prepared by IPPD are reconciled and tallied with the IPPD payroll as tabulated below. The payment vouchers are prepared as follows:

- Net salaries
- Vouchers for deductions/check-offs above Kshs 2,000,000

— One Voucher for all check-offs/ deductions below Kshs 1,000,000

These vouchers are consolidated to include off-payroll payments and thereafter invoiced in IFMIS and IB. Any variance between the consolidated salary figures and vouchers is normally reconciled through the use of requisitions. Below is a summary of salary payment vouchers prepared by IPPD.

Voucher No.	Description	Voucher Amount (Kshs)	IPPD	Variance
63199	July	1,148,461,000.00	1,148,461,000.45	0.45
63440	August	1,234,543,326.00	1,234,543,325.85	0.15
67902	September	1,225,282,801.90	1,225,282,801.90	-
65922	October	1,304,459,951.15	1,304,459,951.15	2
67800	November	1,329,935,287.15	1,329,935,287.15	-
68692	December	1,333,005,382.65	1,333,005,382.65	-
72512	January	1,290,921,808.60	1,290,921,806.60	÷ ÷
73291	February	1,283,213,328.30	1,283,213,328.30	_
75099	March	1,220,949,218.40	1,220,949,218.40	=
75907	April	1,171,014,734.00	1,171,014,734.00	-
76341	May	1,182,823,874.85	1,182,823,874.85	2
77619	June	1,439,813,513.40	1,439,813,513.40	-
	Total	15,164,424,226.40	15,164,424,224.70	0.60

Committee Observation

Unexplained variances of Kshs. 1.39B were noted between payroll and vouchers despite management's reconciliation claims.

Committee Recommendation

— The Committee recommends that the County Treasury should ensure an integration of IPPD and IFMIS more effectively, and submit quarterly payroll reconciliation reports to the Assembly.

3.1.26. Irregular Payment of Stipend and Salaries

The manual payrolls obtained from the Health Department, indicated that Kshs. 317,156,560 was paid as allowances to the Community Health Volunteers. Analysis of the data with IPPD revealed that sixty-two (62) National IDs were found to have been used to pay officers in both the IPPD totalling Kshs. 10,406,097 and health workers' stipends totalling Kshs. 18,455,500. The basis for the payment was not provided.

Management Response

Nairobi city country has a total of 7820 CHPs who are paid a monthly stipend of Ksh. 3500 after satisfactory performance as per the Nairobi County community services act, 2019.

The 7820-community health promoters (CHPS) are in 782 community health units (CHU). Community health assistants are the ones in charge of the CHUs, each heading approximately 5 to 10 units. The list for stipends are prepared as per the Community services act, 2019 which gives responsibility of ensuring that correct details of CHPs is captured and transmitted to the sub-county community strategy coordinator for compiling and onward transmission to the county community health services coordinator.

The list is then submitted for payment by the finance department.

The county recently employed Nairobi residents to environment and security and compliance sub sectors, some CHPs are part of the said officers. The Nairobi County Community Services Act, 2019 does not prevent any person from being recruited or paid a stipend as a CHP. Advisory sort from the office of the county attorney confirms so. Refer to **Appendix B 1.7.8**

Committee Observation

Duplicate use of National IDs between IPPD payroll and CHV stipends raised risks of double payments and ghost workers.

Committee Recommendation

— The Committee recommends that the County should digitize CHV registers, link stipends to the national population database, and conduct biometric verification to eliminate duplication.

3.1.27. Irregular Adjustment of Staffs Details in IPPD

Analysis of basic salary paid to officers during the period under review, revealed the following anomalies in staff details:

- i. Some officers' basic salary changed multiple times during the year with some up to 6 times.
- ii. Three thousand, two hundred and sixteen (3,216) officers were noted to have changed job groups more than once, twenty-four (24) of which were noted to have changed job groups 3 times.
- iii. Three (3) officers were noted to have their payroll numbers attached to different National Identification numbers at various times of the year.
- iv. Twenty-four (24) officers were noted to have their payroll numbers attached to different Tax-pins at various times of the year.
- v. One hundred ninety-seven (197) officers were noted to have their birthdates changed multiple times.

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Management Response

The National identification numbers for the three officers were wrongly captured which was noted after the respective employees brought it to the attention of HR or during routine file verification. Sample data capture sheets are attached in **Appendix B 1.7.9**

The KRA tax PINs for the twenty-four officers were wrongly captured during the onboarding in the payroll or during migration from semi- manual payroll system. These were thereafter verified and corrected.

Attached are copies of some sample KRA PINS Appendix B 1.7.9

The Dates of birth captured were as per records provided at the time of employment some of which were wrongly captured in the system. In some cases, some employees did not have birth certificates, and therefore the date of birth in the ID was used. For older employees the IDs only captured year of birth and did not have month and date.

As per terms and conditions where date and month is not indicated 1st July is treated as date of birth. Changes were affected when employees submitted birth certificates indicating the actual date of birth. This is per court ruling which directed that a birth certificate is the legal document for identifying a staff date of birth. **Appendix B 1.7.9**

Committee Observation

Frequent changes in job groups, ID numbers, PINs, and dates of birth compromise payroll integrity.

Committee Recommendation

— The Committee recommends that County should restrict payroll edits to authorized officers, subject all changes to audit trails, and conduct a staff headcount to cleanse payroll data.

3.1.28. Irregular Payment of Arrears

Analysis of the arrears paid to County officers during the year revealed various staff were paid in arrears for earnings not ordinarily earned while some officers were observed to have been earning arrears for the entire year.

Management response

Payment of arrears relates to payment of job-related allowances or terminal benefits for officers proceeding on retirement including extraneous allowances, overtime, and salary arrears for serving staff and long service award and transport allowance for officers proceeding on retirement.

Committee Observation

Some officers continuously earned arrears, suggesting misuse of the arrears facility.

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Committee Recommendation

— The Committee recommends that arrears payments should be one-off and fully documented. The County should audit all arrears paid and recover irregular amounts.

3.1.29. Irregular Payment of Transport Allowances

Analysis of the transport and commuter allowance paid revealed that two (2) officers were paid commuter allowance totalling Kshs. 14,000 in accordance to the SRC recommendations but were also paid transport allowance in arrears of Kshs. 48,690. However, the rate used for payment could not be determined.

Management Response

The amount paid as transport for the two officers is baggage allowance payable to officers proceeding on retirement. The two officers formerly devolved from National Government are paid amounts as determined by the Ministry of Transport as per PSC HR Policies and Procedures Manual May 2016 clause C.22 (1) When traveling on first appointment, transfer or termination of appointment, an officer shall be provided with a government vehicle to transport his luggage.

(2) In the absence of a vehicle, the officer will be eligible for a baggage allowance at rates determined by the government from time to time.

Committee Observation

Two officers received commuter allowance and additional transport arrears without clarity on applicable rates.

Committee Recommendation

- The Committee recommends that the County Executive should establish uniform transport allowance policies within ninety days after the adoption of this report;
- That a recovery of double payments be done after a report submitted to the County Assembly within sixty days after the adoption of this report.

3.1.30. Non-Compliance with Law on Mandatory Retirement

Review of the Integrated Payroll and Personnel Database (IPPD) revealed that seventeen (17) officers who had attained the mandatory retirement age of sixty (60) years were still in service as at 30 June, 2024. This was contrary to Regulation 70(1)(a) of the Public Service Commission Regulations, 2020 which states that the mandatory retirement age in the public sector shall be sixty (60) years. The officers were paid emoluments totalling Kshs. 1,704,722 in the year under review.

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Management Response

The sixteen officers (16) have all been appointed on contract terms: 2No are County Public Service Board members, 2No are County Executive Committee members and 12NO are former Ex-KDF officers taken over from former NMS to train and capacity-build County staff. **Appendix B 1.10**.

Committee Observation

Sixteen officers above 60 years were retained, contrary to PSC regulations, leading to extra wage costs.

Committee Recommendation

— The Committee recommends that the County Public Service Board should enforce retirement policy strictly and only re-engage retirees on contract where skills are critical and legally justified.

3.1.31. Reinstatement of Interdicted Staff

Review of staff records revealed that a staff was interdicted for gross misconduct. However, the staff filed for an application in Court on 31 October, 2023 seeking suspension/staying implementation of the decision to interdict him as contained in the letter dated 6 March, 2023. The Court issued stay orders on the decision to interdict the staff as contained in the letter dated 6 March, 2023 and also granted orders allowing him to continue performing his official duties.

In addition, the Court gave a mention date on 7 December, 2023 to confirm compliance on the filing of submissions and give a date for ruling. On 12 April, 2024 when the matter came up for delivery of a ruling on the County's Preliminary Objection in response to the Petition and Application, the Petitioner (staff) was absent. However, the Petitioner had filed a notice of withdrawal of the suit dated 5 March, 2024 filed in Court and the Court ordered that the Petition was herein withdrawn and the Respondent was awarded cost of the suit. Based on the fact that the petitioner withdrew the application vide the notice of application aforementioned, the Respondent reserved the right to interdict the staff until his case is concluded. It is not clear why the County did not interdict the staff after withdrawal of the petition.

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

Management Response

The sub-sector of Public Service confirms the officer was interdicted vide letter dated 6th March 2023 following the directive from EACC after they commenced corruption investigation. The officer filed a petition case ELRC Petition No. E194 of 2023 in which the court issued stay orders restraining the county from interdicting the officer and further allowed the officer to continue discharging his duties without discrimination.

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The order was implemented by County upon advisory from County attorney vide memo LA/W/169/23 dated 30th November 2023 (appendix 1.10)

The petitioner later withdrew the petition on 5th March 2024 after the County lifted the officers interdiction and allowed him to resume duties a position which the County did not object to the withdrawal of the case as there were no specific grounds to interdict the officer since EACC had not filed any corruption case against the officer but rather a case for asset forfeiture.

The case has since been determined vide judgment dated 7th November, 2024 where the suit was dismissed accordingly with each party bearing its own costs. With this dismissal, the interlocutory injunctive preservative orders hitherto in force were discharged and the impugned assets and bank accounts unfrozen forthwith. The Court also determined that the case for recovery of assets is not criminal case but a civil case. **Appendix B 1.11**

Committee Observation

An interdicted staff resumed duties after withdrawing a petition, without proper HR disciplinary process.

Committee Recommendation

— The County should finalize all interdiction cases as per PSC guidelines and ensure court withdrawals don't override disciplinary frameworks.

3.1.32. Non-Remittance of Statutory Dues

Analysis of the payroll data provided for audit revealed that the County deducted staff PAYE, NSSF, Housing Levy, NHIF and HELB statutory dues totalling Kshs. 3,098,568,562. However, audit could not trace remittance of the deductions to the relevant authorities through the County's bank statements and no support document on remittance was provided.

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

Management Response

The supporting documents on remittances of statutory deductions have since been shared to the auditors.

Committee Observation

Kshs. 3.09B in statutory deductions lacked evidence of remittance, exposing staff to risks and breaching the law.

Committee Recommendation

— The Committee recommends that the County Treasury to reconcile and remit all statutory deductions, and officers responsible for diversion or delays should face surcharges.

3.1.33. Non-Compliance with Fiscal Responsibility Principles

Note 2 to the financial statements reflects compensation of employee expenditure totalling Kshs. 17,290,337,584. The amount represents approximately 56% of the total revenue of Kshs. 31,006,479,217. Therefore, the County Executive Contravened Regulation 25(1)(a) and (b) of the Public Finance Management (County Governments) Regulations, 2015 which requires that the expenditure set should not exceed thirty-five (35) percent. The County Executive was in breach of the law and the high wage bill may not be sustainable on long term period.

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

Management Response

Non-compliance with fiscal responsibility is a historical issue carried over from Defunct City Council whereby before constitution 2010.

- I) The County inherited an existing workforce of 11,303 with a monthly payroll cost of 773,460,017 as at December 2013. These staff were employed under the Defunct City Council and their terms and conditions of service was guided by a registered Collective Bargaining Agreement signed by the Defunct Councils and Kenya Local Government Workers Union. Following the Enactment of Constitution 2010 under schedule IV a further 3,430 staff who were performing the devolved functions were seconded to the County which added payroll cost of Kshs 298,676,779 in January 2014. This therefore increased the County Payroll cost to Kshs 1,067,662,015. According to County Government Act Section 138 which states: 138. (1) Any public officer appointed by the Public Service Commission in the exercise of its constitutional powers and functions before the coming to effect of this Act and is serving in a county on the date of the constitution of that county government shall be deemed to be in the service of the county government on secondment from National Government with their terms of service as at that date and
 - a) the officer's terms of service including remuneration, allowances, and pension or other benefits shall not be altered to the officer's disadvantage; and
 - b) the officer shall not be removed from the service except by the terms and conditions applicable to the officer as at the date immediately before the establishment of the county government or by the law applicable to the officer at the time of commencement of the proceedings for the removal; and

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c) The officer's terms and conditions of service may be altered to the office's advantage.

This therefore meant that the County had to absorb the staff as per their existing terms and conditions of service.

The inherited staff and those Devolved from the National Government were not adequate to perform the expanded mandate of the County Government since some of the critical skills were lacking and the inherited Defunct staff majority were aging workforce therefore the County Public Service Board had to conduct new requirements.

Mitigation measures to ensure noncompliance with fiscal responsibility principles.

- 1. Implementation of an approved establishment that sets the optimum staff establishment for all County Sectors and Departments;
- 2. Development and implementation of a Voluntary Early Retirement Policy where the County will provide an inducement for a certain cadre of staff to take up voluntary early retirement without loss of benefits;
- 3. Adoption of SRC grading structures for all new recruitment which is lower than the ones earned by the Defunct City Council Collective Bargaining Agreement (CBA)

Due to the historical nature of the wage bill problem the Salaries and Remuneration Commission convened a third wage bill conference held on 15-17the April 2024 which resolved that County Governments to ensure that the provision of Personnel Emoluments do not exceed 35% threshold by 30th June 2028

The recruitment of 3,834 support staff was essential to fill gaps left by retirees and staff lost due to natural attrition. Their roles include waste collection, drain clearing, bush clearing, litter picking and ensuring efficient service delivery, and addressing longstanding challenges in waste management.

The recruitment did not increase the wage bill, as the new staff are compensated at lower rates than their predecessors. Additionally, this aligns with the County Integrated Development Plan (CIDP) and the Annual Development Plan (ADP), prioritizing enhanced environmental services.

To ensure sustainability, training programs and audits are in place to optimize staff performance and resource use, ensuring continued compliance and financial prudence

Committee Observation

The wage bill consumed 56% of revenue, exceeding the 35% ceiling.

Committee Recommendation

— The Committee recommends that the County Executive should freeze nonessential recruitment, adopt voluntary retirement schemes, and progressively align with SRC wage guidelines to comply by 2028.

3.1.34. Failure to Settle Pending Bills

Note 15 to the financial statements reflects other important disclosure in respect of pending accounts payable totalling Kshs. 118,794,238,631, However, it was established that the pending bills remained unsettled despite the County Executive having unspent funds amounting to Kshs. 1,478,245,241 in the County Revenue Fund.

Further, failure to settle bills during the year to which they relate, adversely affects the implementation of the subsequent year's budgeted programs as the outstanding bills form a first charge on that year's budget provisions.

Management Response

The last disbursement of 2023/2024 equitable share was received on 26th July 2024 long after we had closed the financial year even after extension by two weeks in July 2024. Invoicing of new payments in IFMIS is restricted up to 30th June of every financial year. Therefore, no invoicing could be carried out in July 2024.

Committee Observation

Pending bills remain unsustainable, with some relating to imprests and staff allowances, while legal pending bills form a large portion.

Committee Recommendation

— The Committee recommends that the County Treasury should develop a verified arrears clearance plan, prioritize genuine suppliers, and ensure no new commitments are incurred without budgetary provision.

3.1.35. Pending Legal Costs

Analysis of legal fees revealed that four (4) Advocates out of the total pending legal cases, are owed a total of Kshs. 6,269,546,657 which is 29% of the total pending legal fee of Kshs. 21,371,004293. Further, the County Executive had huge pending bills relating to external Advocates totalling Kshs. 21,371,004293 which is 11% of the total pending billings. It was noted that most of the Court cases related to issues of; disputes of unpaid claims for goods/works/services completed by contractors, un-procedural termination of employment contracts, irregular procurement processes and poor contract management.

In the circumstances, imprudent decisions by the Management could have led to judgements entered against the County Executive resulting to high cost of litigations and interests.

Management Response

In the financial year ending 30th June 2024, the office of the county attorney pursuant to the recommendation of the committee which was appointed by the H.E the Governor to look into the legal pending bills established an assessment committee to assess and reassess the fee notes which had been presented by the advocates and assessed prior to the appointment of the committee.

The committee in its report during the year under review assessed and reassessed fee notes which had been presented totalling to Ksh19,554,805,263.12 which after assessment and reassessment was reduced to Ksh3,569,524,268.85

The committee continues to discharge its mandate and as such, the exact pending cost owed to various law firms shall be ascertained after the committee finalizes the reassessment of the remaining fee notes.

Legal fees in the sum of Ksh6,269,546,657 Referred to in the audit report as being owed to the 4 law firms whose details are undisclosed may have been arrived at by examining the fee notes not subjected to assessment and or re-assessment. Our response would have been more comprehensive had the audit report disclosed the details of each firm referred therein.

Pending bills relating to decretals resulting from judgements entered against the county as at the end of the financial year 2023/2024 was Ksh9,156,501,873 which some has accrued not only during the period under review but for several years dating back to the city council of Nairobi before the advent of the devolved Government.

Pending bills relating to decrees against the county is largely attributed to inadequate budgetary allocation for the purpose hence the escalation of interests and penalties as ordered by courts.

The relevant documents in support of the above are as listed below and as per **Annexure** 2.2.

- a) OCA Budgets for Financial Year 2021/2022, 2022/2023 and 2023/2024
- b) Extract of the Published Legal Fees Assessment Committee Report.

Committee Observation

Huge legal bills totaling Kshs. 21.3B were noted, much of it from imprudent management and irregular contracts.

Committee Recommendation

- The Committee recommends that the County Attorney should finalize reassessment of fee notes and submit a report to the Assembly within sixty days after the adoption of this report;
- That the County Attorney should establish a framework to reduce reliance on external lawyers, and strengthen contract management to avoid repeat litigations.

3.1.36. Non-Settlement of Payments Due

Review of legal pending bills and documents provided for audit revealed an expenditure amounting to Kshs.180,712,573 in respect of interest and penalties awarded to a garbage contractor by High Court of Kenya for non-payment of Kshs.358,844,976 with an interest of 12% at commercial rate arising from the judgement and decree in Civil Suit which was delivered on 20 December, 2023 for garbage collection and hire of heavy machinery equipment services offered between 4 July, 2018 to 4 August, 2022.

The Ex-Parte application herein indicated that in July, 2018 they entered into a contract with Nairobi City County Executive to provide services to the County. However, Nairobi City County breached the contract terms by failing to perform its obligation of paying for the services rendered. The plaintiff provided services valued at Kshs. 948,986,822 for the period between 5 July, 2018 to 4 July, 2019, and which the County settled Kshs. 590,141,917 leaving an outstanding amount of Kshs. 358,844,976 which was subject of the suit. The plaintiff then filed Judicial Review Application dated 3 March, 2023 seeking Mandamus Orders to compel the County to pay the Applicant a sum of Kshs. 539,557,549.

This cost may have been avoided had Management put in place prudent public finance management controls in payment of pending bills and by honouring court orders. Further, Management has not provided payment plan to avoid escalation of the interest and penalties.

Management Response

The amounts queried are in relation to HCC NO E140 OF 2020; HARDI ENTERPRISES LTD-VS-NAIROBI CITY COUNTY

In the matter, the plaintiff sued the County with regard to contract No. NCC/WEFE and NR/DP/276/2017-2018 Hire of Heavy Equipment and Vehicles (service).

The Plaintiff alleged that the Contractual Services were valued at Kshs 948,986,822.13 between 5th July 2018 and 4th July 2018 and of which the County Settled Kshs. 590,141,916.55 leaving an outstanding balance of Kshs 358,844,975.58 which is the subject matter of the suit.

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Judgment was entered against the County for the Sum of Kshs 358,844,975.58 and interest at commercial rates from 4th July 2018 until Payment in full.

Relevant documents in support of the above are as under listed and contained in **Annexure** 2.3.

- 1. Memo dated 5th July 2021.
- 2. Letter dated 11th March 2022.
- 3. Letters dated 2nd March 2022.
- 4. Memo dated 22nd November 2022.
- 5. Letter dated 14th December 2022.
- 6. Memo dated 16th December 2022.

Committee Observation

Failure to settle a Kshs. 358M contract led to interest and penalties of Kshs. 180M, demonstrating imprudent financial management.

Committee Recommendation

— The Committee recommends that the County should prioritize settlement of decreed liabilities, develop a legal risk management strategy, and avoid avoidable penalties.

3.1.37. Non-Payment of Dues Arising from Court Award

Analysis of records provided for audit indicated that Management paid an amount of Kshs. 24,304,000 which was awarded by the Court due to unfair dismissal of thirteen (13) employees of the County. The award incurred an amount of Kshs. 10,080,000 as interest of 12% per annum for delayed payment. This loss would have been avoided had Management honoured the court orders.

Further, the costs would have been avoided had Management put in place prudent public finance management controls in payment of pending bills and by honouring court orders. In addition, Management has not provided payment plan to avoid escalation of the interest and penalties.

Management Response

No response from the County Executive Management.

Committee Observation

Court awards of Kshs. 24M escalated by Kshs. 10M in interest due to delayed compliance with orders.

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Committee Recommendation

— The Committee recommends that the County should establish a litigation fund to promptly honor court awards and prevent unnecessary financial losses.

3.1.38. Irregular Pending Bills

Note 15 to the financial statements reflects other important disclosure in respect of pending accounts payable balance totalling Kshs. 118,794,238,631. Review and analysis of pending bills listing provided for audit verification revealed that an amount of Kshs. 176,741,698 was due to County Executive staff in relation to domestic and subsistence allowances. It is not clear why the expenditure was incurred yet there were insufficient funds. This was contrary to Regulation 93(4)(d) of Public Finance Management (County Governments) Regulations, 2015, which states that the Accounting Officer must ensure that, before issuance of imprest, adequate funds are available against the relevant items of expenditure to meet the proposed expenditure.

Further, it was not clear why the County Executive staff incurred expenditure on behalf of the County which is an offence as provided in the Public Finance Management Act, 2012.

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

Management response

The County employees from all sectors were engaged in various work-related activities during the period under review. Such duties/assignments required employee compensation prior to attendance. However, the County Executive was unable to compensate the employees on time due to cash flow constraints occasioned by delays by the National treasury in the release of equitable shares while in other cases, due to low revenue performance. However, the employees were compensated as and when funds were available. Failure to attend work related duties due to cash flow challenges would have had negative impacts towards service delivery hence the need for the staff to attend to critical county functions.

Committee Observation

Pending bills included staff subsistence allowances of Kshs. 176M without funds, contrary to PFM laws.

Committee Recommendation

— The Committee recommends that County should stop issuing imprests without budgetary backing, and surcharge officers authorizing illegal commitments.

3.1.39. Failure to Provide Support for Bursary and Scholarship Applications Vetting

Management did not provide Wards Bursary Committees deliberations minutes that stipulated their recommendations for individual vetted cases and a list of the vetted applicants forwarded to the Executive Scholarships and Bursary Processing Committee. Review of sampled application forms indicated that the committee recommended some applicants for the executive scholarship amounting to Kshs. 3,700,615. However, it was not possible to trace the applicants in the list of beneficiaries.

Further, some scholarship forms for the successful applicants did not have the committee's recommendations and Head Teacher's recommendations as required by the guidelines. It was also established that the County issued both scholarships and Ward bursary to 43 beneficiaries totalling Kshs. 2,203,723. Therefore, the audit could not confirm whether the beneficiaries were indeed deserving.

Management response

Wards bursary committee's deliberations and minutes stipulating their recommendations for individual vetted cases and a list of the vetted applicants forwarded to the executive Scholarships and Bursary processing committee are hereby attached marked appendix A (Ward Committees Minutes).

The sector maintains a record of all bursary beneficiaries. The list of all students who benefited from both ward and executive bursary was provided.

All scholarship forms for the successful applicants have the committee's and Head teacher's recommendations. Additional samples are hereby provided marked **Appendix B**

Doubles payment of bursaries

	The sector noted that parents apply for ward bursaries when they're under scholarship
as well	to cover for the excess fees charged by schools other than the Government approved
fees	

- For instance, the government approved kes 53,554 fees for all National schools' and Extra County and County schools in Nairobi while there are other charges which creates a deficit to be paid by parents. Given that most of the students under scholarship come from vulnerable families, parents resort to alternative sources to cover up the fees.
 - Example of the extra charges in most schools are;
- a). Development levies
 - b). Remedial levies
 - c). Motivational levies

NB: attached herein find samples of fee structures marked Appendix C

Committee Observation

Minutes of ward bursary vetting committees were missing, duplicate allocations occurred, and some beneficiaries were untraceable.

Committee Recommendation

— The Committee recommends that the County Executive Member for Talent, Skills Development and Care should establish digital bursary vetting and beneficiary records, enforce strict verification to avoid duplication, and ensure transparency in awards.

3.1.40. Un-Acknowledged Disbursements

The County disbursed Executive Scholarship to five thousand, three hundred and thirty-nine (5,339) students in the financial year 2023-2024 and also disbursed Ward bursaries to twenty-nine thousand, seven hundred and seventy-five (29,775) students in term III amounting to Kshs. 301,400,000 for executive scholarship and Ward bursary, Kshs. 170,000,000 for the Ward bursary and Kshs. 131,400,000 for the executive bursary respectively. However, the benefitting institutions did not give their acknowledgements and therefore, the disbursements could not be confirmed.

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

Management response

The acknowledgement documents are provided in Appendix B 3.2

Committee Observation

Institutions did not acknowledge bursary disbursements of Kshs. 301M, making verification impossible.

Committee Recommendation

- The Committee recommends that all bursary payments should be receipted and acknowledged formally.
- That disbursements must be linked to schools' bank accounts with electronic confirmations.

3.1.41. Failure to Prepare and Submit Separate Fund Financial Statements

The County Executive Management did not prepare and submit financial statements for the funds whose enabling legislation requires that they prepare books of account for audit. The Funds include; Disaster and Emergency Fund, Nairobi City County Betting, Lotteries and Gaming Control Board, Ward Development Fund, Pumwani Maternity College of Nursing and Midwifery and Nairobi City County Revenue Authority. However, the Fund's operations were combined together with the Nairobi City County Executive financial statements.

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

Management Response

Nairobi City County Betting, Lotteries and Gaming Control Board.

The court nullified the Act that had earlier established the Board. Currently the county is coming up with the new Act of establishing a fund.

WARD DEVELOPMENT FUND

The Nairobi City Ward Development Act (No. 1 of 2014) (hereafter "the WDF Act") was enacted by the Nairobi City County Assembly (hereafter "the assembly") on the 11th February, 2014 as an Act of the Nairobi City County Government pursuant of the provisions of Articles 185 and 207 (2) of the Constitution.

Upon its enactment, the office of the Controller of Budget (OCoB) raised a number of concerns with respect to <u>validity</u>, <u>legality and constitutionality</u> of the Act. This led the assembly to amend the Act Three Times through various amendment bills in order to regularize the Act and make it compliant with the directives issued by the OCoB.

On the 19th January, 2018, the OCoB vide <u>Circular No. 1</u> titled "<u>Establishment of the Ward Development Fund</u>", issued to all counties guidelines on the establishment of the Ward Development Funds. Specifically, the OCoB made it mandatory that the WDF act must comply with regulations 197 of the Public Finance Management (County Government) Regulations, 2015.

On the 28th May, 2018, a joint meeting between the Assembly, the county Treasury, the WDF Committee and the OCoB, was called by the Nairobi City County Wards Development Select Committee to discuss the way forward on the implementation of the Circular No. 1 OF 2018 and the WDF Act. The purpose of the joint meeting was to explore ways to unlock the stalemate and the numerous road blocks that had been put in place in the implementation of the WDF Act by the OCoB. The meeting was <u>unable to resolve the stalemate</u> and to date the OCoB has maintained the position that the WDF Act is inconsistent with regulation 197 of the Public Finance Management (County Government) Regulations, 2015.

The above state of affairs has paralyzed the <u>operationalization and implementation</u> of the WDF act. Despite the fund having opened an account at central bank of Kenya, whenever the county government has gone ahead to requisition fund to be transferred into the Fund account, the OCoB has gone ahead to invoke article 228(5) of the constitution and disregarded any action undertaken under such county legislation, <u>since it is not a "law" within the meaning of article 228(5) of the constitution</u> and denied the county government funding. As such the WDF Act <u>has never been fully operationalized</u> due to legal obstacles placed on its path by the OCoB.

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The implementation and coordination of the ward Development Projects was transferred to the department of Ward Development Programmes in finance sector within the county Executive who are the implementing agency on behalf of County Executive for all ward related development Projects. The County department for Ward Development Programs is headed by a Director and other members of staff all of whom are employees of the County Executive employed by the Nairobi City County Public Service Board.

The county has embarked on a comprehensive review and overhaul the WDF Act in order for it to conform to the numerous recommendations made by the OCoB and the existing laws. The Ward Development Programme Legislative proposal 2024 has been submitted to the county executive committee for approval before transmission to the county assembly for further processing.

Nairobi City County Revenue Authority

The Nairobi County Revenue Administration Act 2021 was enacted, and the acting Board and interim C.E.O appointed. The secondment of staff is in the process through the County Public Service Board as per correspondences attached. Therefore, the NCRA has not been fully operationalized and Revenue operations are still under the County Revenue Department.

Appendix 4 c (i): Communication to County Public Service Board to request Staff Secondment.

Appendix 4 c (ii): Advertisement for consultancy for hiring a C.E.O

Disaster and Emergency Fund

Disaster and emergency activities are financed fully by the County Executive and the expenditure is captured in the County Executive Financial Statements. Since the fund does not generate its own source of revenue and donations, the fund has not been fully operationalized hence separate financial statements were not prepared.

Committee Observation

Separate fund accounts (e.g., WDF, Disaster Fund, NCRA) were not prepared, contrary to enabling laws.

Committee Recommendation

— The Committee recommends that County Executive must operationalize fund accounts and submit them for audit annually, or seek legal amendments to consolidate them properly and submit a report to the Assembly within ninety days after the adoption of this report.

3.1.42. Provision of Work Injury Benefit Act (WIBA), Group Personal Accident and Employer Liability

The County Executive procured insurance services for the cover of WIBA, GPA and employer liability and awarded an Insurance Company at a contract sum of Kshs. 83,714,336. However, review of payment voucher in respect of an amount of Kshs. 83,714,336 paid revealed the following anomalies;

- i. The schedule of requirement stated that all policies in the tender commenced on 1 November, 2023. However, the contract agreement was signed on 1 December, 2023 with the terms of the contract becoming binding only after the contract is signed.
- ii. The awarded insurer was expected to provide training, transport and accommodation and other related costs towards the orientation of the County staff on topics related to the cover within one month after commencement of the cover. However, there was no evidence to indicate that the training took place.
- iii. The contract obligated the insurer to settle all fully documented claims within fourteen (14) days from the date of submission. However, there was no evidence provided to confirm how claims arising were settled and whether the settlement complied with the stipulated timelines. In addition, the monthly claim reports were not provided for audit review.
- iv. The insurer covered a total of thirteen thousand, one hundred and thirteen (13,113) County staff. However, during the year, there were newly recruited staff and those who retired from the service. The audit could not confirm how these were incorporated into the existing cover with the insurer.

Management Response

The management acknowledges that the schedule of the requirement stated that all policies should commence on 1st November 2023 as this was the anticipated date on which the tendering process would have been completed. However, there were delays in the process and the policy commenced on 1st December 2023 and lapsed on 30th November 2024. The management also confirms that the contract was signed on 1st December 2023 which is the policy commencement date therefore no discrepancy.

The Insurer delayed in implementing the specified terms of reference due to delayed payment by the County and therefore most activities failed to take place as per schedule. With regards to staff covered management acknowledges that the tender indicated a cover of 13,113 staff however at commencement a total of 15,907 staff was submitted to the insurer since the County employed new staff during the period. The insurer has therefore issued invoice No DHRHQS24093394 for an additional 2400 staff totalling Kshs 14,555,684.00 dated 22nd November 2024 which is being reviewed before payment. The County has submitted 110

claims for settlement, however there has been delays due to incomplete documentation submitted by the victims e.g. police abstracts

On training, the insurer has conducted training for QAC members, Assistant Directors, and Chief administrative officers, and union representatives as per attached documents The following documents are hereby attached:

- Addendum 1 to the tender document;
- Notification of regret letters;
- Notification of award letter;
- Previous financial year Contract No PSM/T/172022-2023 awarded to MS Kenya Orient Insurance Ltd;
- Policy documents.

Appendix 5.1

Committee Observation

Insurance cover worth Kshs. 83M suffered delays, unverified training, unclear claim settlements, and coverage inconsistencies with staff numbers.

Committee Recommendation

— The Committee recommends that the County Executive should strengthen contract management, verify training and claims, and ensure insurance updates reflect actual staff changes.

3.1.43. Provision of Comprehensive Medical Insurance Cover

The County Executive procured medical insurance services for its staff through a tender. However, review of the procurement records and supporting documents revealed various requirements that ought to be have been met by the insurer after signing the contract document. These requirements included creation of a joint committee of seven (7) members, monthly reports from the committee, training and sensitization reports of at least 50% of the staff members and identify at least four (4) reputable rehabilitation centers to handle employees. There was no evidence to indicate that these requirements were met by the service provider.

Management Response

The following documents requested are hereby attached

- 1. Appointment letters for seven (7) members from the County
- 2. Monthly reports from the committee
- 3. Training and sensitization reports
- 4. Identification of reputable rehab centers.

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Refer to Appendix 5.2 I, II, III and IV

Committee Observation

The insurer failed to meet contract requirements such as joint committee reports, training, and identification of rehab centers.

Committee Recommendation

Future medical insurance contracts should be performance-based, with penalties for non-compliance, and reporting requirements strictly enforced.

3.1.44. Provision of General Insurance Services

The County Executive procured insurance services for the provision for general insurance service at a contract sum of Kshs. 129,713,854 and contract agreement signed on 14 May, 2024 for a period of one year. However, review of payment documents revealed the following anomalies.

i. The tender document had a variance of thirty-one (31) in the number of vehicles to be covered as documented in the schedule and the list of vehicles attached. It was therefore not possible to confirm the number of vehicles covered during the financial year 2023/2024 due to the disparities between the two documents as tabled below:

N	General Cover	Schedule	Attached List	Variance
1	Commercial vehicles - comprehensive cover	41 .	39	2
2	Commercial vehicles - third party	37	31	6
	Private vehicles comprehensive cover	129	110	19
4	Private vehicles third party cover	19	15	4
	Total Vehicles			31

Management response

The variance in the number of vehicles listed in the tender document versus the attached list arose from an inconsistency in data consolidation during the tender preparation process. However, we confirm that the insurance coverage provided was based on the final approved vehicle list, ensuring all insured vehicles were accurately documented. The insurance premiums charged and the stickers issued corresponded strictly to the vehicle registration numbers in the final approved contract, guaranteeing compliance with the agreed terms.

Additionally, the County acquired 26 new vehicles during the financial year, and their insurance coverage was processed accordingly. The details of these additional covers, along

with supporting documentation, have been compiled and are available for audit review. Please refer to Appendix 5.3 (I)

The valuation of county vehicles was comprehensively undertaken as part of the FY 2023/24 contract. Following the completion of this process, a detailed valuation report was prepared and submitted as part of the response to previous audit queries. This report provides a comprehensive assessment of the values of the insured vehicles and serves as a reference for audit verification. A copy of the valuation report is attached for your review and consideration. Find attached **Appendix B 5.3 (ii).**

Committee Observation:

The Committee observed significant discrepancies between the vehicle schedule and the attached list in the tender document, leading to uncertainty regarding the actual number of vehicles insured. While management provided explanations and referenced appendices, the initial inconsistency points to weaknesses in data consolidation and tender preparation.

Committee Recommendation:

— The Committee recommends that the County Executive strengthen internal controls during the tender preparation process to ensure consistency between schedules and supporting documents. All future tenders should be subjected to rigorous pre-audit verification before submission.

3.1.45. Irregular Direct Procurement of Insurance Cover

The County Executive awarded a contract for the provision of comprehensive medical insurance cover for the defunct Nairobi Metropolitan Services staff for the financial year ended 30 June, 2023 at a contract sum of Kshs. 568,046 on 4 April, 2023 for a period of four months. The contract document under scope of the scheme covered seven thousand, five hundred and twenty-one (7,521) staff both seconded and contracted Nairobi Metropolitan staff. It was established that the Management had an existing contract with the insurance company from 29 November, 2022 at contract price of Kshs. 648,856,505. However, no explanation was given on why the County Executive decided to enter into a new contract for the provision of comprehensive medical cover with the same insurance company when there was an existing active contract instead of reviewing clause 4 of the existing medical cover. In addition, the procurement files for both contracts were not provided for audit.

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

Management Response

The County Executive decided to enter into a new contract with the same insurance company when there was an existing active Contract instead of reviewing Clause 4 because the previous Contract did not cover ex-gratia which covers chronic illness. Therefore, the Insurer

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with the previous rates could not cover staff with chronic illness. A decision was made to give a new proposal which would include all necessary costs to cover Staff. **Appendixes B** 5.4 (I, II and III)

Committee Observation:

The Committee noted that the County Executive entered into a new contract with the same insurer without adequately exploring the option of amending the existing contract, contrary to procurement best practices. The justification provided covering chronic illnesses was not sufficiently supported by documented legal or procedural approval.

Committee Recommendation:

— The Committee recommends that the County Executive should ensure that all contract variations are explored before initiating new procurements, especially with existing service providers. All such decisions must be documented and approved in line with the Public Procurement and Asset Disposal Act, 2015.

3.1.46. Number of Vehicles Operated Against Excess Number of Staff Handling the Vehicles

Records from Management indicate that the County had eight hundred and eighty-five (885) County vehicles, out of which four hundred and eighty-three (483) were considered operational and four hundred and two (402) are non-operational. Review of the County's payroll as at 30 June, 2024 revealed that the County had a total of three hundred and thirty-eight (338) drivers. Therefore, one hundred and forty- five (145) vehicles remained idle throughout the year without drivers assigned to them. Management indicated that some vehicles and equipment are operated by more than one driver, such as ambulance, fire engines and some heavy equipment. However, the schedule of assignment of the drivers to the respective vehicles and the controls in place were not provided for audit.

Management Response:

The operational vehicles include vehicles handed over to vocational school, GSU and those at Statehouse which are Thirty-one (31). The remaining 108 drivers are County staff who have not been redesignated as drivers but are performing duties of drivers after doing a suitability test at Garage. The list is as below;

S/No.	Name		Sector		Department	Current Position	Payroll No.
1.	Muraya Ndungu	Stephen	Security Compliance	And	City Inspectorate	Security Warden	20200289101

2.	James Njuguna Mukei	Security An Compliance	d City Inspectorate	Overseer	19990018516
3.	Yohana Dabasso Golicha	Security An Compliance	d City Inspectorate	Constable	20200431499
4.	Kamau Samuel Kimani Ndamaiyu	Security An Compliance	d City Inspectorate	Assistant Security Officer	19970001846
5.	Chege Raphael	Security An Compliance	d City Inspectorate	Artisan 1	19990009857
6.	Gathira Ather Ndegwa	Security An Compliance	d City Inspectorate	Senior Overseer	19970001533
7.	Mwangi Geoffrey Kariuki	Mobility An Works	d Highways Roads	Artisan 2	19920003167/ 71415
8.	Wanjiru Kelvin Macharia	Green Nairobi	Environment	Support Staff 1	20230233156
9.	Kirigwi John Githii	Mobility An Works	d Administration	Labourer 1	19910004625
10.	Paul Kuria Kamau	Disaster Management	Fire Department	Fireman	20200287947
11.	Njuguna Edwin Muigai	Disaster Management	Fire Department	Fireman	20200262086
12.	Kibagendi Mokaya Erick	Disaster Management	Fire Department	Fireman 1	20200307187
13.	John Kiiru Gitau	Disaster Management	Fire Department	Fireman 1	20200290071
14.	Samuel Erick Omondi	Disaster Management	Fire Department	Fireman 1	20200279198
15.	Kimeu Mutinda Titus	Disaster Management	Fire Department	Fireman 1	20200278914
16.	Mwaura James Njenga	Disaster Management	Fire Department	Fireman 3	20200260084
17.	Ondieki Nyabera Bonface	Disaster Management	Fire Department	Fireman	20200279643

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18.	Martin Wanjohi Waititu	Disaster Management	Fire Department	Fireman	20200278558
19.	Waweru Joseph Karani	Security And Compliance	City Inspectorate	Constable	20200287214
20.	Waweru Peter Kariuki	Security And Compliance	City Inspectorate	Senior Overseer	19970002576
21.	Momanyi George Mogaka	Security And Compliance	City Inspectorate	Senior Overseer	19930004961
22.	Okemba James Zakayo	Security And Compliance	City Inspectorate	Senior Sergent	19990016352
23.	Macharia Ngethe Paul	Mobility And Works	Energy And Lighting	Labourer 1	19920005189
24.	Ndegwa Titus Kimotho	Mobility And Works	Energy And Lighting	Foreman 1	19930006456
25.	Mukok Amuok Stephen	Fleet Management	Administration	Senior Head Messenger	19870012598
26.	Chepsiror Kiplagat Paul	Fleet Management	Administration	Senior Overseer	19940007474
27.	Wambui Stephen Macharia	Security And Compliance	City Inspectorate	Senior Overseer	19970003742
28.	Ekesa Julia Nekesa	Security And Compliance	City Inspectorate	Senior Overseer	19970001015
29.	Anindo Otieno Alfred	Mobility & Works	Roads	Senior Head Messenger	19900011609/ 71113
30.	Muteti Bernard	Mobility And Works	Roads	Senior Head Messenger	19920009178/ 72026
31.	Mashaka Swaleh Ali	Mobility And Works	Roads & Public Works	Labourer 2	19980013723
32.	Wangui Gichia Simon	Mobility And Works	Roads & Public Works	Senior Head Messenger	19930002823
33.	Mkalla Jefferson	Mobility And Works	Roads	Senior Head Messenger	19900006117/ 70689
34.	Obare George Nicholas	Mobility And Works	Health	Driver 1	20215046686

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35.	Okwiri Joseph Odhiambo	Mobility And Works	Health	Driver 1	20210047721
36.	Wanjiku Michuki Peter	Health, Wellness & Nutrition	Health	Driver 1	20230303241
37.	Michael Masila Wambua	Disaster Management	Fire Department	Driver 2	20200260246
38.	Chege John Mwangi	Security And Compliance	City Inspectorate	Overseer	19890014534
39.	Sammy Cheruiyot Langat	Security And Compliance	City Inspectorate	Senior Overseer	19970000241
40.	Gichuki Maina Paul	Administration	Environment	Senior Support Staff	20230235035
41.	Kiplimo Leon Kiprotich	Disaster Management	Fire & Rescue	Senior Support Staff	20200278859
42.	Njogu Karanja Joe	Green Nairobi	Environment	Support Staff 1	20230220624
43.	Noah Muthui Masai	Green Nairobi	Environment	Support Staff	20230238017
44.	Oluoch Oduor Austine	Green Nairobi	Environment	Support Staff	20230265967
45.	Shikhalo Sharon	Green Nairobi	Environment	Support Staff	20240120004
46.	Odhiambo Otono Fredrick	Green Nairobi	Environment	Labourer 1	30455/ 19980010008
47.	Olilo Odhiambo Fredrick	Green Nairobi	Environment	Support Staff 1	20240120143
48.	Muthengi Patricia Mumo	Green Nairobi	Environment	Support Staff	20230310908
49.	Nyachota Ondieki Joshua	Green Nairobi	Environment	Support Staff	20210046636
50.	Irungu Njeri Jesca Joyce	Green Nairobi	Environment	Support Staff 1	20230258944
51.	Shikuba Venance Kubira	Green Nairobi	Environment	Support Staff	20230297998

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52.	Ouso Enos Kobe	Green Nairobi	Environment	Support Staff 1	20240136005
53.	Kabiro Joseph Gachohi	Green Nairobi	Environment	Support Staff	20230255792
54.	Mwangi Karoki Stephen	Green Nairobi	Environment	Co2	19980014079
55.	Waka Shiateya Geoffrey	Green Nairobi	Environment	Senior Support Staff 1	20230257558
56.	Chege Githinji Paul	Green Nairobi	Environment	Senior H. Messenger	19990018481
57.	Wangari Antony Kamau	Green Nairobi	Environment	Support Staff 1	20230224694
58.	Okech Moses Ochola	Green Nairobi	Environment	Support Staff 1	20210068289
59.	Ndiritu Wambugu Amos	Green Nairobi	Environment	Senior Head Messenger	19880009861
60.	Gikura Wambui Loise	Green Nairobi	Environment	Support Staff 1	20230258392
61.	Chimbah Omondi Samuel	Green Nairobi	Environment	Support Staff	20240137899
62.	Wanjiku Munyiri Stephen	Green Nairobi	Environment	Support Staff	I.D. 42048102
63.	Kiarie Sammy Kamau	Green Nairobi	Environment	Support Staff	20230217582
64.	Akinyi Maryann	Green Nairobi	Environment	Support Staff	20230219039
65.	Chege Henry Mwaura	Green Nairobi	Environment	Senior Support Staff	20230216007
66.	Shilosio Wilbroda Milenja	Green Nairobi	Environment	Support Staff	20230234110
67.	Njuguna Kibugi James	Green Nairobi	Environment	Support Staff	20230217485
68.	Chetambe Wayiya Augustine	Green Nairobi	Environment	Support Staff	20240126961

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69.	Mwihaki Prscilah Munaa	Green Nairobi	Environment	Support Staff 1	20230230166
70.	Mutuku Joshua Ndeke	Green Nairobi	Environment	Support Staff	20230222951
71.	Chege Macharia George	Green Nairobi	Environment	Support Staff 1	20230237516
72.	Ngumba Nicholas Waithaka	Green Nairobi	Environment	Support Staff 1	20230236722
73.	Muhu Edward Mwangi	Green Nairobi	Environment	Support Staff	20210046547
74.	Shikanga Kevin Akungui	Green Nairobi	Environment	Support Staff	20230234259
75.	Kevin Akibaya Musambuli	Green Nairobi	Environment	Support Staff 1	20240122030
76.	Nabu Albert Maina	Green Nairobi	Environment	Support Staff	20210055805
77.	Mwabebe Kevin Michira	Green Nairobi	Environment	Support Staff 1	20210423385
78.	Kamau Daniel	Green Nairobi	Environment	Senior H. Messenger	19910007322
79.	Kimondo Mathu Eliud	Green Nairobi	Environment	Senior H. Messenger	19920011392
80.	Mwangi Kennedy Githinji	Green Nairobi	Environment	Senior Support Staff	20230235491
81.	Wanguria Peter Mwangi	Green Nairobi	Environment	Support Staff 1	20230220878
82.	Ochieng Obiero Peter	Green Nairobi	Environment	Support Staff	20240125177
83.	Liaga Wali Clive	Green Nairobi	Environment	Support Staff 1	20240136877
84.	Orumoi Kerinkol Simon	Green Nairobi	Environment	Support Staff 1	20210047145

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85.	Emily Mbuthia	Wanjiku	Green Nairobi	Environment	Support Staff 1	20230266086
86.	Nyamosi Momanyi	Alex	Green Nairobi	Environment	Support Staff 1	26092270
87.	Oyugi Phillip	Ochieng	Green Nairobi	Environment .	Support Staff 1	20240138138
88.	Opinda Albert	Okumu	Green Nairobi	Environment	Support Staff 1	20230255661
89.	Mugo Zacharia	Karigi	Green Nairobi	Environment	Support Staff	20230221549
90.	Nthuku Mwenda	Houston	Green Nairobi	Environment	Support Staff 1	20230230904
91.	Matheri Mwangi	Peter	Green Nairobi	Environment	Support Staff	20210053112
92.	Muchai Peter	Kuria	Green Nairobi	Environment	Senior Head Messenger	19910007939
93.	Kanyoro Gitari	Moses	Green Nairobi	Environment	Support Staff 1	20240193706
94.	Mathenge Brian	Muruthi	Green Nairobi	Environment	Support Staff 1	20240121995
95.	Chelmek Joachim	Naibei	Green Nairobi	Environment	Support Staff 1	20240146521
96.	Mary M Kimeu	benekwa	Mobility And Works	Roads	Senior Support Staff	20220275635
97.	Ambata Frank	Oyieko	Green Nairobi	Environment	Support Staff 1	20230263208
98.	Obare Lilian	Mogoi	Green Nairobi	Environment	Support Staff	20210423341
99.	Mwanzia Berita	Mumbua	Green Nairobi	Environment	Support Staff	20230220301
100.	Maina Ngigi	Fredrick	Green Nairobi	Environment	Senior Support Staff	20230222804

101.	Muturi Patrick Kariuki	Green Nairobi	Environment	Support Staff 1	20210423359
102.	Ngayu Njeri Modesta	Green Nairobi	Environment	Support Staff	20230230174
103.	Muriuki Richard Wachira	Green Nairobi	Environment	Support Staff	20210454237
104.	Brian Otieno	Green Nairobi	Environment	Support Staff	20230236976
105.	Kiulu Kavusyu	Green Nairobi	Environment	Support Staff	20230237118
106.	Geoffrey Mutisya Kinyata	Mobility And Works	Garage	Traffic Marshal	20220300529
107.	Patrick Mwangi	Mobility And Works	Garage	Clerical Officer 1	19990015266
108.	Lucas Mwaigonda Makosa	Mobility And Works	Garage	Technical Inspector III	19880006780

Committee Observation:

The Committee observed that 145 vehicles remained idle due to a shortage of assigned drivers, while 108 staff members were performing driving duties without formal redesignation. This indicates poor human resource planning and a lack of formal assignment records.

Committee Recommendation:

- The Committee recommends that the County Executive should conduct a staff rationalization exercise to formally assign and redesignate staff performing driving duties.
- That a clear vehicle-driver assignment schedule should be maintained and made available for audit.

3.1.47. Grounded Vehicles

Records provided by Management revealed that the County had a total fleet of eight hundred and eighty-three (883) vehicles out of which four hundred and two (402) County vehicles were grounded. However, there were no records of the dates the assets were grounded and Management did not provide a disposal plan in respect of the assets. This was contrary to Regulation 176(1) of the Public Procurement and Asset Disposal Regulations, 2020 which requires the Accounting Officer of a procuring entity to ensure that an annual assets disposal

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plan is prepared of items declared as unserviceable, surplus, or obsolete, obsolescence stores, asset or equipment as set out under Section 53(4) of the Act. Management has not taken steps to dispose of grounded vehicles to prevent further loss arising from wear and tear and repairing of un serviceable vehicles.

Further, records provided indicated that nineteen (19) vehicles were involved in road accidents while six (6) vehicles were written off by the insurer. However, evidence that the insurance company paid for the claims lodged in respect of the motor vehicles involved in road accidents was not provided for audit.

Management Response:

Nairobi County Government Fleet Section prepared a Vehicle Disposal list which was handed over to asset Management department. List of the vehicles attached below (Annex I). A Disposal committee was instituted which till now as not disposed the vehicles.

Committee Observation:

The Committee noted with concern that 402 vehicles were grounded with no disposal plan, contrary to public asset management regulations. Additionally, there was no evidence of insurance claims being paid for accident involved vehicles.

Committee Recommendation:

- The Committee recommends that the County Executive should develop and implement an annual asset disposal plan for grounded vehicles within sixty days after the adoption of this report;
- That all insurance claims must be pursued diligently, and proof of settlement should be maintained.

3.1.48. Motor Vehicles held in Private Garages

Records provided by Management indicated that fourteen (14) vehicles were detained in private dealers and garages due to outstanding bills totalling Kshs. 36,223,235. Further, the following observations were noted;

i. Job cards, Local Service Orders with details regarding repairs done on the vehicle, inspections reports, contracts between the County and the suppliers were not provided for audit review.

Management response

The documents containing comprehensive details regarding the repairs performed on vehicles, the corresponding inspection reports, as well as the contracts established between the county and the suppliers, have been included and are available in Annex 11 for your reference.

ii. It was indicated that the private garages were holding the County vehicles due to non-payment, however, the processed payment vouchers, the invoices and details of work done were not been provided for audit.

Management response

The invoices and work done attached (Annex 9)

S.NO	GARAGE/DEALER	REG NO.	AMOUNT
1.	Hydromatics LTD	GKB 592W	1,403,136
2.	Hydromatics LTD	GKB 580W	1,508,232
3.	Ultra Auto Tunes K Ltd	47CG 012A	1,482,080
4.	NECST Motors	47CG 083A	7,444,695
5.	Simba Corp	47CG 011A	1,545,602
6.		47CG 300A	
7.	Crown Motors Group LTD	47CG 301A	22,920,602
8.	Clown Motors Group 1112	47CG 304A	
9.		47CG 305A	
10.		47CG 307A	
11.		47CG 308A	
12.		47CG 309A	

iii. Review of reports on County fleet held in private dealers and garages indicated that one of the dealers, held three (3) County vehicles. However, communication from the dealer indicated that the dealer had no records of the respective vehicles as analyzed below;

Reg Number	Fleet Number	Type	Year	Type
47CG 026A	C0258	Station wagon	2013	Cherry Tiggo
47CG 345A	DCB 409	D/CAB Pick up	2012	Grand Tiger
KAT 544X	TC 0123	Single Cabin	2005	Mitsubishi L200

In the circumstances, risk of vehicles loss is high and Management was in breach of the law.

Management Response

The number of vehicles in private garages significantly reduced from 48 in the FY 2022/2023 to the 14 due to the current efforts to clear outstanding bills. The efforts include making a budget provision to settle historical debts.

Management response. Our officer visited the garage and ascertained that the vehicles were there but the management of the Dealership changed hence the lapse of communication. The matter was referred to Director of Investigation who are working with our team to ensure the vehicles are brought back to county. Attached are pictures of the vehicles at the Dealer's Yard. Attached also is a letter to Director of Investigations. **Appendix B 6.3**

Committee Observation:

The Committee found that 14 vehicles were held in private garages due to unpaid bills totaling Kshs. 36.2 million. Lack of job cards, inspection reports, and contracts exposed the County to financial and asset loss risks.

Committee Recommendation:

- The Committee recommends that County Executive should clear outstanding garage bills through a structured payment plan and ensure all future repairs are supported by duly signed job cards, local service orders, and inspection reports;
- That the County Executive to repair and equip all County owned garages to reduce taking the County vehicles to private garages thus reducing on pending bills from vehicles repairs; and
- The County Executive to develop a fleet management policy to provide for management of County fleets within ninety days after the adoption of this report.

3.1.49. Irregular Procurement of Motor Vehicle Prime Mover

The County Executive awarded a contract for the purchase of a motor vehicle prime mover 6x4, complete with an articulating trailer with a fixed container box body and mobile music recording studio at a contract sum of Kshs. 39,793,429. However, the contract agreement was not provided for audit review. Further, it was established that, whereas the prime mover was delivered on 28 April, 2024, it was burnt down two months after delivery. Management explained that it had lodged a claim with the insurer, however, there were no correspondences provided to support this. As at the time of audit, no compensation had taken place.

In the circumstances, the value for money and propriety of the expenditure amount of Kshs. 39,793,429 could not be confirmed.

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Management Response

The County Executive awarded a contract for the purchase of a motor vehicle prime mover 6x4, complete with an articulating trailer with a fixed container box body and a mobile music recording studio at a contract sum of Kshs. 39,793,429. While the contract agreement was not availed during the initial audit review, we wish to confirm that the vehicle in question falls under the additional motor vehicle category. Consequently, the insurance premiums for additional motor vehicles were issued to us, serving as proof that a valid contract agreement was entered into for this procurement.

Regarding the unfortunate incident involving the destruction of the prime mover due to fire two months after delivery, the County Executive promptly lodged a claim with the insurer. The insurer formally acknowledged receipt of the claim, confirming that the necessary process for compensation had been initiated. However, at the time of the audit review, the compensation had not yet been finalized.

Further to this, all relevant documentation, including the insurance policy, claim lodgement records, and premium payment details, have been made available for verification in **Appendix B 6.4**.

Committee Observation:

The Committee noted that the prime mover was destroyed by fire two months after delivery, and no compensation had been received from the insurer at the time of the audit. The contract agreement was also not provided initially.

Committee Recommendation:

— The Committee recommends that the County should expedite the insurance claim process and ensure all high value procurements are supported by complete contract documentation before payment.

3.1.50. Unsupported Payment of Taxes

The County Executive paid a total of Kshs. 330,689,333 to the Kenya Revenue Authority being arrears of surrendered withholding VAT and income taxes. However, there was no acknowledgement of the payment from KRA. Further, the County did not take advantage of the Tax amnesty granted by the Finance Act, 2023 programme where waivers of penalties and interest were granted for principal amounts owing up to December, 2022.

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

Management response

The County Executive remitted the above referenced amount in the period under review to offset part of pending tax arrears. The Kenya Revenue Authority and the County Executive

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held several meetings to deliberate on ways to resolve outstanding tax issues. The county executive has written to KRA for confirmation of all payments done to the Authority.

During the amnesty period, the County Executive and Kenya Revenue Authority were involved in a joint reconciliation exercise to establish the exact outstanding tax amount resulting from unreconciled withholding VAT/Income tax amounts from both the Integrated Financial Management Information System (IFMIS) and Itax systems. The exercise is still ongoing and as such the County Executive could not take advantage until the exercise is complete.

Committee Observation

The Committee observed that the County paid Kshs. 330.7 million to KRA without acknowledgment and failed to utilize the tax amnesty program, resulting in potential loss of public funds.

Committee Recommendation:

— The Committee recommends that the County should seek immediate confirmation of payments from KRA and take advantage of any future tax amnesty programs to reduce penalties and interest.

3.1.51. Irregular Procurement of Services

The County Executive incurred a total amount of Kshs. 16,417,080 in various procurements of food, décor, provision of support and logistics services which included reflectors, prayer matts, hand washing points, invitation cards, LED lighting and photography. The procurement method employed for the various items was request for quotations. However, there was no evidence to indicate that requests for quotations were made to at least three suppliers and that the bidders' quotations were subjected to quotation opening, evaluation and award.

Further, review of records provided for audit on public participation expenses amounting to Kshs. 7,591,600 revealed that the payments were not supported with documents which include signed attendance lists by participants, advertisement, tender opening minutes and register, tender evaluation committee reports, letters appointing both opening and evaluation committee and evidence of regret letters sent to the unsuccessful bidders.

In addition, the County Executive incurred expenditure amounting to Kshs. 16,875,280 on the provision of conference and accommodation services. However, the payments were not supported with procurement documents which include, the advertisement, tender opening minutes and register, tender evaluation committee reports, letters appointing both opening and evaluation committee and evidence of regret letters sent to the unsuccessful bidders, acceptance and notification of award. This was contrary to Regulation 78(1) of the Public Report of the Public Accounts Committee on the consideration of the report of the Auditor General on the Financial Statements of the Nairobi City County Executive for the Financial Year 2022/2023.

Procurement and Assets Disposal Regulations, 2020 which states that an evaluation report prepared under Section 80(4) of the Public Procurement and Asset Disposal Act, 2015 shall include evaluation report and professional opinion, a summary of all the tenders received from the head of the procurement function, the results of the preliminary evaluation, the results of the technical evaluation and reasons why any tenders were rejected.

In the circumstances, the propriety of Kshs. 40,883,960 could not be confirmed and Management was in breach of the law.

Committee Observation:

The Committee noted widespread non-compliance with procurement laws in the procurement of goods and services totaling Kshs. 40.9 million, including lack of quotations, evaluation reports, and supporting documents.

Committee Recommendation:

- The Committee recommends that the County Executive must ensure full compliance with the Public Procurement and Asset Disposal Act for all procurements, regardless of value.
- That all payment vouchers must be supported by complete procurement documentation.

3.1.52. Irregular Payment for Consultancy for Development of the Tourism Policy for Nairobi City County

Review of payment voucher of Kshs. 4,999,999 paid for development of the tourism policy for Nairobi County revealed the following anomalies;

- i. The professional opinion stated that the tender was advertised in the PPIP portal on 23 February, 2024 and opened on 28 February, 2024. This did not meet the minimum period of 7 days prescribed in the Public Procurement and Asset Disposal Act, 2015. Further, there was no proof that the tender was advertised, therefore casting doubt on how the bidders were engaged to bid.
- ii. It was observed that whereas the local purchase order was issued on 13 March, 2024, other procurement documents which include notification for award, professional opinion, and acceptance of award was also issued on the same day. This was contrary to Section 135(3) of the Public Procurement and Asset Disposal Act, 2015 which states that the written contract shall be entered into within the period specified in the notification but not before fourteen days have elapsed following the giving of that notification provided that a contract shall be signed within the tender validity period.
- iii. An evaluation report summarizing the results of the preliminary, technical and financial evaluation and signed by all evaluation committee members was not provided

- for audit. In addition, a copy of the contract was not provided as one of the supporting documents for payment.
- iv. A copy of the reports and policy developed was not attached as evidence of work done.

In the circumstances, the regularity of the expenditure totalling Kshs. 4,999,999 incurred on consultancy could not be confirmed.

Management Response

- i. The tender was advertised on 22nd February and opened on 28th February 2024 tender No. NCC/CCAT/Q/190/NEGO.NO-1471152/2023-2024 and only one bidder responded in the e- procurement portal. Please find the attached **Appendix 12.1(i)**.
- ii. There was only one bidder hence there were no regret letters.
- iii. There was no contract signed but the bidder was issued with PO NO. 52 as attached
- iv. In a payment file we don't attach evaluation minutes but we attach a professional opinion which summarizes the evaluation process signed by the Head of Supply Chain and Chief Officer of the Culture sector which was attached. Find the evaluations minutes attached Appendix 12.1 (iii)
- v. The four copies of evidence were attached to the payment file which was forwarded to the sector accounts department.
- vi. There was no performance bond issued because it was not indicated in the tender document. but was given a PO NO. 52

Committee Observation:

The Committee observed that the procurement process for the tourism policy consultancy was rushed, with inadequate advertising period and lack of a signed contract. Key documents such as the evaluation report were not provided.

Committee Recommendation:

— The Committee recommends that the County should adhere to the mandatory advertising periods and ensure all consultancy contracts are duly signed and supported by complete procurement and performance records.

3.1.53. Payment for Consultancy Service for Sub-Sector Strategic Plan

Review of payment voucher in respect of an amount of Kshs. 4,571,100 paid to a local consultant for development of a 10-year subsector strategic plan signed on 6 May, 2024 at a contract sum of Kshs. 11,399,991 identified the following irregularities;

i. The professional opinion was not supported with an evaluation report signed by all evaluation committee members.

Management response

The professional opinion was not supported with an evaluation report signed by all evaluation committee members.

The Evaluation Report was signed by all the Committee members

The tender opening committee consisted of five (5) members out of which four (4) members were part of the technical evaluation committee and financial opening and evaluation committee. Therefore, the constituted evaluation committee did not comply with the requirement of regulation 28(2) of the Public Procurement and Asset Disposal Regulations, 2020 which states that the Accounting Officer of a procuring

Appendix 13 (I, II, III and IV)

Committee Observation:

The Committee noted that the evaluation committee composition did not comply with procurement regulations, and the professional opinion was not supported by a fully signed evaluation report.

Committee Recommendation:

— The Committee recommends that the County Executive should ensure that all evaluation committees are constituted in line with Regulation 28(2) of the Public Procurement and Asset Disposal Regulations, 2020, and all reports are duly signed.

3.1.54. Anomalies on Routine Maintenance of Motor Vehicles

Review of various payment vouchers in respect of routine maintenance of motor vehicles totalling Kshs. 7,280,357 revealed the following anomalies;

i. The payment was not supported with requisite procurement documents which include, the advertisement, tender opening minutes and register, tender evaluation committee reports, letters appointing opening, evaluation and inspection and acceptance committee and evidence of regret letters sent to the unsuccessful bidders.

Management response

The requested documents are attached. (Annex 3)

ii. The payment was not supported with records of goods received, statements showing receipt of the returned spare parts after repair and maintenance of the vehicles.

Management response

Garage Technical Examiners undertakes thorough inspection of all repaired vehicles from external garage to ascertain new parts have been fitted and old parts are returned back as instructed on Repair/ Works instruction forms.

iii. It was further noted that the County paid maintenance costs for motor vehicles belonging to Nairobi Metropolitan Services. However, the transfer deed and the agreement for maintenance of the motor vehicles was not provided for audit.

Management response:

The official handover has never been concluded, as the functions of the Nairobi Metropolitan Services were reverted to the County Government. Consequently, the County continued to utilize the resources to maintain its core functions.

iv. The Logbooks (GP55) for services, repairs and maintenance undertaken were not provided for audit. Therefore, the audit could not determine whether the record of work done was posted in vehicle logbooks, or work tickets.

Management response:

At Nairobi County Government we use Job Cards for service, repairs and maintenance and not logbooks. Every serviceable vehicle has a job card which is stored at Records office at Nairobi Central Garage. Job card attached (Annex 4)

v. Efficiency analysis reports for county vehicles were not provided for review.

Management response:

At Nairobi County we maintain a record each month for operational and grounded vehicles. Efficiency can be analyzed as follows:

Efficiency = (Operational Vehicles)/ (Total County Fleet) X 100

Therefore, we have attached the reports for February 2024, May 2024 and June 2024(Annex 5) for your reference and the computation of efficiency is as follows

For February 2024

Efficiency = $475/874 \times 100 = 54.34\%$

For May 2024

Efficiency = $490/887 \times 100 = 55.24\%$

For June 2024

Efficiency = $492/887 \times 100 = 55.47\%$

This was contrary to Regulation 78(1) of the Public Procurement and Asset Disposal Regulations, 2020 which states that an evaluation report prepared under section 80(4) of the Act shall include evaluation report and professional opinion, a summary of all the tenders received from the head of the procurement function, the results of the preliminary evaluation, the results of the technical evaluation and reasons why any tenders were rejected.

In the circumstances, the value for money for the expenditure amount of Kshs. 7,280,357 could not be confirmed. In addition, Management was in breach of the law.

Committee Observation:

The Committee observed that payments for vehicle maintenance totaling Kshs. 7.3 million were not supported by procurement documents, job cards, or logbooks. Maintenance of NMS vehicles was also not backed by a transfer deed.

Committee Recommendation:

- The Committee recommends that the County Executive should ensure that all maintenance works are supported by job cards, inspection reports, and returned spare parts;
- That a formal agreement on the vehicles under defunct Nairobi Metropolitan Services should be finalized and a status report submitted to the Assembly within sixty days after the adoption of this report.

3.1.55. Payment for Stalled Construction of Perimeter Wall in Mji wa Huruma Review of payment voucher in respect of an amount of Kshs. 4,870,690 paid to a company for construction of perimeter wall in Mji wa Huruma Home for the aged indicated that the contract was signed on 4 May, 2015 at a contract sum of Kshs. 16,884,600 with a completion period of twenty (20) weeks. Further, it was established that whereas works commenced on 10 September, 2015 and valuation of works dated 27 November recommended payment of Kshs. 4,870,690, the amount remained unpaid until June, 2024. Inspection of the project by internal audit indicated that the structure had developed cracks. However, there was no evidence of re-inspection, supported by a technical report on the extent of damage and the nature of repair works done.

In the circumstances, value for money derived from the project could not be determined.

Management Response.

The payment was done as per the valuation done in 2015 and not as a result of re-inspection on the extent of damages and nature of repairs works.

The sector had engaged the contractor to consider extending the contract in order to carry out necessary repairs and complete the project upon payment of the 1st certificate.

Attached- letter from the Legal department (Office of the County Attorney) marked Appendix 15.1(a) and Appendix 15.1(b) copy of payment certificate.

Committee Observation:

The Committee noted that the project stalled after payment of Kshs. 4.9 million, and the structure had developed cracks with no evidence of repair or reinspection.

Committee Recommendation:

— The Committee recommends that the County Executive should conduct a technical assessment of the project and ensure necessary repairs are undertaken before further payments are made. The contractor should be held accountable for project completion.

3.1.56. Rehabilitation of Lot 13 Roads in Eastleigh Area Nairobi (Athumani, Kipande, Mwende Road, Blue Estate and Kitui Village)

Review of payment voucher in respect of an amount of Kshs. 26,192,358 paid to a company indicated that the works for contract signed on 11 November, 2021 for rehabilitation of roads in Eastleigh Area (Athumani Kipande Road, Mwende Road, Blue Estate Road and Kitui Village Road) at a sum of Kshs. 80,013,320 and a completion period of ten (10) months did not commence until 21 June, 2023. There was no explanation for delay of commencement of works given that Nairobi Metropolitan Services (NMS) handed over all previously transferred functions back to County Executive on 30 September, 2022. Therefore, the contract period lapsed before commencement of works.

Further, the payment was not supported with requisite procurement documents which include, the advertisement, tender opening minutes and register, tender evaluation committee reports, letters appointing both opening and evaluation committee and evidence of regret letters sent to the unsuccessful bidders. In addition, review of the performance security indicated that the contractor was required to pay only Kshs. 800,133, constituting only 1% of the contract sum as performance guarantee. This did not commensurate with the value of works and contract sum. Further, the inspection reports did not give a separate technical evaluation of each single road. Therefore, it was not possible to assess the percentage of works completed as at the time of payment.

In addition, review of various payment vouchers in respect of construction and civil works totalling Kshs. 86,011,253 revealed various gaps which include non-compliance with procurement laws and failure to attach relevant documents in support of payments.

This was contrary to Section 68(1) of the Public Procurement and Asset Disposal Act, 2015 which states that an Accounting Officer of a procuring entity shall keep records for each procurement for at least six years after the resulting contract has been completed or, if no contract resulted, after the procurement proceedings were terminated.

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

a) Audit Query

Review of payment voucher in respect of an amount of Kshs.26, 192,358 paid to a company indicated that the works for contract signed on 11th November, 2021 for rehabilitation of

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roads in Eastleigh Area (Athumani Kipande Road, Mwende Road, Blue Estate Road and Kitui Village Road) at a sum of Kshs.80, 013,320 and a completion period of ten (10) months, did not commence until 21st June, 2023.

There was no explanation for delay of commencement of works given that Nairobi Metropolitan services (NMS) handed over all previous transferred functions back to County Executive on 30th September 2022. Therefore, the contract period lapsed before commencement of works.

Management Response

The works commenced on 8th December, 2021 with an initial contract period of 10.0months and the order to commence was given on 6th December 2021 a completion date of 21st July, 2022.

Due to delays in payment of IPC No 1 due to the Transition from NMS to NCCG, the works were completed as intended on 21st July 2022. The Deed of Novation was signed dated 18th April 2023. The contractor was awarded an interim extension of time totalling 12 months vide a letter date 8th July 2024.

b) Audit Query

Further, the payment was not supported with requisite procurement documents, which include, the advertisement, tender opening minutes and register, tender evaluation committee reports, letters appointing both opening and evaluation committee and evidence of regret letters sent to the unsuccessful bidders.

Management Response

The works were procured by NMS and during the handing of the contracts, the procurement documents were not handed over. However, a request has been made to Executive office of the President for the requisite documents.

c) Audit Query

In addition, review of the performance security indicated that the contractor was required to pay only Kshs. 800,133, constituting only 1% of the contract sum as performance guarantee. This did not commensurate with the value of works and contract sum.

Management Response

The review of the Bid Document on the Appendix to the Form of Bid confirmed the quantum was 1.0% of the Contract Sum and hence contractual.

d) Audit Query

Further, the inspection reports did not give a separate technical evaluation of each single road. Therefore, it was not possible to assess the percentage of works completed as at the time of paymen.

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Management Response

The inspection report had given an overall summary of the progress of the entire project. However, the Payment certificate included a details of works done on specific roads that guided the inspection team on the site visit and report preparation.

e) Audit Query

In addition, review of various payment vouchers in respect of construction and civil works totalling Kshs.86, 011,253 reveal various gaps which include non-compliance with procurement laws and failure to attach relevant documents in support of payments.

- a) NMS/RMLF/4/2020-2022 Kshs 16,994,751,
- b) NMS/RMLF/2/2020-2021 Kshs 16,788,765,
- c) NMS/RMLF/1/2020-2022 Kshs 22,684,009
- d) NMS/RMLF/7/2020-2022 Kshs 30,001,472

Management Response

The works were procured by NMS and during the handing of the contracts, the procurement documents were not handed over. However, a request has been made to Executive office of the President for the requisite documents. Further to that the Sector has a comprehensive checklist of documents for examination and validation of any request for payment as listed below: -

- 1. Notification of award
- 2. Letter of acceptance
- 3. Performance Bond
- 4. Insurance for the works
- 5. Form of contract agreement
- 6. Appointment Letter as a Resident Engineer
- 7. Project progress report and location and photos
- 8. Request for Time extension
- 9. Award of time extension
- 10. Acceptance of award of time extension
- 11. Minutes of substantial completion and certificate
- 12. Letter of Request for payment by contractor
- 13. Certificate and measurement sheets

Committee Observation

The Committee observed significant delays in project commencement, inadequate performance security (1%), and lack of procurement documents. Payments were made without clear evidence of work completion.

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Committee Recommendation:

— The Committee recommends that the County Executive Management should ensure all projects commence timely, performance bonds are commensurate with contract value, and all procurement documents are obtained and maintained.

3.1.57. Irregular Payment for Rehabilitation of Roads in Industrial Area

Review of payment of Kshs. 140,313,872 made to various contractors for rehabilitation of roads in industrial area indicated the following anomalies;

- i. The contracts outlined the works procured by Nairobi Metropolitan Services and related to the procurement plan for the year 2020/2021 which were signed on various dates in the month of August, 2021 with contract period of 8 months. Therefore, the works were expected to be completed by May, 2022. However, the contract period lapsed without commencement of works and there was no evidence of contract extension approval. Whereas the deeds of novation were signed on 18 April, 2023, the audit could not establish why the works took over two years to be completed after signing of contract and issuance of instructions to commence work.
- ii. The payments were not supported with requisite procurement documents which include, the advertisement, tender opening minutes and register, tender evaluation committee reports, letters appointing both opening and evaluation committee and evidence of regret letters sent to the unsuccessful bidders. This was contrary to Section 68(1) of the Public Procurement and Asset Disposal Act, 2015, which requires an Accounting Officer of a procuring entity to keep records for each procurement for at least six (6) years after the resulting contract has been completed or, if no contract resulted, after the procurement proceedings were terminated.

In the circumstances, the value for money for the expenditure amount of Kshs. 140,313,872 could not be confirmed. In addition, Management was in breach of the law.

Management Response

The works were procured by NMS and during the handing of the contracts, the procurement documents were not handed over. However, a request has been made to Executive office of the President for the requisite documents. The contractors were evaluated and awarded an interim extensions of time with various periods of Time to complete the works based on merit. Further to that the Sector has a comprehensive checklist of documents for examination and validation of any request for payment as listed below: -

- Notification of award
- Letter of acceptance
- Performance Bond

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- Insurance for the works
- Form of contract agreement
- Appointment Letter as a Resident Engineer
- Project progress report and location and photos
- Request for Time extension
- Award of time extension
- Acceptance of award of time extension
- Minutes of substantial completion and certificate
- Letter of Request for payment by contractor
- Certificate and measurement sheets

Committee Observation:

The Committee noted that contracts lapsed without work commencement, and payments totaling Kshs. 140.3 million were made without supporting procurement documents.

Committee Recommendation:

— The Committee recommends that the County Treasury should recover all payments made for non-performing contracts and ensure all future contracts are monitored for timely execution.

3.1.58. Irregular Engagement of Bidders Without Advertising of Tenders for Construction and Civil Works Projects

Review of payments in respect of construction and civil works and supporting documents which include evaluation minutes and professional opinion indicated that the County Executive carried out various construction and civil works projects totalling Kshs. 1,881,496,045 in the financial year ended 30 June, 2024. However, it was established that various projects amounting to Kshs. 179,621,620 were procured without publishing of advertisements in the public procurement portal as required by law.

It was therefore not possible to confirm how the evaluated bidders were invited to tender. This was contrary to Section 96(1) and (2) of the Public Procurement and Asset Disposal Act, 2015 which states that the Accounting Officer of a procuring entity shall take such steps as are reasonable to bring the invitation to tender to the attention of those who may wish to submit tenders.

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

Management Response

The works that were paid by the Sector were procured by NMS and during the handing of the contracts, the procurement documents were not handed over. However, a request has been made to Executive office of the President for the requisite documents. **Attachments** Lot 13- Rehabilitation of Lot 13 Roads in Eastleigh Area Nairobi (Athumani, Kipande,

Mwende Road, Blue Estate and Kitui Village)

Appendix to Form of Bid

(This append		rt of the bld)		
CONDITIONS OF CONTRACT	CLAUSE	AMOUNT		
Bid Security	17	Kshs.2,000,000.00(Unconditional bank guarantee only)		
Amount of Performance Security (Unconditional Bank Guarantee)	10.1	1% of Tender Sum in the form of Unconditional Bank Guarantee		
Program to be submitted	14.1	Not later than 14 (fourteen) days after issuance of Order to Commence		
Cash flow estimate to be submitted	14.3	Not later than 14 (fourteen) days after issuance of Order to Commence		
Minimum amount of Third Party Insurance	23.2	1% of the Contract Sum		
Period for commencement, from Engineer's order to commence	41.1	21 days		
Time for completion	43.1	10 months		
Amount of liquidated damages	47.1	0.05% of Contract Sum per day		
Limit of liquidated damages	47.1	5% of Contract Sum		
Defects Liability period	60.3	6 months		
Percentage of Retention	60.3	5% of Interim Payment Certificate		
Limit of Retention Money	60.3	5% of Contract Sum		
Minimum amount of interim certificates	60.2	Kshs. 5,000,000.00		
Time within which payment to be made after Interim Fayment Certificate signed by Engineer	60.10	28 days		
Time within which payment to be made after Final	60.10	28 days		
Payment Certificate signed by Engineer				
Appointer of Adjudicator	67.3	The Chartered Institute of Arbitrators (Kenya)		
Notice to Employer and Engineer	68.2	The Employers address is: The Director General, Nairobi Metropolitan Services (NMS), P.O. Box NAIROBI The Engineer's address is: Director (Transport & Public Works), Nairobi Metropolitan Services (NMS) P.O. Box - 00100 NAIROBI		

Date Hest Do2|

INTERFACE ENTERPRISES LTD.

07 MAY 2021

P. O. Box 102360 - 0010.

NAIROP!

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Telegraphic Address Telephone +331300274 When replying please quote Kenyatta International Convention Centr P. O. Box 49130-00106

NMS/RMLF/13/2020-2022/1

6th December, 2021

MANAGING DIRECTOR INTERFACE ENTERPRISES LIMITED P.O BOX 1023-0010 NAIRORI

REHABILITATION OF ROADS IN EASTLEIGH AREA, NAIROBI (ATHUMANI KIPANDE ROAD, MWENDE ROAD, BLUE ESTATE ROAD & KITUI VILLAGE ROAD) CONTRACT NO. NMS/RMLF/13/2020-2022

RE: ORDER TO COMMENCE WORK

You are hereby authorised to commence the works in the above contract in accordance to Clause 41.1of the General Conditions of Contract.

By a copy of this letter the Resident Engineer is hereby under Clause 42.1 authorised to allow you possession of site and access thereto and issue instructions as stipulated in the delegation of powers of the Engineer.

Eng. Michael O. Ochleng', HSC DIRECTOR ROADS, TRANSPORT AND PUBLIC WORKS

Copy to: Eng. Samson Kigen RESIDENT ENGINEER

Committee Observation:

The Committee observed that projects worth Kshs. 179.6 million were awarded without advertising, contrary to the law.

Committee Recommendation:

- The Committee recommends that the County Executive must ensure all procurements are publicly advertised as required by law, and all awarded contracts are supported by complete tender documentation;
- That the further be investigated further by the Ethics and Anti-Corruption Committee.

3.1.59. Supply and Delivery of 3x16mm2 ABC Aluminium Round

Review of payment in respect of an amount of Kshs. 38,442,000 for supply and delivery of 3x16mm2 ABC aluminium round stranded compressed conductor under framework revealed that the specifications from the user department and the local purchase order issued to the supplier were different from what was delivered. The delivery notes from the supplier indicated that materials of specification 2x16mm ABC aluminium round stranded

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compressed conductor while the LPO stated 3x16mm were delivered on 16 May, 2024 and inspection and acceptance certificate issued on 06 June, 2024 despite the delivered materials not meeting the required specifications. These materials may end up being unused by the user department since they did not meet the specifications requested.

Further, the framework contract agreement was signed on 17 January, 2024. This date was not within the tender validity period of 150 days from the date of opening of tender which was on 7 March, 2023 as indicated in the tender register. Therefore, the LPO was irregularly issued before signing of contract. In addition, the signed contract was invalid and was contrary to the provisions of Section 135 (3) of the Public Procurement and Asset Disposal Act, 2015 which states that the written contract shall be entered into within the period specified in the notification but not before fourteen days have elapsed following the giving of that notification provided that a contract shall be signed within the tender validity period.

Field verification of electrical materials revealed that cables supplied by a general merchant and received in the store on 16 May, 2024 and inspected on 06 June, 2024 were missing from the store due to pilferage incidences. It was established that the matter was still under investigation. As at the time of audit in November, 2024, no one had been held accountable.

In addition, the local purchase order was issued on 22 February, 2024. However, stores received statement number 5578 indicated that the materials were received on at the store on 16 May, 2024 while the inspection certificate number 2255 was issued on 6 June, 2024 indicating that inspection of the materials took place three (3) weeks after delivery. Further, the materials were received beyond the stipulated period as local purchase orders are valid for a period of 30 days from the date of issue.

Management response

The local purchase order from the supply chain management department requested for a 3x16mm ABC aluminium round stranded compressed conductor. However, the delivery notes from the supplier indicated that materials of specification 2x16mm ABC aluminium round stranded compressed conductor were delivered on 16 May, 2024 and inspection and acceptance certificate issued on 6, June, 2024 despite the delivered materials not meeting specifications as per the LPO.

The supplier delivered a sample of 3x16mm ABC aluminium round stranded compressed conductor to the Energy & Lighting depot along ladhies road for approval before delivering the consignment. Upon receipt of the sample, the user confirmed the delivered sample was different from what was requested as outlined below;

i. The MEMO requesting for authority to incur expense indicated 2x16mm ABC aluminium round stranded compressed conductor (Copy attached).

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ii. The RLPO 2x16mm ABC aluminium round stranded compressed conductor (Copy attached).

The user thus insisted they requested for 2x16mm ABC aluminium round stranded compressed conductor and that is what was usable.

Arising from above, the procurement officer in-charge electrical stores consulted the Director of supply chain management who responded through Memo dated 20th May, 2024 (Copy attached).

The Memo indicated that the supplier had both cables in the frame contract and were both costed the same at Kshs. 250 per metre.

The supplier was then advised to deliver 2x16mm ABC aluminium round stranded compressed conductor which was the right cable.

The inspection and acceptance of the materials was done guided by the Supply chain management Director's MEMO. The inspection and acceptance team produced a report hence the materials were utilized.

Late signing of the contract agreement was due to delay in processing contract agreements because of the big number of bidders who had responded to the two category of frameworks at the same time and a serious understaffing in the County Attorney's office.

This occurrence will not be repeated because a corrective measure was put in place by employing more legal officers.

Committee Observation:

The Committee noted that delivered materials did not match specifications, and pilferage of cables was reported. The contract was also signed outside the validity period.

Committee Recommendation:

- The Committee recommends that the County Executive to develop mechanisms to strengthen stores management to prevent pilferage, ensure delivered materials match specifications, and adhere to contract validity periods.
- 3.1.60. Supply and Delivery of Assorted Electrical Materials for Street Lighting Review of various payments totalling Kshs. 239,472,000 for supply and delivery of assorted electrical materials for street lighting under framework contract revealed that the Materials requisitioned were received beyond the stipulated local purchase orders validity period of 30

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days from the date of issue, withholding taxes were not deducted from the payments made and there was no evidence of market survey carried out to inform the placing of orders or decision making on the procurement.

Further, for some awards, there was no evidence of acceptance of award and signed framework contract agreement binding the contractor and the County Executive.

In addition, one instance, the framework contract agreement was signed on 15 November, 2023. This date was not within the tender validity period of 150 days from the date of opening of tender which was on 7 March, 2023 as indicated in the tender register. Therefore, the contract was signed after the lapse of the tender validity period contrary to Section 135(3) of the Public Procurement and Asset Disposal Act, 2015 which states that the written contract shall be entered into within the period specified in the notification but not before fourteen days have elapsed following the giving of that notification provided that a contract shall be signed within the tender validity period.

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

Management response

The local purchase order from the supply chain management department requested for a 3x16mm ABC aluminium round stranded compressed conductor. However, the delivery notes from the supplier indicated that materials of specification 2x16mm ABC aluminium round stranded compressed conductor were delivered on 16 May, 2024 and inspection and acceptance certificate issued on 6, June, 2024 despite the delivered materials not meeting specifications as per the LPO.

The supplier delivered a sample of 3x16mm ABC aluminium round stranded compressed conductor to the Energy & Lighting depot along ladhies road for approval before delivering the consignment. Upon receipt of the sample, the user confirmed the delivered sample was different from what was requested as outlined below;

- The MEMO requesting for authority to incur expense indicated 2x16mm ABC aluminium round stranded compressed conductor (Copy attached).
- The RLPO 2x16mm ABC aluminium round stranded compressed conductor (Copy attached).

The user thus insisted they requested for 2x16mm ABC aluminium round stranded compressed conductor and that is what was usable.

Arising from above, the procurement officer in-charge electrical stores consulted the Director of supply chain management who responded through Memo dated 20th May, 2024 (Copy attached).

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The Memo indicated that the supplier had both cables in the frame contract and were both costed the same at Kshs. 250 per metre.

The supplier was then advised to deliver 2x16mm ABC aluminium round stranded compressed conductor which was the right cable.

The inspection and acceptance of the materials was done guided by the Supply chain management Director's MEMO. The inspection and acceptance team produced a report hence the materials were utilized.

Late signing of the contract agreement was due to delay in processing contract agreements because of the big number of bidders who had responded to the two category of frameworks at the same time and a serious understaffing in the County Attorney's office.

This occurrence will not be repeated because a corrective measure was put in place by employing more legal officers.

Committee Observation:

The Committee observed systemic failures in the procurement and delivery process, including deliveries outside LPO validity periods, non-deduction of withholding taxes, and contracts signed after the tender validity period had lapsed. Management's response citing understaffing is noted but not accepted as a valid justification for breaching the law.

Committee Recommendation:

- The Committee recommends that the County Executive must enforce strict adherence to LPO validity periods and ensure all statutory deductions are made;
- That the Supply Chain Management and County Attorney's offices must streamline contract finalization to ensure all agreements are signed within the legally mandated tender validity period.

3.1.61. Supply and Delivery of 5000 Tonnes of Quarry Chips

Examination of payment in respect of an amount of Kshs. 15,000,000 for supply and delivery of 5000 tonnes of quarry chips under framework contract revealed that the summary of deliveries was not supported with delivery notes for each day of delivery against which the daily deliveries could be verified. In addition, the framework contract agreement was signed on 24 November, 2024. This date was not within the tender validity period of 150 days from the date of opening of tender which was on 7 March, 2023 as indicated in the tender register. Therefore, the LPO dated 18 May, 2023 was irregularly issued before signing of contract. In addition, the signed contract was invalid and was contrary to the provisions of Section 135(3) of the Public Procurement and Asset Disposal Act, 2015 which states that the written Report of the Public Accounts Committee on the consideration of the report of the Auditor General on the Financial Statements of the Nairobi City County Executive for the Financial Year 2022/2023.

contract shall be entered into within the period specified in the notification but not before fourteen days have elapsed following the giving of that notification provided that a contract shall be signed within the tender validity period.

Management Response

Late signing of the contract agreement was due to delay in processing contract agreements because of the big number of bidders who had responded to the two category of frameworks at the same time and a serious understaffing in the County Attorney's office.

This occurrence will not be repeated because a corrective measure was put in place by employing more legal officers.

Committee Observation:

The Committee noted that payments were made without supporting daily delivery notes, making it impossible to verify the quantity delivered. Furthermore, the contract was signed long after the tender validity period had expired, and an LPO was irregularly issued before the contract was signed.

Committee Recommendation:

- The Committee recommends that the County Treasury should develop and should implement a system where payments for bulk supplies are only processed upon verification against daily delivery notes;
- That all contracts must be executed within the tender validity period, and no LPOs should be issued before a valid contract is in place.

3.1.62. Supply and Delivery of 8000 Tonnes of Crusher and 1,200 Drums of K160 Examination of payment in respect of an amount of Kshs. 21,600,000 for supply and delivery of 8000 tonnes of crusher run and Kshs. 39,600,000 in respect of supply and delivery of 1,200 drums of 200 kilograms of K160 revealed that there was no evidence of market survey carried out to inform the placing of orders or decision making on the procurement. In addition, there was no evidence of acceptance of award, performance bond and signed framework contract agreement binding the contractor and the County Executive.

Management Response

This was an open tender and prices are determined by the competitive price offered by bidders and was evaluated within the given price range for goods. The prevailing market price may not have other charges loaded it for example delivery charges, taxes and mark-up to cover for the goods purchased on credit. This framework contract was through call-offs order where the price has been determined in the contract by applying the terms specified without reopening competition. PPDA Regulations 2020 Section 103 (1) and 2 (a).

Committee Observation:

The Committee found that these high-value procurements lacked basic documentation, including market surveys, acceptance of awards, performance bonds, and signed framework contracts. This exposes the County to financial risk and questions the competitiveness and validity of the procurements.

Committee Recommendation:

— The Committee recommends that for all framework contracts, the County Executive must ensure that mandatory documents including signed contracts, performance bonds, and acceptance letters are in place before any orders are placed or payments are made.

3.1.63. Supply and Delivery of Asphalt Plant Accessories

Examination of payment in respect of payment of an amount of Kshs. 4,988,000 for supply and delivery of asphalt plant accessories under request for quotation indicated that the County Executive used request for quotation procurement method to procure the asphalt plant accessories. This was contrary to the threshold stipulated in the second schedule of the Public Procurement and Asset Disposal Regulations, 2020 which sets the maximum level of expenditure under this method at Kshs. 3,000,000 per request for quotation.

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

Management Response

This procurement had aspect of supply of goods and works as per the second schedule in the 2020 Regulations. Request for Quotation (s.105) of the Act - Maximum level expenditure under this method is Kshs. 5,000,000

Committee Observation:

The Committee observed that the County used the Request for Quotation (RFQ) method for a procurement valued at Kshs. 4,988,000, which exceeds the Kshs. 3,000,000 threshold for goods as per the Public Procurement and Asset Disposal Regulations, 2020.

Committee Recommendation:

- The Committee recommends that the County Executive must adhere to the financial thresholds for different procurement methods as stipulated in the law;
- That all procurement officers should be retrained on these thresholds to prevent future breaches.

3.1.64. Irregular Procurement of Bitumen

The County Executive paid a supplier an amount of Kshs. 33,000,000 for supply and delivery of one thousand (1,000) drums of 200kg of bitumen. The contract was executed through frame work agreement which was signed on 22 June, 2023. However, the procurement method did not meet the conditions for the frame work agreement because there was no proof of competition as provided by Regulation 101(3) and 103(1) and (2) of the Public Procurement and Asset Disposal Regulations, 2020. It was therefore not clear how the supplier was selected from the two hundred and sixty-seven (267) bidders who were evaluated and recommended for consideration as per the professional opinion.

Further, tender documents, tender opening minutes and attendance register, tender evaluation minutes and award were not provided for audit.

In addition, according to the professional opinion, the tender evaluation committee had eight (8) members instead of a maximum of five (5). This was contrary to Section 46(4)(b) of the Public Procurement and Asset Disposal Act, 2015 which provides that an evaluation committee shall consist of between three and five members appointed on a rotational basis comprising heads of user department and two other departments or their representatives and where necessary, procured consultants or professionals, who shall advise on the evaluation of the tender documents and give a recommendation on the same to the committee within a reasonable time.

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

Management Response

This was an open tender and prices are determined by the competitive price offered by bidders and was evaluated within the given price range for goods. The prevailing market price may not have other charges loaded it for example delivery charges, taxes and mark-up to cover for the goods purchased on credit. This framework contract was through call-offs order where the price has been determined in the contract by applying the terms specified without reopening competition. PPDA Regulations 2020 Section 103 (1) and 2 (a).

Committee Observation:

The Committee noted a severe breach of procurement laws, including a non-competitive selection process from a large pool of 267 bidders, an improperly constituted evaluation committee of 8 members instead of a maximum of 5, and a complete lack of tender documentation.

Committee Recommendation:

 The Committee recommends that the procurement of bitumen should be investigated for possible integrity issues by the Ethics and Anti-Corruption Commission;

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— The County Executive must ensure all future evaluations are conducted by committees constituted in strict compliance with the law and that a complete and verifiable procurement record is maintained for.

3.1.65. Irregular Procurement of Renovation of County Flats in Uhuru Estate

Examination of payment in respect of an amount of Kshs. 39,866,880 for proposed renovation of Nairobi City County flats in Uhuru Estate revealed that the procurement of services commenced with insufficient budgetary provision of Kshs. 17,750,000 against a contract sum award of Kshs. 39,866,880. This was contrary to Section 53(8) of the Public Procurement and Asset Disposal Act, 2015 which states that the Accounting Officer shall not commence any procurement proceeding until satisfied that sufficient funds to meet the obligations of the resulting contract are reflected in its approved budget estimates.

The contract was signed on 17 April, 2023 with a contract duration of 6 months. However, as at 16 June, 2023, based on the technical inspection report, paint works of 45,000m2 representing 74% out of 60,500m2 surface had been completed. As at November, 2024, the contract duration had already lapsed while the paint works and roofing remained incomplete. There was no evidence of contract period extension and the project remained stalled. In the circumstances, Management was in breach of the law.

Management Response

The above contract was awarded to Rania Africa Ltd in 2023 and the site possession was given the contractor on 28th April 2023 for a period of 6 months. The earlier date of completion for the projects was 27th October 2023

In June 2023, the Contractor applied for first interim payment certificate that took longer to be paid leading to suspension of the works by the contractor before the contract period expired.

It is unrealistic to extend a non performing contract. The county therefore allowed for the suspension until the payment is made for the contractor to resume the works. It is worth noting that the project is still valid but on prolonged suspension. Once the payments due are made, the contract time will be extended.

Committee Observation:

The Committee observed that the procurement commenced with an insufficient budget, a direct violation of the law. The project remains stalled and incomplete long after the contract period lapsed, with no evidence of a formal extension.

Committee Recommendation:

- The Committee recommends that the County Executive must not initiate any procurement without verified budgetary allocation;
- That for this stalled project, a decision must be made to either formally extend the contract and secure a completion date or terminate it and explore alternative solutions.

3.1.66. Payment for Construction of ECDE Centre at Ngunyumu Primary School

Examination of records in respect of an amount of Kshs. 4,088,753 for construction of ECDE Centre at a contract sum of Kshs. 13,975,680 indicated that the practical completion date for the works was 3 November, 2020. Discussions with Management revealed that the construction was currently at 95% completion. However, given that the contract period had lapsed, the contractor was performing the works with an invalid contract and there was no evidence of extension of contract duration. This was contrary to Section 88(1) which provides that before the expiry of the period during which tenders shall remain valid, the accounting officer of a procuring entity may extend that period.

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

Management response

The contractor raised the first Interim Payment Certificate on 18th August 2020 which was within the contract period (See attached copy of the certified payment certificate). The payment was delayed due to the delayed transition from NMS to Nairobi City County government. The contractor's first IPC was settled in July 2024. Thereafter the contractor applied for time extension to enable her complete the outstanding works (See attached copy of the application) which was granted.

Committee Observation:

The Committee noted that the contractor was working with an invalidated contract as the original period had lapsed without a formal extension at the time of the audit. This exposes the County to legal and financial risk.

Committee Recommendation:

— The Committee recommends that the County Executive should regularize all ongoing contracts where the period has lapsed by obtaining proper approvals for time extensions before any further payments are processed.

3.1.67. Irregular Procurement of Events Management Services

Payment of Kshs. 49,955,400 was made to a contractor for provision of events management Services during Battle of Choirs 2nd Edition held at Kenyatta International Conference

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Centre (KICC) for 2 days from 31 March, 2024 to 1 April, 2024. KICC offers events planning coordination services and amenities, including audio-visual equipment at rates prescribed on its website. However, the audit could not establish justification for contracting the same services through a third party, while the venue for the event could offer all the services tendered at a fair price. Further, the contract binding the County and the service provider was not provided for audit.

Further, review of procurement documents in respect to provision of an events manager to implement the Nairobi City Festival at Uhuru Central Park by two bidders at a contract sum of Kshs. 25,000,320 and Kshs. 26,980,858 indicated that the tender evaluation scoring was not signed by any member of the evaluation committee. In addition, there was no evidence of performance bond issued by the two bidders that were contracted.

In addition, review of procurement documents in respect of provision of communication and public relations services for the Nairobi City Festival at Uhuru Central Park at a contract sum of Kshs. 7,986,000 revealed that there was no evidence of publishing of advertisement of the tender to newspapers of wide circulation or its own website.

The professional opinion stated that the tender invitation was done on 22 November, 2023, while tender opening was done on 29 November, 2023. This did not meet the minimum period of 7 days prescribed in the Public Procurement and Asset Disposal Act, 2015. In addition, the tender evaluation scoring was not signed by any member of the evaluation committee and there was no evidence of an evaluation report signed by all the members of the evaluation committee. The contract was signed on 30 January, 2024 which was one month after the lapse of the event dates. There was also no evidence of performance bond issued by the supplier.

This was contrary to Section 68(1) of the Public Procurement and Asset Disposal Act, 2015 which states that an accounting officer of a procuring entity shall keep records for each procurement for at least six years after the resulting contract has been completed or, if no contract resulted, after the procurement proceedings were terminated.

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

Management Response

The county opted for open tender and KICC did not bid for the tender which was awarded to the service provider who qualified.

The evaluation signed scoring sheets and the performance bonds are attached in **Appendix B 21.**

The evidence of advertisement of the tender NO. NCC/CCAT/T/142/1373098/2023 - 2024 in the PPIP portal is attached in **Appendix B 21**.

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The invitation date was done in minimum of seven days It was published on 22nd November, 2023 and opened on 29th November, 2023.

The tender evaluation scoring was signed as attached and there is evidence of the evaluation report signed.

The performance bond was not indicated in the document.

Appendix B 21

Committee Observation:

The Committee observed numerous irregularities, including the use of a third-party event manager when the venue (KICC) offered the same services, unsigned evaluation score sheets, lack of performance bonds, and an inadequate advertising period.

Committee Recommendation:

— The Committee recommends that the County should justify the use of thirdparty service providers over in-house venue services. All evaluation reports and score sheets must be duly signed, and performance bonds must be obtained as a mandatory requirement for all awarded contracts.

3.1.68. Anomalies in Provision of Legal Services

The pending bills provided from the County Attorney office reflect legal fees outstanding balance as at 30 June, 2023 of Kshs. 17,103,999,971 and decretal sums outstanding balance as at 30 June, 2023 of Kshs. 4,267,004,322 resulting to a total pending bill of Kshs. 21,371,004,293. During the year under review, the City County paid legal pending bills totalling to Kshs. 483,835,759. However, review of the payments in respect of legal cases revealed that the Advocates raised fee notes which in some instances were revised. However, the basis of the fee notes in view of the Advocates Remuneration Order together with a detailed summary of services rendered by the lawyer upon which the fee note is based was not provided for audit review. The basis for the reviewed fee notes by the City County was also not provided.

In addition, the advocates were directly appointed from a list of prequalified advocates without subjecting the process to mini competition. Management did not establish an ad hoc evaluation committee to evaluate quotations for legal services from the list of prequalified legal firms, nor did they provide evaluation reports. In the circumstance, the audit could not verify how the legal firms were engaged to offer legal services to the County. This may have limited competition and potentially led to inflated costs or missed opportunities to engage more qualified service providers. The contracts between the Advocates and the County and the current status of the legal cases was not provided for audit.

Further, the County did not provide explanation on why legal advice was not sought from the Attorney General who is listed in the County's financial statements as the principal legal adviser.

I. Legal Fee Notes

Advocates raise fee notes in line with the Advocates Remuneration Order(ARO). However, under **schedule 5**, of the Order, the Advocate and the client can agree on fees provided the same is not below the stipulated minimum under the Order as that would amount to undercutting. Where the value of the subject matter is pleaded **Schedule 6** and **7** apply.

The basis of charging legal fees is regulated under the ARO and under the Advocates Act. There are several factors to be considered when determining the fees. These includes: the care and labour required, the number and length of the papers to be perused, the nature or importance of the matter, the amount or value of the subject matter involved, the interest of the parties, complexity of the matter and all other circumstances of the case, may be fair and reasonable, but so that due allowances shall be given in the instruction fees for other charges raised under this Schedule.

II. Summary of Services rendered by the Advocate

In raising fee notes, Advocates give a summary of the services they have rendered to justify the fees demanded. However, it is the duty of the Office of the County to verify and ensure that the fee note is in line with the ARO so that the advocate is not paid more than what is just, fair and reasonable. This is the basis for reviewing fee notes by the City County.

As an Office, it is our duty to ensure that when assessing the fee, we take into consideration the services rendered by the advocate in terms of court attendances for mentions and/or hearings, perusing, drafting and filing pleadings. The documents in support of these services may include: Notice of Appointment or Memorandum of Appearance, Statement of defense, Replying Affidavits, Witness statements, Applications, Submissions, Rulings and judgments where cases have been determined among others.

III. Ad Hoc Evaluation Committee

During the year under review the list of external advocates was procured in the year 2022 for a period of 2 years. An evaluation committee was established during the procurement process in 2022. However, when the list for prequalified firms were forwarded to the office of the county attorney, the legal firms were not subjected to another bidding process because the law which govern the legal profession does not contemplate the process, reason being, ultimately the fees shall be charged as per the advocates remuneration order.

In essence, legal profession i.e. Advocates, should not be selected on the basis of the fees to be charged for the legal service to be rendered as the charging of legal fees and the provision of legal services by advocates, follows the advocates Act, the Advocates Remuneration Order, Advocates practice (Rules) and the Advocates (Marketing and Advertising) Rules. Otherwise, participating law firms may be subjected to or even find themselves engaging in illegal and professional misconduct by undercutting legal fees, soliciting and touting in order to win in the tender bidding process.

The legal framework for the public procurement of consultancy services in Kenya, under **PPADA 2020** and the procuring public entities should therefore be aware of and take into consideration the tenets of the legal profession and demand special exception in the public procurement of the legal services. As a result, it is imperative that express exemptions of the legal service providers from the normal tender bidding process, that is done on cost basis and promises and actions that go against the Advocates Act, the Advocates Remuneration Order, the Advocates practice (Rules) and the Advocates (Marketing and Advertising) Rules are put in place and adhered to.

Therefore, the Office of the County Attorney when seeking legal services choose from a list of pre-selected legal service providers (that is, a list of law firms or advocates) on its panel, paying attention to expertise, fairness, rotation, and professional skills, and not on the fees to be charged.

IV. Agreements / Valid Contracts

On the question of agreements, the law in Section 46 of the Advocates Act which governs the legal profession forbids advocates from entering into certain agreements with their clients and even goes ahead to invalidate such agreements. However, there are Formal Instruction Letters which are issued to the legal service providers, and are binding.

It's worth noting that, Section 36 of the Advocates Act prohibits advocates from undercutting (charging remuneration below that which is prescribed) under the order, such undercutting is an offence under the Act.

Advocates Practice rules also forbids advocates from charging fees in contravention of the Advocates remuneration order and from engaging in unfair practices to obtain clients Rule 2 of the rules prohibits touting or advertising to attract business, similarly Rule 3 prohibits advocates from holding out directly or indirectly as being prepared to charge professional fees at less than the Advocates remuneration scales laid down by the Advocates Remuneration Order.

Whether or not there is a written legal services agreement or agreement on fees, the Advocates (Remuneration) Order sets the minimum fees to be charged for the provision of a variety of legal services by the advocates. Advocates are restricted from charging fees below the minimum fees set out under 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, the complexity of the legal issues involved, the length of litigation, the interest of the parties, the level of the court in which the litigation is taking place, and the expertise and particular skill-set of the advocate.

V. Status of legal cases.

The advocates on record for the county in county matters provide periodic updates on the progress of the cases handled by them.

VI. Liaising with the Attorney General.

Section 7 of the County Attorney's Act, 2020 provides for the Office of the County Attorney who is the principal legal adviser to the County Government on all legal issues affecting the county. There is no mandatory requirement under the Act for the County Attorney to liaise with the Office of the Attorney General. The Act provides that the County Attorney MAY liaise with the Attorney General when need arises. Therefore, the Attorney General is not the principal legal adviser to the County Government under the law.

VII. First in first out principle in payments.

The Payments may not be according to the principle of first in first out basis and this is attributable to the following factors;

- i. The time when the advocates submit the fee notes: External legal service providers normally submit fee notes to the OCA which upon receipt subject the same to review or verification before initiation of payment process. Submission of the fee notes by the advocates is at the discretion of the specific advocate and may not necessary follow the principle of first in first out.
- ii. The assessment and reassessment of fee notes. The advocates who had submitted their fee notes earlier are undergoing re-assessment in conformity with the recommendations of the pending bills committee which was appointed by H.E the Governor which recommended that all legal pending bills be reviewed.

Relevant documents in support are as per Annexure 22.1

Committee Observation

The Committee observed a lack of transparency in the allocation of legal cases, with a small number of advocates receiving a disproportionately high number of cases. The system lacked mini-competition and a clear "first-in, first-out" payment approach, leading to a massive accumulation of pending bills.

Committee Recommendation:

- The Committee recommends that the County Attorney should develop and implement a transparent case allocation system that ensures equitable rotation among prequalified advocates;
- That the County Attorney should establish a structured and prioritized payment plan for legal bills to manage the ballooning pending bills and avoid accruing further interest.

3.1.69. Unfair Award of Cases and Payment to Advocates

Review of legal cases provided for audit revealed that the County had 159 court cases as at 30 June, 2024. However, verification of the cases indicated that out of the 159 cases, 65 were awarded to eight (8) advocates with the number of cases allocated to each ranging between four (4) and twenty (20).

Management did not explain the criteria used to allocate more than one case to the eight (8) advocates out of the three hundred and fifty (350) prequalified advocates. This was contrary to Regulation 91(5) of the Public Procurement and Asset Disposal Regulations, 2020 which states that an Accounting Officer shall ensure a fair and equitable rotation amongst the persons on the list under sections 57, 71 and 106 of the Act and these Regulations.

In addition, the County paid some advocates who defended the County in new cases while some old cases remained unpaid for years. The County should have paid the older cases in the principle of first in first out basis.

Management Response

In the financial year ending 30th June 2024, a total of 291 cases were received and either pending in court or may have been determined. A majority of cases were allocated to internal advocates/counsel. The remaining cases which were given to external counsel were fairly distributed.

In allocating the files to external counsel, we take into consideration past experience of the advocate in handling our cases, familiarity with the matter, complexity of the case or cases and areas of specialization.

Contrary to what is alluded herein, the list of cases and the advocates on record for the financial year under review are as per Annexure 22.2

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Committee Observation

The Committee observed a lack of transparency in the allocation of legal cases, with a small number of advocates receiving a disproportionately high number of cases. The system lacked mini-competition and a clear "first-in, first-out" payment approach, leading to a massive accumulation of pending bills.

Committee Recommendation:

- The Committee recommends that the County Attorney should develop and implement a transparent case allocation system that ensures equitable rotation among prequalified advocates;
- That a structured and prioritized payment plan for legal bills must be established to manage the ballooning pending bills and avoid accruing further interest.

3.1.70. Long Outstanding Court Payments

Review of record in respect of legal cases indicated that the County had been involved in numerous legal disputes dating back to the 1990s which have resulted in heavy fines and penalties. Despite these outcomes, Management has consistently failed to comply with court orders, leading to accumulation of interest on unpaid fines. This exposes the County to additional financial strain and legal consequences. For instance, in the case of *Nairobi City County & Governor Nairobi City County vs Ndiuco Limited & Ginu Power Engineering Limited; Attorney General, 1st Interested Party & Park Towers Limited (Interested Parties)*, the matter dates back to a 1991 judgment in which the 1st respondent, Ndiuco Ltd, sought payment from Nairobi County Government following a decree from the High Court (HCCC No. 493 of 1991). A court order issued on 3 March, 2015 directed the County to pay Kshs. 299,375,214 to Ndiuco Ltd, a sum that continues to accrue interest. Despite a subsequent High Court ruling on 25 November, 2021 reaffirming this obligation, the County has still not complied. In the circumstances, Management was in breach of the law.

Management Response

The office of the County Attorney receives court orders delivered against the County Government of Nairobi often and then forward's the same to the relevant Sector for Compliance.

Depending on the nature of the Court Order, the Sector concerned is always advised to comply or pay the decretal sum owed to the decree holder/judgement debtor.

The greatest challenge in complying with payment of decrees is attributed to budgetary constraints and that is the reason why some of these decrees remain unpaid to the extent of the decree holders proceeding to file contempt proceedings against the County officials.

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The main challenge therefore remains availability of funds to settle these outstanding payments and annexed hereto is a copy of the budget for the year 2023/2024 which illustrates the budgetary allocation for the office of the County Attorney which is not enough to settle all the decrees.

The other challenge is long protracted litigation caused by appeals or review. In Nairobi HCCC No. 493 of 1991; Ndiuco Limited vs Nairobi City County, the delay in payment has been caused by such appeals. Ndiuco Limited was dissatisfied with the award and appealed to have the compensation enhanced.

The county also made an application seeking a twelve months' moratorium in terms of paying the decretal amount, an application which was dismissed. The court dismissed the matter for want of jurisdiction and also held that the Plaintiff was at liberty to make the appropriate application for execution.

Without a stay for execution, the increase continues and yet the county cannot be able to pay without knowing the outcome of the court. The matter is still active in court and the ruling in the matter will be delivered on notice since the Judge initially conducting the matter was transferred from Milimani High Court to Kiambu High Court.

The records show that Kshs 20,000,000/- has been paid as acknowledged in the Plaintiff Advocates letters dated 13th January 2004 and an additional Kshs 3,000,000/- as indicated in the letter dated 7th June 2022.

Relevant supporting documents are as per Annexure 22.3

Committee Observation:

The Committee noted with grave concern the County's failure to settle long-standing court decrees, some dating back decades. This has led to the accumulation of massive interest and penalties, putting an enormous and unnecessary financial strain on the County.

Committee Recommendation:

— The Committee recommends that the County Executive must treat the settlement of decretal sums as a critical financial priority by developing and funding a multi-year payment plan in the annual budgets to systematically clear these debts and stop the financial bleeding from accrued interest.

3.1.71. Construction of Governor's Residence

A contract for construction of the Governor's residence at a contract sum of Kshs. 235,323,395 was awarded on 25 March, 2024 for a contract period of forty (40) weeks with an expected completion date of 8 January, 2025. According to the Salaries and Remuneration

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Commission Circular Ref. No. SRC/TS/COG/6/61/48 VOL.II (64) of 20 May, 2019, the County Executive was required to allocate funds and prioritize construction of houses for the Governor and Deputy Governor on public land on an acreage limit for the construction of Governor of up to 2 acres and at a cost of Kshs.45 million. However, at the time of audit in November, 2024, the Governor's official residence was incomplete and no certificate of work done had been issued.

Further, the County Government exceeded the cost limit of the Governor's residence with Kshs. 190,323,395. The residence was being built on 2.5 acres contrary to SRC guidelines of 2.0 acres. In addition, the County did not provide evidence of ownership or a title deed for the land on which it intended to build the Governor's residence. Therefore, the ownership of the land and the propriety of excess contracted expenditure of Kshs. 190,323,395 could not be confirmed.

Management Response

The construction of the Governors house is ongoing and the first Certificate for works has been issued. The County staff who were occupying the houses in the construction area were adamant to leave. However, after arbitration they have moved and the works have commenced in earnest.

The County Government exceeded the cost of Governors house with Ksh. 190,323,395 because of the following reasons:

- i. This is a complex building with multiple interconnected facilities and amenities that serve a variety of other official purposes.
- ii. There will be two(2no) blocks, the Governor's house and an Administration block with various sub offices and His Excellency the Governor will be conducting some of his Official duties and responsibilities in the sub offices
- iii. The Administration Block will be used to supplement the Governor's office since the current office is near the road and poses security risk.
- iv. Nairobi is unique being the Capital City of the Republic of Kenya and therefore the Administration block will serve as a logistical center for all delegates which will save on cost for hosting the delegations in expensive hotels.

The official residence is being built on part of the 2.5 acres of land where there are other County facilities in the same land i.e. dental unit, Dagoretti North Sub county offices and School of health services.

This was also the County land available, and the construction had to be done away from the road for safety, security and away from the noise. The proximity of the residence to the County headquarter Offices (City Hall) was also considered.

The ownership documents of the land situated on the northern boundary of plot no. 2368 is attached for reference.

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Committee Observation:

The Committee observed that the County blatantly violated the Salaries and Remuneration Commission (SRC) guidelines by exceeding both the cost limit (by Kshs. 190 million) and the land acreage for the Governor's residence. The justification provided for the excess is not supported by the SRC circular.

Committee Recommendation:

- The Committee recommends that the County Executive must seek ratification and a waiver from the SRC for the excess expenditure and acreage;
- That all future projects must strictly adhere to national guidelines, and full ownership documents for the land must be provided for audit.

3.1.72. Failure to Construct Deputy Governor's Residence and Irregular Rental House Allowance

Review of records indicated that the Deputy Governor's residence had not been constructed. This was contrary to the Salaries and Remuneration Commission (SRC) Circular Ref. No. SRC/TS/CoG/6/61/48 Vol.II (64) dated 20 May, 2017 which gave guidelines on housing benefits for Governors, Deputy Governors and County Assembly Speakers. The Commission gave a deadline of 30 June, 2022 for the commissioning of the Governor's and Speaker's residence. However, in the year under review the County Executive paid an amount of Kshs. 3,600,000 in rental house allowance to the Governor and the Deputy Governor after the lapse of the period allowable of up to 30 June, 2022.

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

Management Response

The county is sourcing for land to construct the Deputy Governor's residence

Committee Observation:

The Committee noted that the County has failed to construct the Deputy Governor's residence as mandated by the SRC and has irregularly continued to pay rental allowance beyond the permissible deadline.

Committee Recommendation:

— The Committee recommends that the County Executive should expedite the process of acquiring land and constructing the Deputy Governor's official residence and submit a status report to the Assembly within ninety days after the adoption.

3.1.73. Irregular Payments to Dishi Na County Implementer (shs 45 per plate, county pays 25 bob parents 5 bob and donor 15 bob) implementing partner has a donor who subsidizes the meal)

The County Executive entered into a contract with an organization on 5 December, 2023 for the provision of school feeding services for the Dishi na County Nairobi School Feeding Programme for a period of 1 (one) year at a cost of Kshs.25 per plate. Review of invoices and payment indicated that organization invoiced an amount Kshs. 345,961,676 at a cost of Kshs.25 per plate and was paid Kshs. 262,262,167 during the financial year under review. However, it was established that learners pay the Company Kshs.5 directly per plate for the meal provided, therefore the County Executive ought to have paid the implementer Kshs.20 to form part of the contract cost of Kshs.25 as provided in the contract. Instead, the County paid Kshs.25 per plate served. Therefore, the implementer; earned Kshs.30per plate instead of the Kshs.25 per plate stipulated in the contract.

In addition, the County Executive engaged Food for Education for the pilot exercise, however, there was no agreement or memorandum of understanding signed between the County and the Company. Therefore, the audit could not establish how the Company was engaged to offer services. Further, review of the documents and interview with the management indicated that on September, 2023, the Embassy of France undertook to financially support Food for Education in the provision of hot and nutritious meals for 25,000 most vulnerable children in public primary and ECDE schools in Nairobi County with Euro 1,005,000, an approximate amount of Kshs. 145,725,000. This amount was disbursed directly to Food for Education. The audit could not establish its accountability. In addition, the audit could not establish the measures put in place by the County Government with regards to donations received as there was no guideline on management of the donations.

Management Response

The County Executive entered into a contract with Food for Education on 5 December, 2023 for the provision of school feeding services as part of the Dishi na County Nairobi School Feeding Program for (one) (1) year at a rate of Kshs.25 per plate. Review of invoices and payments made indicated that organization invoiced a total of Kshs. 345,961,676 at a rate of Kshs.25 per plate and was paid Kshs. 262,262,167 during the financial year under review.

The Ksh 25 per plate paid by the county aligns with the contract, while an additional Ksh 5 is contributed by parents. Food4Education covers the remaining Ksh 15, as outlined in the tender's terms of reference. The total meal cost includes food ingredients, distribution and logistics, sourcing, utilities such as water and electricity, cooking fuel, technology, cooking

labor and overhead costs.

The County Executive engaged Food for Education to support the design of the Hub and spoke model it was already carrying out in Dagoretti south including the infrastructure development and testing of the pilot phase. On completion of the construction of the Central kitchens (Hub), Food for Education supported the operationalization of the initial NCCG 2 kitchens and the F4E owned kitchens to children in schools situated in the informal settlements.

Nairobi City County Government did not receive any grant towards the Dishi na County School Feeding Program. The said grant was awarded to Food for Education Foundation who signed an MoU with the French government. The allocation was to support vulnerable learners whose parents were unable to pay for their meals. The financial reporting for this grant is solely the responsibility of Food for Education with the county only having visibility of the numbers of beneficiaries and the distribution across various schools benefiting from Dishi na County School Feeding program. Refer to **Appendix B 24.1**

Committee Observation:

The Committee identified significant financial and operational irregularities in the school feeding program, including overpayment to the implementer, poor construction quality of central kitchens, and a lack of accountability for donor funds received by the implementing partner.

Committee Recommendation:

— The Committee recommends that a special audit of the programme be undertaken by the Office of the Auditor-General.

3.1.74. Irregular Procurement of Proposed Construction of Central Kitchen

Examination of procurement records in respect of a contract for construction of Central Kitchen awarded at a contract sum of Kshs. 32,527,827 indicated that the tender attracted two bidders. However, review of the scores of each evaluator indicated that none of the evaluators signed against their individual score sheets. Further, both bidders were termed responsive and were evaluated against the set technical criteria where they met the criteria and therefore were both termed responsive at the technical stage. However, the tender evaluation report stated that bidder 1 was non-responsive and was subsequently eliminated at the preliminary stage. This contradicted the individual scoring of each member of the evaluation committee.

In addition, review of payment voucher in respect of an amount of Kshs. 8,095,555 paid to a contractor for construction of central kitchen at Njiru Primary school at a contract sum of Kshs. 32,964,416 revealed that the tender attracted three bidders. However, review of the scores of each evaluator indicated that none of the evaluators signed against their individual Report of the Public Accounts Committee on the consideration of the report of the Auditor General on the Financial Statements of the Nairobi City County Executive for the Financial Year 2022/2023.

score sheets casting doubt on the authenticity of the scores. The evaluation committee did not comply with the provisions of Regulation 30(a) of the Public Procurement and Asset Disposal Regulations, 2020 which requires that, when discharging the mandate provided for under the Act, members of the evaluation committee shall (a) conduct the technical and financial evaluation of the tenders or proposals provided in strict adherence to the compliance and evaluation criteria set out in the tender documents.

Physical verification of Central Kitchens for the Dishi na County Programme carried out in the month of October, 2024 revealed that toi Primary Kitchen Wall had visible cracks, barely a year after completion of works and utilization of the kitchen. The kitchen did not have electricity meter installed. Therefore, it was not possible to establish how the kitchen was able to have access to electricity. In addition, water connectivity was not done by the contractor, instead, the implementer connected water at own cost. There was also poor workmanship of the pavements and the installed gas pipe was not connected to the cooking vessels and therefore was not in use.

According to the bill of quantities, the contractor was expected to install three (3) water tanks of 5,000 litres capacity each for cold water storage at a total cost of Kshs. 300,000. The contractor also did not install driveway and parking lights valued at Kshs. 500,000 as indicated in the bill of quantities.

In addition, the central kitchen at Mutuini Primary School was constructed by Food for Education and handed over to the County for use in the Dishi na County programme. As at the time of audit, the project was complete and in use. However, it was noted that the kitchen was feeding 17 schools among them 5 high schools. The audit team was informed that the high school students pay Kshs. 30 per plate per student. Feeding of high school students was beyond the scope of the program and therefore irregular.

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

Management Response

Each evaluator signed against their score sheet. See attached hard copies of the individual evaluator scores in the appendix provided.

Corporate Transfers Solution Ltd under Contract No. NCC/TSDC/T/309/2022-2023 was non-responsive at the preliminary stage of the evaluation hence could not proceed to Financial evaluation.

The payment for the meter and power installation was made to Kenya Power. The payment receipts and EPRA Certificates were sent. According to Kenya Power, meter number 25700736579 has been assigned to the kitchen.

- Water connection was done by Nairobi Water and Sewerage Company and Meter number 5255585 was allocated to Toi Central Kitchen.
- The kitchen uses briquettes as the primary source of cooking energy, whereby gas is used as a backup, and all infrastructure is in place. The connection of gas to the cooking vessels is underway.
- The contractor satisfactorily did light paving of the driveway and parking at the time of handing over. It is noted that there is a typo whereby the BQ for the parking and driveway (D) is erroneously assigned to the ELECTRICAL WORKS section. Make reference to the Farasi lane BQ where the driveway and parking is assigned under PROVISONAL SUMS and not ELECTRICAL WORKS.
- The contractor installed the three (3) water tanks as per the BQ specifications. There is photo evidence of the same.

The high schools being fed from the Mutuini Kitchen have been previously feeding from the Dagoretti South National Constituency Development Fund kitchen before Dishi na County was initialized. Below are the high schools with their corresponding number of meals; Ndurarua Secondary-550; Mutuini Girls-89; Kagira High-60 and Riruta High-210. Payment for these meals is done directly to Food for Education by the respective schools.

Refer to Appendix B 24.2

Committee Recommendation:

— The Committee recommends that a special audit of the programme be undertaken by the Office of the Auditor-General.

3.1.75. Irregular Procurement for Construction of Market

The County Executive entered into a contract on 7 February, 2024 for construction of a market at Mutuini Ward at a cost of Kshs. 242,592,914 for a period of 24 weeks with a completion date of 7 August, 2024. The payment of 1st certificate of Kshs. 69,568,960 was made in the financial year under review. However, review of the procurement file and bid documents revealed that as at the time of audit in the month of October, 2024 the contract period had lapsed and there was no evidence of approval of extension of the contract while the performance bond expired on 2 July, 2024 and there was no evidence of renewal. In addition, the project status report was not provided for audit review. Management explained that the project had since stalled.

In the circumstances, the value for money for the expenditure amount of Kshs. 69,568,960 could not be confirmed.

Management Response

- The proposed construction of Mutuini Market under tender No.NCC/BHO/T/098/2023-2024 was entered into between the contractor (Elitova Markers) and the Nairobi City County Government;
- ii. The performance bond was delivered accompanied by the acceptance on 2nd January 2024 and was valid until 2nd July 2024;
- iii. The contractor raised the first certificate of Ksh. 69,000,000 on 15th March 2024. The inspection certificate and payment vouchers were done before mid-May 2024 awaiting payment;
- iv. Payment delayed and was done on 18th July 2024;
- v. The performance bid was valid by the time the certificate was being invoiced and uploaded on IB;
- vi. The project is currently at 80% completion rate.

Committee Observation

The Committee observed that a high-value market construction project has stalled, the contract period lapsed with no evidence of extension, and the performance bond expired. This places a significant amount of public funds (Kshs. 69.5 million) at risk.

Committee Recommendation:

— The Committee recommends that the County Executive must demand the renewal of the performance bond and either secure a credible plan for the project's completion from the contractor or initiate termination and recovery processes. A full status report on all stalled projects must be submitted to the Assembly within sixty days after the adoption of this report.

3.1.76. Procurements above the Budgeted Amount

The County Executive budgeted an amount of Kshs. 36,000,000 for establishment of an Intensive Care Unit and Neonatal Intensive Care Unit at Mbagathi Hospital and Pumwani Maternity Hospital. However, the County Executive awarded the contract at a contract price of Kshs. 47,917,860, therefore incurring Kshs. 11,917,860 over and above the budgeted amount.

In addition, the County Executive contracted a supplier for supply and delivery of water purifier for 5 health facilities at a contract price of Kshs. 29,998,894 under tender number NCC/HWN/T/317/2023-2024. The County Executive had budgeted for 5 water purifier each at Kshs. 3,000,000 with a cumulative budget of Kshs. 15,000,000. However, the County incurred Kshs. 29,998,894 over and above the budget by Kshs. 14,998,894. This was contrary to Section 44(2) of the Public Procurement and Asset Disposal Act, 2015 which states that

in the performance of the responsibility under subsection (1), an Accounting Officer shall ensure that procurements of goods, works and services of the public entity are within approved budget of that entity.

In the circumstances, Management was in breach of the law and the propriety of expenditure of Kshs. 41,916,754 could not be confirmed.

Management Response

The contract for procurement of medical equipment of sum amount of Kshs. 47,917,860 is a pending bill incurred during financial year 2022/2023 being payment of supply and delivery of medical equipment for Mbagathi and Pumwani hospitals. The expenditure budget was attached and highlighted as follows for procurement process

S/no	Administration code/program	economic item	Amount
1	5315000301	3111101	11,917,680
2	5315000401	3111120	18,000,000
3	5315001601	3111120	18,000,000
		Total	47,917,680

Procurement was not above the set budget line since the procurement was drawn from threesub programs.

(Copies of budget attached)

Tender number NCC/HWN/T/317/2023-2024 contract price of ksh. 29,998,894 for supply, delivery and installation of water purifiers for 5 health facilities is a pending bill not yet paid listed in the county health wellness and nutrition pending bill list. The cost stated above is exclusive of other cost such as installation, transportation, commissioning and training of staff on use of the purifiers to make them functional to the user.

Request for authority to procure works done vide memo NCCG/CHS/CP/VOL.II/006 which required authority to incur expenditure of kshs 30,000,000, this was budgeted for six water purifiers and each of the machine was estimated to cost kshs 4,999,815.76 as per the BOQ. The six water purifiers supplied translate to Kshs 29,998,894.56.

The cost and long procedure of initiating a new procurement process after the lapse of the validity of the LPO would have been expensive and time consuming for items that are treated as essential in nature hence beating the principal of value for money and timeliness

Committee Observation:

The Committee observed that the County Executive repeatedly awarded contracts for the ICU/Neonatal unit and water purifiers at sums significantly exceeding the originally budgeted amounts. Management's response, which attempts to justify the over-expenditure by re-allocating funds across sub-programs or including additional costs, does not negate the fundamental breach of procuring outside the approved budget, which is a cornerstone of public financial management.

Committee Recommendation:

- The Committee recommends that the County Executive must strictly adhere to the approved budgets. Any procurement must be fully funded within its specific budget line before initiation, as required by law;
- That a system of pre-commitment control should be strengthened to prevent such occurrences.

3.1.77. Supply and Delivery of Non-Pharmaceuticals -

The County Executive incurred an amount of Kshs. 13,890,000 on supply and delivery of non-pharmaceuticals. Review of stores received statement indicated that goods were received in the stores on 3 August, 2023. However, the appointed inspection and acceptance committee carried out inspection on 6 October, 2023, two months after receipts of goods in the stores. This was contrary to Section 48 of the Public Procurement and Asset Disposal Act, 2015 which states that the inspection and acceptance committee shall immediately after the delivery of the goods, works or services, inspect and where necessary, test the goods received; (b) inspect and review the goods, works or services in order to ensure compliance with the terms and specifications of the contract; and (c) accept or reject, on behalf of the procuring entity, the delivered goods, works or services.

Further, the County Executive incurred an expenditure of Kshs. 9,945,675 in respect of supply and delivery of non-pharmaceuticals. Review of the procurement documents indicated that the County Executive award letter stated a contract period of 14 days. However, LPO 4299 was issued on 10 July, 2023 while delivery was done on 5 September, 2023. Therefore, the goods were delivered after the 30 days' validity period of LPOs. Further, inspection was done on 13 October, 2023. This was more than one month after delivery of goods, contrary to Section 48 of the Public Procurement and Asset Disposal Act, 2015 which states that the inspection and acceptance committee shall immediately after the delivery of the goods, works or services; (a) inspect and where necessary, test the goods received; (b) inspect and review the goods, works or services in order to ensure compliance with the terms and specifications of the contract; and (c) accept or reject, on behalf of the procuring entity, the delivered goods, works or services.

Management Response

Management noted that there was delay in appointment of inspection and acceptance committee however this did not cause any loss of material defect on the commodities supplied since the appointed team inspected and accepted goods supplied were of good quality and quantity as per the attached LPOS issued.

The local purchase order under the terms and conditions of the LPO states, "if unless otherwise stated this order lapses after 14 days from the date of issue."

The LPO issued was validated by the authorized officer therefore giving its extension of validity period.

Committee Observation:

The Committee noted systemic and severe delays in the inspection and acceptance of delivered goods, sometimes taking months, in direct violation of the Public Procurement Act. Furthermore, Local Purchase Orders (LPOs) were routinely issued with short validity periods, yet deliveries were accepted long after these periods had lapsed, with management retroactively "validating" them, rendering the validity clause meaningless.

Committee Recommendation:

— The Committee recommends that the County Treasury must enforce strict adherence to the legally mandated inspection timeline. The practice of postdelivery LPO "validation" must cease. LPOs should be issued with realistic delivery periods, and any delays must lead to the cancellation and re-tendering of the procurement.

3.1.78. Supply and Delivery of Health Products for Mutuini Hospital

The County Executive incurred an expenditure of Kshs. 8,880,632 for supply and delivery of health products for Mutuini Hospital. Review of procurement documents indicated that opening of the tender was done on 29 June, 2023 while evaluation was performed on 28 June, 2023 a day before opening. Further, the award letter stated a contract period of 14 days. However, local purchase order (LPO) were issued on 14 July, 2023 while delivery was done on 27 September, 2023. Therefore, the goods were delivered after the 30 days' validity period of the LPOs. In addition, inspection was done on 21 November, 2023; almost two months after delivery of goods. This was contrary to Section 48 of the Public Procurement and Asset Disposal Act, 2015 which states that the inspection and acceptance committee shall immediately after the delivery of the goods, works or services; (a) inspect and where necessary, test the goods received; (b) inspect and review the goods, works or services in order to ensure compliance with the terms and specifications of the contract; and (c) accept or reject, on behalf of the procuring entity, the delivered goods, works or services

Management Response

The stores receive goods using the stores copy of the LPO as the reference document. Although the validity period for the LPO had lapsed, the stores LPO copy had been validated on 21/9/2023 thus giving the LPO validity, an extension and it's on this strength that receipts were done (stores LPO copies attached). The cost and the long procedure of initiating another procurement process after the lapse of the LPO validity would be more than expensive and time consuming for items that are treated as essential in nature. It would also beat the principle of value for money and timeliness.

On evaluation and opening dates it was a typo error copies of opening and evaluation memos attached.

Committee Observation

The Committee noted systemic and severe delays in the inspection and acceptance of delivered goods, sometimes taking months, in direct violation of the Public Procurement Act. Furthermore, Local Purchase Orders (LPOs) were routinely issued with short validity periods, yet deliveries were accepted long after these periods had lapsed, with management retroactively "validating" them, rendering the validity clause meaningless.

Committee Recommendation:

- The Committee recommends that County Executive should ensure that all procurement processes are sequentially documented and free from discrepancies to safeguard integrity, transparency, and compliance with PPADA, 2015;
- That the County Executive should strengthen the functioning of the Inspection and Acceptance Committee to ensure goods are inspected immediately upon delivery, in strict compliance with Section 48 of PPADA, 2015;
- That for essential and emergency supplies such as health products, the County Executive should establish a framework for framework contracts or standing agreements with prequalified suppliers to avoid delays and lapses in validity while still ensuring compliance with the law.

3.1.79. Supply and Delivery of Non-Pharmaceuticals and Linen for Health Facilities

The County Executive incurred an expenditure amount of Kshs. 59,978,200 on supply and delivery of non-pharmaceuticals and linen. However, the contracted supplier delivered goods partially on 30 August, 2023 and issued a credit note of Kshs. 2,496,000. No explanation was provided for failure by the contractor to deliver all the items outlined in the contract and the local purchase order. Further, there was no evidence of action taken by Management for

non-performance by the supplier. In addition, there was no approval provided for the credit note, contrary to Section 150 of the Public Procurement and Asset Disposal Act, 2015.

In addition, the award letter stated a contract period of 14 days, however, the LPO number 4299 was issued on 10 July, 2023 while delivery was done on 30 August, 2023. Therefore, the goods were delivered after the 30 days' validity period of LPOs. According to the goods received statement, the goods were delivered to the store on 21 August, 2023 while the delivery note was dated 30 August, 2023. It was also not clear how the goods were received in the stores before being delivered by supplier. Further, inspection was done on 19 September, 2023, more than one month after delivery of goods. This was contrary to Section 48 of the Public Procurement and Asset Disposal Act, 2015 which states that the inspection and acceptance committee shall immediately after the delivery of the goods, works or services; (a) inspect and where necessary, test the goods received; (b) inspect and review the goods, works or services in order to ensure compliance with the terms and specifications of the contract; and (c) accept or reject, on behalf of the procuring entity, the delivered goods, works or services.

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

Management Response

The supplier delivered the items on 21/8/23 after expiry of the validity period of the LPO. However, the stores copy of the LPO had been validated on 18/8/23 (copies attached) giving it an extension informed by the nature and purpose of the goods, the extension was necessary in line with PPDA178(i). The supplier was unable to service all the items on the LPO because the cost of shipping the few items that were not locally available then which necessitated the raising of the credit note. The supplier managed to service 98% of the LPO.

The management has taken action by not engaging the supplier thereafter. The Items were captured in the Stores received statement as a statement of the actual dates when the items were delivered to the stores that is 21/8/23 and 30/8/2023. (copy of SRS attached). It's important to note that an SRS is a unique document specific to Nairobi County and is subject to different interpretations by both personnel and auditors with some treating it as part of the payment voucher while others treat it as a statement of chronology/schedule of deliveries. The department is however working on a unified interpretation of the document across all its designated stores.

Committee Observation

The Committee noted systemic and severe delays in the inspection and acceptance of delivered goods, sometimes taking months, in direct violation of the Public Procurement Act.

Committee Recommendation:

- The Committee recommends that the County Executive should ensure that inspection and acceptance of goods is done immediately upon delivery, in compliance with Section 48 of the PPADA, 2015, and establish strict timelines and monitoring mechanisms for all inspection committees.
- That the County Treasury and Procurement Unit should adopt a standardized documentation and record-keeping framework, including clear interpretation and use of the Stores Received Statement (SRS), to eliminate inconsistencies and discrepancies in records.

3.1.80. Supply and Delivery of Yellow Fever Certificate

The County Executive paid Kshs. 8,000,000 for the supply and delivery of yellow fever certificates. However, delivery notes indicated that goods were delivered on 5 July, 2023 but received in the stores through stores received statement dated 25 July, 2023. This was more than 20 days after delivery by the supplier. Further, goods were inspected on 18 July, 2023, before being received in the stores, therefore casting doubt on whether the stores received the goods. In addition, the County Executive paid another supplier an amount of Kshs. 19,875,000 for supply and delivery of yellow fever certificates, however, it was established that goods were delivered and received in the stores on 28 August, 2023 after expiry of LPO validity period of 30 days. The LPO number 4300 was issued on 14 July, 2023.

In the circumstances, Management was in breach of the law and the propriety of the expenditure could not be confirmed.

Management Response

The goods were delivered on 5th July 2023.Inspection and acceptance certificate serial no 3388 was duly signed on 18th July 2023. (copy attached)

The goods were posted in the Stores received statement (SRS) on 25th July 2023(copy attached) after inspection and acceptance in accordance with Section 159 of the PPAD Act 2015 Revised 2022 which states that," The Accounting Officer shall ONLY receipt goods, works and services which have been certified in accordance with this section and Section 152 of this Act." Therefore, the chronological order of events including dates where goods were receipt in the Store's Received Statement after inspection complies to the PPAD ACT and as Prescribed by its regulation 166(2) and 166(3). The store cannot receive goods into the official accounting document i.e. the SRS until they have been duly inspected and accepted by the ad hoc Inspection and Acceptance committee. The stores received items on 28th August 2023 vide LPO 4300 (copy attached) which had been validated by the HSCM on 22/8/2023 therefore the LPO was valid at the time the delivery was done.

Committee Observation

The Committee noted systemic and severe delays in the inspection and acceptance of delivered goods, sometimes taking months, in direct violation of the Public Procurement Act.

Committee Recommendation:

- The Committee recommends that the County Executive should ensure that all deliveries are receipted in real time and that inspection and acceptance strictly follow delivery in compliance with Section 48 of the PPADA, 2015.
- That the practice of "validating" expired LPOs should be discontinued immediately, and any extensions of delivery periods should only be done through formal contract variations approved in line with procurement law.
- That the County Treasury and Procurement Unit should digitize and synchronize procurement and stores records to eliminate inconsistencies in delivery notes, SRS entries, and inspection dates.

3.1.81. Procurement and Payment of Fuel, Oil and Lubricants

Review of procurement records for supply and delivery of fuel and fuel card services made through framework agreement revealed the following anomalies;

The tender was not supported with appointment letters for tender opening committee.
Further, the tender opening committee and the tender evaluation committee consisted
of the same members contrary to Regulation 78(1) of the Public Procurement and
Asset Disposal Regulations, 2020.

Management response:

The documents providing the register of members for both the Tender Opening Committee and the Tender Evaluation Committee, which demonstrate that the members are not the same, are attached in Annex 6 for your reference. These documents address the concerns regarding compliance with Regulation 78(1) of the Public Procurement and Asset Disposal Regulations, 2020. (Annex 6)

ii. There was no evidence of notification and acceptance of award from the companies that the County awarded the framework contract to supply and deliver fuel and oil.

Management response:

The documents evidencing the notification and acceptance of the award from the companies that were awarded the framework contract to supply and deliver fuel and oil have been attached in Annex 6 for your reference. (Annex 6)

iii. The framework agreement for supply and delivery of fuel and card services was awarded to three (3) companies. However, the County Executive procured fuel from only one company without ensuring fair rotation among the companies in the framework contract agreement. This was contrary to Regulation 91(5) of the PPAD

Regulations, 2020 which states that an accounting officer shall ensure a fair and equitable rotation amongst the persons on the list under Sections 57, 71 and 106 of the Act and these Regulations.

Management response:

This procurement was conducted under a framework agreement between the County and suppliers through an open tender process. Under the Public Procurement and Disposal Regulations, 2020, Clause 103(2-a) and (3), the Accounting Officer is authorized to award contracts to service providers on a call-off basis as operational needs arise. In this instance, the County chose M/S Vivo Energy (K) Limited due to its extensive network of fuel outlets and its proximity to County depots, ensuring both convenience and fuel efficiency. In addition, there is a strong and mutually beneficial working relationship with Vivo Energy, which allows them to extend credit facilities to us before the payment is fully processed.

iv. Review of fuel register provided by Management revealed that the County Executive fuelled vehicles belonging to the County Assembly totalling to Kshs. 2,564,401.

Management response:

Work tickets for all County Executive and County Assembly vehicles are issued and surrendered at a central point, the Transport Inspection Unit (TIU) at Muoroto, along Landhies Road. Fuel data and analysis are derived from these work tickets. However, it is important to note that the County Assembly manages its own fuel procurement, maintains a separate fuel register, and operates independently of the County Government in this regard. Fuel schedules, including driver signatures acknowledging receipt of fuel, are available to support this management position.

v. Review of work tickets provided for audit indicated that Management had fueled vehicles whose speedometers were defective. Due to the defect, it was not possible to ascertain the fuel consumption by the vehicles. Further, there was no evidence that the vehicles were repaired yet there was an allocation for repair and maintenance of motor vehicles.

Management response:

As a County Government we have started repairing the faulty speedometer as evidenced by Job car od KAT 535X (Annex 7) which has been replaced. The process is ongoing to ensure all vehicles with faulty speedometers are repaired.

vi. Review of fuel register in respect of fuel consumption for various motor vehicles amounting to Kshs. 7,379,642 indicated that some vehicles drew fuel more than once in a single day on various dates and the work tickets were not updated.

Management response:

The spending limitations of fuel cards sometimes require us to defer payments to the following day, resulting in multiple payments being processed on the same day. However, this does not necessarily indicate that a single vehicle was fueled more than once in a day.

vii. Review of sampled work tickets indicated that fuel was drawn amounting to Kshs. 2,812.73 litres on various days, however, this was not updated in the fuel register. Therefore, the accuracy of the fuel register could not be confirmed. Further, review of sampled work tickets indicates vehicles covering long kilometres while not drawing fuel.

Management response:

Due to the bulk nature of the records and the limited workforce handling them, occasional errors may arise during the data entry process. These errors are generally typographical in nature, such as incorrect digits or miswritten details, and do not have a significant impact on the overall integrity of the data. While these errors may occur, they are not substantial enough to meet the materiality threshold, meaning they do not significantly affect the accuracy or validity of the fuel records. Recognizing the importance of maintaining accurate records, we are taking proactive corrective actions to minimize such errors in the future. This includes implementing regular cross-checking of fuel returns against the original documentation, as well as introducing additional layers of verification to ensure that all records are accurate, complete, and up-to-date. Our goal is to continually improve the quality of data entry and ensure the consistency and reliability of the fuel records. Attached is fuel register which corresponds to that of VIVO Energy (Annex 8)

viii. Management did not put in place fuel card policies and procedures in order to ensure that there are sufficient controls over management of fuel, approval of uses of the fuel cards and spending limits. Further, the County used one fuel card per department. This was contrary to the County Executive's Fleet Management standard operating procedure on fueling cards number 6.1 CCN/ADMIN/QP/03.

Management response:

Mechanical and Fleet Dept has set out weekly fuel limits for each department as controls to deter misuse of fuel. Fuels card are only accessible to authorised personnel from Fleet Section. Over time it has been observed that having each vehicle with its own fuel card is not effective because it has proved to be difficult to control all drivers compared to few authorised personnel.

ix. During the year under review, the County had Four hundred and eighty-three (483) operational vehicles, however, review of fuel register indicated that vehicles fueled

during the year were four hundred and fifty-two (452). Therefore, the County did not utilize 31 vehicles, implying that they remained idle throughout the year.

Management response:

The operational vehicle (483) included the vehicles and motorcycles handed over to various vocational schools, GSU and some vehicles which are at Statehouse. Below is the list.

S/NO	REG/NO	FLEET NO;	ТҮРЕ	YOM	MAKE/MODEL	STATUS	
1	KAN 079P	Т 99	Tipper	2001	Isuzu Fsr 33	Handed Over To Vocational Training (Mathare Vct)	
2	47CG 231A	RV 44	Refuse Vehicle	2004	Nissan Pk 210	Handed Over To Vacational Training (Dandora Vtc)	
3	47CG 052A	RV 54	Refuse Vehicle	2014	Foton Bj1133	Handed Over To Vacational Training(Kangemi Vtc)	
4	47CG 087A	CE 130	High Body	2004	Isuzu Nkr66l	Handed Over To Vocational Training (Waithaka Vtc)	
5	KCD 230G	DCB 332	D/Cab Pick Up	2014	Foton Tunland	Handed Over to Vocational Training (Bahati Vtc)	
6	47CG 299A	DCB 378	D/Cab Pick Up	2015	Nissan Np300	Handed Over to Vocational Training (Dandora Vct)	
7	47CG 096A	CE 199	D/Cab Pick Up	2008	Isuzu Tfs77	Handed Over To Vocational Training	
8	KBP 095V	CWE 345	D/Cab Pick Up		Ford Ranger	e e	
9	GKA 443L	AMB 308	Ambulance	2005	Toyota Hiace L200	Handed Over To Vocational Training (Dandora Vtc)	
10	KAT 147H	PH 225	Micro-Bus	2006	Nissan Urvan E24	Handed Over To Vocational Training (Dandora Vtc)	

11	KAN 928U	CE 086	Fire Engine	2003	Toyota Landcruiser Hzj79r-A	Handed Over To Vocational Training (Bahati Vct)	
12	47CG 022A	CO 257	Station Wagon	2013	Cherry Tiggo	Vocational Training (Kangemi Vtc)	
13	47CG 025A	CO 254	Station Wagon	2013	Cherry Tiggo	Vocational Training (Kangemi Vtc)	
14	GKA 870V	MF 283	Station Wagon	2008	Nissan Qashqai	Ministry	
15	GKB 848V	AMB 474	Ambulance	2020	Toyota Hjz78r- Rjmrs	Handed Over to Gsu	
16	47CG 092A	CE 169	Saloon	2008	Toyota Corolla	Handed Over To Vocational Training (Waithaka Vct)	
17	GKA 861J	ED 0111	Motorcycle	2006	Suzuki 185	Handed To Vocational Training (Mathare Vtc)	
18	GKA 837J	ED 0110	Motorcycle	2006	Suzuki 185	Handed To Vocational Training (Kangemi Vtc)	
19	GKA 881J	ED 0109	Motorcycle	2006	Suzuki 185	Handed To Vocational Training (Bahati Vtc)	
20	GKA 164K	ED 0108	Motorcycle	2006	Suzuki 185	Handed To Vocational Training (Dandora Vtc)	
21	GKA 198K	ED 0107	Motorcycle	2006	Suzuki 185	Handed Over to Vocational Training (Kangemi Vtc)	
22	GKA 300K	ED 0106	Motorcycle	2006	Suzuki 185	Handed To Vocational Training (Mathare Vtc)	
23	GKA 299K	ED 0105	Motorcycle	2006	Suzuki 185	Handed To Vocational Training (Waithaka Vtc)	
24	GKA 298K	ED 0104	Motorcycle	2006	Suzuki 185	Handed To Vocational Training (Waithaka Vtc)	
25	GKA 222K	ED 0102	Motorcycle	2006	Suzuki 185	Handed Over to Vocational Training (Kangemi Vtc)	

26	GKA 182K	ED 0101	Motorcycle	2006	Suzuki 185	Handed To Vocational Training (Dandora Vtc)	
27	GKA 241K	ED 0100	Motorcycle	2006	Suzuki 185	Handed To Vocational Training (Waithaka Vtc)	
28	GKB 219W	ADM 491	Station Wagon	2020	Toyota Landeruiser Prado	At Statehouse	
29	GKB 220W	ADM 492	Station Wagon	2020	Toyota Landcruiser Prado	At Statehouse	
30	GKB 728W	ADM 552	Station Wagon	2021	Isuzu Mu-X	At Statehouse	
31	GKB 601W	WT 30	Water Bowser	2020	Fuso Fn627	At Statehouse	

x. During the year under review, the County Government had thirty-four (34) operational motor cycles and five (5) Generators. However, records such as fuel consumption records were not provided for audit. Therefore, it was not possible to confirm how much fuel each generator consumed during the year under review.

Management Response:

Requisitions for fuel for generators by the users are available for review. We acknowledge that 30 motorcycles are usually reserved for backups in the event of emergencies. Ideally they were meant to be used by officers for duties such as supervision and patrols, however, in the near future we are in the process of redeploying them for use by well-trained officers.

Committee Observation:

The Committee observed significant control failures in fuel management, including a lack of fair rotation among prequalified suppliers, fueling of vehicles with defective speedometers, inaccurate fuel registers, missing policies for fuel card usage, and the fueling of County Assembly vehicles without a clear recharge mechanism.

Committee Recommendation:

- The Committee recommends that the County Executive must implement a transparent and equitable rotation system for all framework contractors;
- That a comprehensive fuel management policy must be developed and implemented, ensuring proper vehicle maintenance, accurate record-keeping, and clear accountability for all fuel drawn;

— That the issue of fueling County Assembly vehicles must be regularized with a proper inter-governmental recharge system.

3.1.82. Construction of Gikomba Fire Station

Review of procurement documents in respect of a contract awarded to a company at a contract sum of Kshs. 59,983,163 signed on 24 April, 2024 with a contract period of six (6) months revealed that the tender opening committee consisted of five (5) members appointed vide memo dated 6 February, 2024. However, the same members were appointed as tender evaluation committee members. It was established that the evaluation of the tender was conducted by five (5) members, four (4) of whom were part of the tender opening committee. This was contrary to the provisions of the law that require the procuring authority to appoint an ad hoc tender evaluation committee.

Further, inspection and acceptance certificate no. 1 dated 28 June, 2024 for an amount of Kshs. 30,024,578 was not supported with a technical report detailing the works done, including the remaining works against which the contract completion period could be compared.

In addition, there was no evidence that the project was completed despite lapse of contract period.

In the circumstances, the value for money and propriety of expenditure of Kshs. 59,983,163 could not be confirmed and Management was in breach of the law.

Management Response

The Chairpersons of the two respective committees were different individuals as per the Act.

The Quantity Surveyor appeared in both Committees as the Competent Technical Authority who had prepared the project's Bill of Quantities

The User Department nominated one officer who had been taken through intensive training and demonstrated a good understanding of the then newly introduced E-procurement system. Efforts have now been put in place to train additional officers on the same.

The two procurement officers attached to the user department appear as default members to both committees, as Secretaries to the Committee. The Quantity Surveyor attached payment certificate and the breakdown of the works done Annex 1.

The works are at 50% complete Annex II

Valuation of the Contract period is in the process to determine the validity period and enable the Contractor to complete the project once payment for the Valuation certificate 1 raised is settled.

Refer to Appendix 28

Committee Observation:

The Committee noted a breach of procurement law where the Tender Opening and Evaluation Committees comprised substantially the same members, compromising the integrity of the process. Furthermore, a large payment was made without a detailed technical report, and the project was behind schedule.

Committee Recommendation:

- The Committee recommends that the County Executive must ensure the strict separation of Tender Opening and Evaluation Committees as required by law;
- That all progress payments for projects must be supported by detailed technical reports and verified physical progress;
- That the project should be closely monitored to ensure timely completion.

3.1.83. Irregular Procurement of Affordable Housing Project

The County Executive entered into a joint venture agreement for design, finance, build and sale of affordable housing in Woodley Estate Phase 1 and Kariobangi North Estate Phase 1 under Joint Venture. Review of the Woodley joint venture agreement and procurement records for the projects revealed that the contracts were not cleared by the Attorney General before they are signed. This was contrary to Section 134(2) of the Public Procurement and Asset Disposal Act, 2015 which states that an Accounting Officer of a procuring entity shall ensure that all contracts of a value exceeding Kenya shillings five (5) billion are cleared by the Attorney-General before they are signed. In addition, the following anomalies were noted;

i. The County Executive and the developer signed joint venture agreement for development of Woodley project at a contract sum of Kshs. 10,288,284,589. However, according to Clause 6 of the agreement, this cost is exclusive of the value or the cost of the land on which the project shall be undertaken. This contradicted the conditions in the tender document which defines the total development cost to include the value of the land on which the project shall be implemented. The cost of the land is the contribution of the County Government.

Management Response

The tender document for the Woodley site provided the following as **per Appendix B 29** (i) – Bid Form 1 table B & C;

- a) <u>Development cost</u> which is cost for project construction which the Developer tendered at Kshs 10,288,284.589.00
- b) Total Development cost, which is Development cost in (1) above plus land value.

Nevertheless, the contract sum stated in the Joint Venture doesn't in anyway contradict the above as the lands is part of the development which the County contributes to the Joint Venture Partnership and also one the parameter on share of units to the County.

ii. The value of the performance bond for the Woodley project of Kshs. 57,946,200, constituting 0.56% of the contract sum did not commensurate with the value of works. In addition, the joint venture agreement for Woodley Estate indicated that the performance bond was payable over the duration of the contract. This is contrary to Section 142 of the Public Procurement and Asset Disposal Act, 2015 which states that subject to the regulations, a successful tenderer shall submit a performance security equivalent to not more than ten (10) per cent of the contract amount before signing of the contract.

Management Response

The contract amount is Ksh 10,288,284,589.00, however the public exposure, which need to be de-risked, is on the value of land estimated at Ksh 2,897,310,000.00 (9.6 Acres valued at Ksh 300,000,000.00 per acre) and therefore the Ksh 57,946,200 is 2% of the land value, which is within the PPADA range not more than range of 10%.

The tender document as was approved by the cabinet secretary National Treasury and Economic Planning did not specify the percentage and therefore was part of negotiation, which was affirmed by all parties in the JV as 2% of the land value.

- iii. Section 9 of the joint venture agreement stated that both the Contracting Authority and the Developer shall fulfil the conditions precedent within a period not exceeding ninety (90) days from date of signing. However, Section 12 of the same agreement gave both parties liberty to waive all the conditions precedent for the effective performance of the terms in the agreement. Therefore, this is a contradiction and casts doubt on the fulfilment of obligation, performance and responsibility of each part. There is risk that this clause might be abused by either party.
- iv. Review of procurement records for request for proposal for design, finance, build and sale of affordable housing in Ziwani Estate through Joint Venture revealed that only one bidder presented bids for evaluation at a contract sum of Kshs. 10,103,488,814. However, despite being non-responsive at the preliminary stage, the bidder was still evaluated at the technical stage and awarded the tender. Further, the evaluation report stated that the bidder was responsive at the preliminary stage of evaluating mandatory requirements. This contradicted the findings of the scores documented for mandatory requirements evaluation, casting doubt on the authenticity of the evaluation process.

Management Response

Refer to Appendix 29 (iv) duly signed records;

- i. Tender Opening Minutes
- ii. Evaluation Reports- Technical and Financial
- iii. Professional Opinion on evaluation
- iv. Negotiation Report/Minutes
- v. Professional opinion on negotiation

The request for proposal for design, finance, build and sale of affordable housing in Ziwani Estate through Joint Venture under tender no. NCC/URH&BS/RFP/230/2022-2023 had one response who passed the mandatory requirements as well as all other aforementioned stages. Individual checklists do not constitute or construe the final scoring of evaluation committee.

v. Review of procurement records for request for proposal for design, finance, build and sale of affordable housing in Bahati Estate through Joint Venture at a contract sum of Kshs. 10,655,663,251 for 36 months revealed that the value of the performance bond of Kshs. 29,797,265, which constituted 0.27% of the contract sum did not commensurate with the value of works. This was contrary to Section 142 of the Public Procurement and Asset Disposal Act, 2015 which states that subject to the regulations, a successful tenderer shall submit a performance security equivalent to not more than ten (10) per cent of the contract amount before signing of the contract.

Management Response

The contract amount is Kshs 10,655,663,251.00, however the public exposure which need to be addressed is on the value of land estimated at Kshs 1,267,110,000.00 (13.338 Acres valued at Kshs 95,000,000 per acre) and therefore the Kshs 29,797,265.00 is 2% of the land value which is within the range not more than 10%.

The tender document as was approved by the cabinet secretary National Treasury and Economic Planning did not specify the percentage and therefore was part of negotiation, which was affirmed by all parties as 2% of the land value.

vi. The procurements done were through specially permitted procurement procedure. However, the County Accounting Officer responsible did not submit the tender documents and the proposed procedure to the Cabinet Secretary for approval detailing the justification for the use of the method.

Management Response

The Accounting Officer at the time Director General Nairobi Metropolitan Services submitted a request for proposal document to Cabinet Secretary National Treasury and Economic Planning vide letter: EOP/NMS/ADM/4 dated 2nd February 2022, which was

clarified on 22nd April, 2022 and authority was granted vide letter: NT/PPD/2/20/36A (68) dated 22nd April, 2022.

After the functions were returned to Nairobi City County Government, the County Secretary wrote to Principal Secretary the National Treasury vide letter: URHBS/HOU. /6/2/MR/sm dated 6th December, 2022 to request approval for use of specially permitted procurement method and the same was approved by Cabinet Secretary vide letter: NT/PPD/CONF/5/5/007(12) dated 7th February, 2023.

All the correspondences are attached in Appendix B 29 (vi).

vii. Titles for the land on which the affordable housing projects were to be built were not provided for audit. This includes the title for Jevanjee land.

Management Response

Attached please find the copies of Pangani, Jevanjee/Bachelors, Bahati, Ziwani and Embakasi land leases that were facilitated by lands sub-sector.

Refer to Appendix B 29 (vii)

Committee Observation:

The Committee observed serious irregularities in high-value affordable housing Joint Venture projects, including performance bonds that were a fraction of the legal requirement, contradictory clauses in agreements, and evaluation processes that cast doubt on the authenticity of the bidder selection. The justification for basing performance bonds on land value rather than the total contract value is not supported by the Public Procurement Act.

Committee Recommendation:

— The Committee recommends that all multi-billion-shilling projects must be subjected to thorough independent review for the County Executive to ensure full compliance with all legal requirements, particularly regarding the calculation of performance securities and the integrity of the evaluation process, to protect the County's significant public asset (land) and ensure value for money.

3.1.84. Irregular Procurement for Completion Works of a Modern OPD Complex at Mutuini Hospital

The County Executive engaged a contractor at a contract price of Kshs. 236,524,771 for completion works of a Modern OPD Complex at Mutuini Hospital for 18 months. Review of documents and explanation provided indicated that the project was initially awarded to the first contractor at a contract price of Kshs. 149,084,435 for a contract period of 20 weeks.

Work commenced on 27 May, 2021 and the contractor was paid Kshs. 84,111,925 after 55% completion of the project. However, the project stalled at 55% completion.

Further, the County Executive, in the year under review, undertook re-measurement of the remaining works with a view of completing the project. During the re-measurement process, an extra floor was included in the new estimates. However, it was not clear what necessitated the addition of an extra floor and whether it was from the user's department. Also, the Engineer's report on valuation of the complex was not provided. In addition, awarding of Kshs. 236,524,771 for completion works of the Modern OPD Complex at Mutuini Hospital for 18 months is deemed irregular, since the remaining works of 45% amounted to Kshs. 67,087,995 in respect of the initial contract sum. Therefore, a cost of Kshs. 169,436,775 for an extra floor was more than the initial contract sum of Kshs. 149,084,435.44 which was signed for a two- storey building. Physical verification of the project in October, 2024 revealed that the project had stalled and the contractor had abandoned the site.

In the circumstances, propriety of Kshs. 169,436,775 and value for money derived from the project could not be confirmed.

Management Response

The defunct Nairobi Metropolitan Services (NMS) awarded M/s Pinnie Agencies limited via tender No. NMS/RT/008/2020-2021 for the construction of a modern OPD complex at Mutuini Hospital at a contract price of Kshs. 149,084,435.44. The works entailed construction of a new 2-storey medical block with a slab to wait for phase two of the construction. The project stalled at approximately 55% completion and the contractor had raised two certificates totalling Ksh. 81,966,439. The Contractor was paid Ksh. 57,952,341.35 of the first payment certificate which is equivalent to 45% contract sum.

The NCCG awarded a new contract vide tender No. NCC/HWN/T/349/2023-2024 at a contract price of Kshs. 236,524,771. Phase two of the construction was factored into this contract with the following extra scope of works:

- Construction of an extra floor,
- Re-designing and construction of the roof,
- Installation of lifts (elevators),
- Aluminium partitioning,
- Procurement, delivery and installation of a standby generator,
- Oxygen piping,
- Reworks on the second floor- Contractor had done formwork, steel reinforcement, installation of hollow blocks, and first fix services for electrical and mechanical works. The project stalled for lack of payment from NMS. The works on the second floor

had to be redone because of the steel reinforcement had badly rusted, the formwork warped and deformed.

Phase II was procured with the purpose to complete the construction and making the hospital to be fully functional. The contract price is more than the initial contract sum for the following reasons:

- 1. Additional scope of works including
 - a. Construction of an extra floor with associated partitions, finishes, electrical and mechanical services.
 - b. Installation of lifts (elevators),
 - c. Aluminium partitioning,
 - d. Installation of a standby generator
 - e. Oxygen piping
 - f. Additional scope aluminium partitioning
 - g. Introduction of more washrooms and sanitation facilities
 - h. Extra scope of electrical and mechanical services
- 2. Repeat works due to dilapidation of the building
- 3. Higher preliminary costs due to prolonged period of execution, remobilization to site and acquisition of securities and insurances.

Committee Observation:

The Committee noted with alarm that the contract price for completing the remaining 45% of the Mutuini Hospital OPD was set at Kshs. 236 million, which is Kshs. 87 million more than the entire original contract. The justification for adding an extra floor and the associated massive cost increase appears ex-post facto and raises serious questions about planning, procurement integrity, and value for money. The project has since stalled again.

Committee Recommendation:

- The Committee recommends for the investigation of the procurement process by the Ethics and Anti-Corruption Commission for possible impropriety;
- That the County Executive should halt all further payments and commission an independent engineering and financial audit to validate the necessity and cost of the additional scope of works before proceeding.

3.1.85. Stalled Rehabilitation of Desert Play Ground in California Ward

The County Executive entered into a contract for the proposed rehabilitation of Desert Play Ground in California Ward on 8 March, 2023 at a contract price of Kshs. 30,228,231 for a period of 6 months with a completion date of 23 August, 2023. However, review of the

project's record indicated that the contract period had lapsed and no extension request had been lodged by the contractor. Further, physical verification indicated that plastic terrace seats were not done, roof cover done by the contractor was leaking a year after installation, foot pitch was not done yet it formed part of the works to be done in the bill of quantities, artificial turf and tartan surface finish was not done, gate was not constructed and lastly perimeter wall was not constructed.

S/No.	QUERIES	RESPONSE		
i.	Plastic terrace Seats Were Not Done	These are part of the contract, however they have not been installed and as such they have not been paid for. (See attached copy of the payment cert)		
ii.	Roof cover done by the contractor was leaking a year after installation	This will be rectified before issuance of the defects liability certificate and release of retention monies		
iii.	Foot pitch was not done yet it formed part of the works to be done in the bill of quantities	This part of the work that is ongoing See attached photo		
iv.	Artificial turf and tartan surface finish were not done	These are part of the contract, however they have not been installed and as such they have not been paid for. (See attached copy of the payment cert)		
v.	Gate was not constructed	The gate has been installed		
vi.	Perimeter wall was not constructed	This is not part of the scope of work (See attached copy of the BOQ)		

3.1.86. Stalled Construction of Social Hall at Kahawa West Ward

The County Executive awarded a contract for the proposed construction of Social Hall at Kahawa West (phase 1) on 12 June, 2023 at a contract price of Kshs. 16,879,000 for a period of 6 months with a completion date of 13 December, 2023. According to interim payment certificate No.1 and inspection and acceptance committee report, the contractor was expected to be paid Kshs. 10,312,867. However, payment voucher revealed that the contractor was paid Kshs. 11,156,816 leading to an over payment of Kshs. 843,949 in respect of the valuation of work done for payment of certificate 1. Further, physical verification of the social hall indicated that the project had stalled.

Construction of Social Hall in Kahawa West Ward				
S/No.	QUERIES	RESPONSE		
i.	According to interim payment certificate No.1 and inspection and acceptance committee report, the contractor was expected to be paid Kshs. 10,312,867 however, payment voucher No.69547 revealed that the contractor was paid Kshs. 11,156,816 leading to over payment of Kshs. 843,949.40 in respect of the valuation of work done for payment of certificate 1.			
ii.	Physical verification of the Social Hall indicated the project had stalled	Due to budgetary constraint, the phases of the project entailed construction of the foundation sub-structure and super structure for ground floor and 1st floor slab. (Sees attached BQ). This phase 1 of the project is complete (Seattached completion certificate). Phase II which entails finishes has been planned for FY 2024/2025.		

Committee Observation:

The Committee observed a pervasive pattern of stalled projects across the county, valued at billions of shillings. Projects are abandoned due to non-payment, poor workmanship, and inadequate supervision, leading to immense waste of public funds. The overpayment in the Kahawa Social Hall project further highlights weak financial controls.

Committee Recommendation:

— The Committee recommends that the County Executive must develop and implement a comprehensive Stalled Projects Recovery Plan. This should include a forensic audit of all stalled projects, termination of non-performing contracts, and blacklisting of responsible contractors. A project management unit must be established to oversee all projects from inception to completion.

3.1.87. Other Stalled Projects

Review of construction projects undertaken by the County Executive revealed that projects valued at Kshs. 2,282,899,172 in respect to construction of various projects have stalled. It was not clear why these projects remained stalled for years while the County Government embarked on new projects, some that still end up stalling due to non-payment of contract sums due. Failure to manage the projects in line with law may lead to loss of public funds and poor service delivery for which value for money may not be obtained.

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

S/No.	QUERIES	RESPONSE		
i.	Projects valued at KShs. 2,282,899,172 in respect to construction of various projects have stalled. It was not clear why these projects remained stalled for years while the County embarked on new projects.	-The contractors were issued with commencement orders but		

Committee Recommendation

- The Committee recommends that the County Executive must develop and implement a comprehensive Stalled Projects Recovery Plan. This should include a forensic audit of all stalled projects, termination of non-performing contracts, and blacklisting of responsible contractors;
- That a project management unit must be established to oversee all projects from inception to completion.

3.1.88. Irregular Expenditure under Framework Contracting on Purchase of Food and Non-food Items

The County Executive incurred an expenditure totalling Kshs. 353,224,209 in respect of emergency relief and refugee assistance. Review of the framework agreements indicated that the County pre-qualified thirty-one (31) bidders for supply of food items for a period of two years. It was further established that the County awarded contracts to the highest bided prices

on food items under the framework contract resulting in excess expenditure of Kshs. 16,510,760 which could have been avoided if the County considered awarding the contracts to the lowest bidders. Further, the County did not rotate contractors while awarding purchase orders. This was contrary to Regulation 91(5) of the Public Procurement and Asset Disposal Regulations, 2020 which states that an Accounting Officer shall ensure a fair and equitable rotation amongst the persons on the list under Sections 57, 71 and 106 of the Act and these Regulations.

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

Management Response

The county had challenges in rotating the contractors in the framework contract due to the following reasons;

- Due to the prevailing economic environment, most of the contractors who had quoted lower prices were unable to supply due to lower profit margins or potential losses arising from increased product costs.
- ii. Delays in payments for goods supplied by some Contractors caused reluctance by others to supply especially if their prices were lower.

Other Contractors were reluctant to sign contract agreements with the County even after being shortlisted in the Framework contract; hence could not be awarded purchase orders.

Committee Observation:

The Committee found that the County consistently awarded contracts under framework agreements to bidders with the highest prices, leading to an avoidable excess expenditure of over Kshs. 16 million, and failed to rotate suppliers as required by law.

Committee Recommendation:

- The Committee recommends that the County Executive must ensure that calloffs under framework contracts are awarded based on the most advantageous prices offered at the time of the call-off, not the initial prequalification;
- That a transparent and documented rotation system must be implemented immediately.

3.1.89. Irregularities at Nanyuki Road Stores

Physical inspection carried out in October, 2024 and review of Nanyuki stores records revealed the following anomalies;

i. The store received one thousand three hundred and seventy-five (1,375) drums of bitumen in 26 July, 2024 from Kangundo Road Asphalt Plant during the year under review. However, 120 drums valued at Kshs. 3,960,000 could not be accounted for. Despite Management's explanation that the case was under investigation, there was no evidence that the stores had put in place preventive measures to deter reoccurrence.

Management Response

This was a case of theft and is under investigation internally and by Kenya Police. The county has increased security personnel from two to five officers

ii. Management did not conduct quarterly and annual inventory stock take at the close of the financial year under review. This was contrary to the provisions of Section 162(2) of the Public Procurement and Asset Disposal Act, 2015 which requires that the head of procurement function shall conduct quarterly and annual inventory and stock taking in order to ensure compliance with all respective governing laws and submit the report to the Accounting Officer.

Management Response

The county conducted quarterly annual stock takes and the reports are provided in Annex ii

iii. Physical verification indicated that inventory items which included culverts, PVC pipes, colas, containers 10' by 40 feet and foot bridges had been left to deteriorate in the stores. In addition, Management had not kept records of these inventories.

Management Response

The above items were procured by NMS and records were not handed over when the deed of transfer of functions ended

iv. Inspection of the weighbridge indicated that the stores recorded the weight of trucks carrying ballast, hard core, marram, quarry dust and boulders manually. This was because the weighbridge had not been automated. Further, the store keeper explained that the weighbridge's calibration had not been inspected by the Weights and Measures Department. Therefore, it was not possible to establish whether the trucks weights are accurate.

Management Response

Weights and Measures department has since calibrated the weighbridge

v. The County Executive did not prepare an annual disposal plan for items declared obsolete as provided under Regulation 176(1) of the Public Procurement and Asset Disposal Regulations, 2020 which requires an Accounting Officer of a procuring entity to ensure that an annual assets disposal plan is prepared of items declared as unserviceable or obsolete stores, asset or equipment.

Management Response

The Disposal plan is attached in Annex v

vi. Review of bin cards revealed that the County stocked six hundred and forty (640) drums of cold truck which were received in the store on 9 September, 2021 and which had not been issued to the user department. Further, nine (9) 40 feet containers and three temporary bridges had not been issued to user department since 9 September, 2021. In addition, it was observed that the store had unknown number of plastic water pipes in the yard. There were no stores records to support their physical quantity, measurement, quantity received and date of delivery into the store.

Management Response

The above items were procured by NMS and records were not handed over when the deed of transfer of functions ended.

Committee Observation:

The Committee observed a catastrophic failure in stores management across the county, characterized by massive stock losses (e.g., bitumen), lack of regular stock-taking, obsolete and deteriorating inventory, non-functional equipment, and manual, uncalibrated systems leading to significant unexplained variances worth tens of millions.

Committee Recommendation:

- The Committee recommends that the County Executive must undertake an immediate, comprehensive stock-taking and automation of all stores. The Head of Procurement must be held accountable for conducting mandatory quarterly stock takes;
- That all obsolete and slow-moving items must be identified and disposed of according to the law;
- That security and accountability measures must be drastically improved.

3.1.90. Asphalt Plant Store

Physical inspection carried out in October, 2024 revealed that the Asphalt Plant received 1400 drums of bitumen that were ordered under local purchase order dated 23 February, 2024. However, there was no evidence provided to indicate that inspection and acceptance was carried out, before the items were taken on charge. This was contrary to the provision of Section 48(3) of the Public Procurement and Asset Disposal Act, 2015 which requires the inspection and acceptance committee to immediately, after the delivery of the goods, works or services, inspect and where necessary, test the goods received. Further, out of 1400 of the bitumen received, 25 drums amounting to Kshs. 825,000 could not be accounted for. Management explained that the deficit of 25 drums out of the 1,400 was as a result of extreme

damage of the drums. However, no supporting documents were provided to support the assertion. Management did not explain why the damaged drums were accepted in the store. In addition, the stores records relating to bitumen indicated unexplained variances between quantities requisitioned and issued from Nanyuki Stores as summarized below;

Nanyuki Stores Records	Asphalt Plant Records	Variance	Amount(Kshs.)
470 drums	500 drums	30	990,000
315 drums	500 drums	185	6,105,000
55 drums	500 drums	445	14,685,000
165 drums	500 drums	335	11,055,000
1005	2000	995	32,835,000
	470 drums 315 drums 55 drums 165 drums	470 drums 500 drums 315 drums 500 drums 55 drums 500 drums 165 drums 500 drums	470 drums 500 drums 30 315 drums 500 drums 185 55 drums 500 drums 445 165 drums 500 drums 335

Management Response

Inspection and acceptance certificate for the 1400 drums of bitumen is provided in Appendix 33.2.

These drums of the bitumen were wrongly delivered at kagundo road asphalt plant depot. This depot does not bin cards for receiving deliveries from suppliers. They had to be transferred to Nanyuki road stores which is equipped as such. In the process of moving these drums it was discovered that 25 of them were leaking and they were used in the plant.

Asphalt plant requisitioned bitumen drums from Nanyuki Stores and the same were issued according inventory availability. Stores Issue Vouchers for the drums issued are provided in Appendix 33.2 (vi)

The Committee observed a catastrophic failure in stores management across the county, characterized by massive stock losses (e.g., bitumen), lack of regular stock-taking, obsolete and deteriorating inventory, non-functional equipment, and manual, uncalibrated systems leading to significant unexplained variances worth tens of millions.

Committee Recommendation:

- The Committee recommends that the County Executive must undertake an immediate, comprehensive stock-taking and automation of all stores. The Head of Procurement must be held accountable for conducting mandatory quarterly stock takes;
- That all obsolete and slow-moving items must be identified and disposed of according to the law;
- That security and accountability measures must be drastically improved.

3.1.91. General Store

Physical verification and review of records in the store indicated that the County Executive did not have any inventory management and control software for effective stores management. Further, physical inspection of the store indicated that one thousand, seven hundred (1,700) heavy duty sash clamps and clamps and its accessories and three thousand (3000) tiles were slow moving and had been kept in store for a period exceeding 1 year. The tiles were last issued on 11 July, 2012. However, Management had not implemented policies and procedures to guide on slow moving and obsolete items. It was also established that the County Executive had a printer that was received in the store in 2013 and had not been in use to date. Change of technology may have rendered the printer obsolete.

In addition, physical verification revealed that thirteen (13) pieces of medical machines (ACT machines, Mammograph machines, Biochemical analysis and Ski graph (medical equipment) donated in May, 2014 were still in the store unused for more than 10 years after receipts in the stores. It was not clear why the machines had never been issued to the medical facilities in the County.

In the circumstances, the value for money and propriety of the expenditure totalling Kshs. 37,620,000 could not be confirmed.

Management Response

The medical machines were transferred from the ministry of Health under the Managed Equipment Services (MES) program. However, skills/training on how to operate these machines were not impacted on the county and the machines have remained idle.

The Committee observed a catastrophic failure in stores management across the county, characterized by massive stock losses (e.g., bitumen), lack of regular stock-taking, obsolete and deteriorating inventory, non-functional equipment, and manual, uncalibrated systems leading to significant unexplained variances worth tens of millions.

Committee Recommendation:

- The Committee recommends that the County Executive must undertake an immediate, comprehensive stock-taking and automation of all stores. The Head of Procurement must be held accountable for conducting mandatory quarterly stock takes;
- That all obsolete and slow-moving items must be identified and disposed of according to the law;
- That security and accountability measures must be drastically improved.

3.1.92. Dandora Stadium

The County Executive awarded a contract for the construction and completion of four (4) Stadia (Kawangware, Ziwani, Kangemi and Dandora) at a contract sum of Kshs. 1,036,551,255 with a completion period of 18 months. However, a dispute arose regarding installation of steel terraces at the Dandora Stadium instead of concrete terraces. A mediation settlement agreement was signed on 11 May, 2022 with a revised completion period of fifteen (15) months. A total amount of Kshs. 223,304,547 had been paid. However, field inspection of the Dandora Stadium revealed the following irregularities and poor workmanship;

- i. The flood lights were not functional and the internal lighting was not installed.
- ii. The field was observed to be uneven, with noticeable bumps and depressions in certain areas, rendering it unsuitable for football activities.
- iii. The electrical cables and wiring system on the field were found to be exposed, increasing the risk of theft and vandalism.
- iv. The roofing materials used were substandard and visibly deteriorated due to the direct heat from the sun. According to the field management, rainwater frequently leaked through the roof, leading to water accumulation in the seating areas during rainfall.
- v. The public address system was non-functional, as explained by the management, who confirmed that the speakers were not operational.
- vi. There were visible holes on the perimeter wall. The balls are supposed to bounce back to the field on hitting the walls but instead penetrate the substandard material creating holes. The stadium walls were made of soft boards which could easily be penetrated using little force instead of concrete stone walls.
- vii. Records and status updates of the other three (3) stadia were not provided for audit. In the circumstances, the value for money and propriety of expenditure totalling Kshs. 223,304,547 could not be confirmed.

Management Response

- i. The floodlights are working but KPLC transformer is not adequate for the Stadium's power demands, thus following up on an upgrade from KPLC.
- ii. Ground maintenance is necessary from time to time because of frequent usage since rain water normally washes away the sand gravel over time. An exercise which we continue to undertake from time to time.
- iii. There are no power cables on the field hence armoured cables are under the terraces.
- iv. Roofing materials are polycarbonate sheets which are good for UV protection while allowing light on the terraces. Additionally, a canopy was placed on the edges of the roof to prevent rain water from getting inside the sitting area.

- v. The Public Address System was working when the stadium was handed over but a periodic maintenance is necessary. The system was placed 6 years ago and due to wear and tear it has been rendered non-functional.
- vi. Perimeter wall concrete wall is unsafe for players within the playing area and could be source of injury upon physical contact as opposed to hard boards. The boards were however replaced after we raised a complaint to the contractor. Attached herewith and marked "DS1" are pictorial evidence of the replacements.
- vii. The contractor (Scanjet construction Ltd) embarked on construction of Kihumbuini Stadium in the FY 2024/2025 and works is currently in progress and the contract was extended. (attached herewith is a copy of contract extension marked "DS2" and evidence of ongoing works at Kihumbuini marked "DS3") we hope that in the financial budget of 2025/2026 the other 2 Stadia (Ziwani and Kawangware) will be allocated funds.

Committee Observation:

The Committee found that the Dandora Stadium, for which over Kshs. 223 million has been paid, is riddled with defects, including substandard roofing, an uneven pitch, non-functional systems, and poor-quality materials, rendering it unsuitable for use and representing a gross failure to achieve value for money.

Committee Recommendation:

- The Committee recommends that the County Executive must hold the contractor liable for rectifying all identified defects at no additional cost to the government;
- That a comprehensive inspection and certification process must be implemented before any project is handed over;
- That the contractors for all four stadia should be required to show cause why they should not be blacklisted.

3.1.93. Renovation of Huruma Estate

The contract duration for renovation of Huruma Estate was six months. The contractor took possession of the site on 2 May, 2023 and the practical completion of works was on 2 October, 2023. As at the time of physical verification in October, 2024, the project was incomplete. The contract duration had also lapsed without any approval for extension. Physical verification revealed that the rooftop tiles were leaking causing damages to the walls and ceiling. The tenants complained of the large heaps of waste next to the estate.

Management Response

There was no management response on the matter.

Committee Observation:

The Committee observed that the renovation of Huruma Estate is incomplete, the contract period has lapsed without extension, and the work done is of poor quality, with leaking roofs and uncollected waste, causing distress to tenants.

Committee Recommendation:

- The Committee recommends that the County must immediately appoint a new contractor to complete the outstanding and remedial works;
- That the project manager and supervising officer for this project should be held accountable for the poor supervision and project failure.

3.1.94. Rehabilitation of Joe Kadenge City Stadium

The contract for proposed rehabilitation of Joe Kadenge Stadium was signed on 29 June, 2023 at a contract sum of Kshs. 95,937,684 with a contract period of 24 weeks. It was established that the performance security of Kshs. 4,796,884 submitted by the contractor expired on 22 December, 2023. However, there was no evidence of renewal despite the contractor having not completed works. Physical inspection revealed that the contracted work involved installation of artificial turf, drainage and chain link. However, as at the time of inspection in October, 2024, the artificial turf had not been installed, the drainage was partially done and the chain link had not been erected despite a payment of Kshs. 41,195,196 made which constituted 43% of the contract sum. Therefore, the amount paid did not commensurate with the valuation of work done. Further, the Contractor had abandoned the site, the contract period had already lapsed and there was no evidence of extension of contract period. The works remained incomplete.

Management Response

- I. The contracted works involved installation of artificial turf, drainage and chain link. The artificial turf is at the grounds of Joe Kadenge and the ground works have been completed awaiting laying of the turf. Attached herein are photos of the turf at the Joe Kadenge marked "JK1". The chain link is part of the works and the same will be erected once the turf is fully laid.
- II. The contractor requested for an extension of the contract and a committee was convened incorporating all necessary sectors. The recommendations of the committee were that the contract be extended for a period of one year with no additional cost to the County. Attached herewith and marked "JK2" are copies of the said correspondences and contract extension.

The inspection and acceptance team and technical team confirmed that the drainage works are at about 90%. Perhaps we should add that the contractor had not abandoned site as he was wait for the arrival of the turf from oversees.

Committee Observation:

The Committee observed that the project is severely behind schedule, with key deliverables like the artificial turf and chain link not installed despite 43% of the contract sum (Kshs. 41.2 million) already being paid. The performance security had expired, and the contractor had effectively abandoned the site. Management's claim that the contractor was merely "waiting for turf" is insufficient to explain the overall project failure and lack of oversight.

Committee Recommendation:

- The Committee recommends that the County Executive must immediately issue a default notice to the contractor and invoke the lapsed performance security;
- That the project should be re-tendered, and the works already paid for must be rigorously verified to ensure the County recovers value for the funds expended.

3.1.95. Renovation of Uhuru Estate

The tender for the proposed renovation of Uhuru Estate was awarded to a company at a contract sum of Kshs. 39,866,880. Inspection and acceptance report dated 15 June, 2023 indicated that paintworks done was 45,000m2 out of 60,500m2. However, physical inspection revealed that painting works were poorly done and the contractor was not on site.

Management Response

Works were done per the standard, the inspection and acceptance committee visited the site on 16th June 2023, inspected the works done and approved for payment.

However, not all houses were renovated due to budgetary constraints the renovation was limited to repair roof work of damaged roof and painting works of 60,500m², which will not cover the entire estate. The acceptance and inspection committee inspected and approved the works undertaken.

Committee Observation:

The Committee noted a disconnect between the inspection report that approved payment and the physical reality of poor-quality workmanship observed on-site. This indicates a failure in the inspection and acceptance process, leading to payments for substandard work.

Committee Recommendation:

- The Committee recommends that the County Executive should issue a reprimand to the Inspection and Acceptance Committee for certifying substandard work;
- That a new committee should be constituted to re-inspect the project within thirty days after the adoption of this report;

— That the contractor should be compelled to rectify all defects at their own cost before any further payments are considered.

3.1.96. Construction of Jericho Perimeter Wall

The contract for proposed construction of perimeter fence at Jericho playground was awarded to a contractor at a contract sum of Kshs. 17,513,600 for a period of 16 weeks from 14 July, 2023. Physical verification of the project in October, 2024 revealed that the guard house floor was incomplete, internal painting of the guard house was also not done, glasses were not yet fixed, key pointing from inside of the wall was not done and part of the land was encroached by the adjacent church that brought down part of the wall that had been constructed. The contractor was paid the full contract sum after issuance of inspection and acceptance report that indicated that the expected works were 100% completed. This was contrary to the findings made during the project physical inspection.

Management Response

- I. Internal painting and fixing of glasses was to be done immediately security personnel are deployed.
- II. Key pointing was only for one side of the wall as per attached BQ "JW1".
- III. The wall was in place but was brought down by the church which claimed part of the land (Attached herein are copies of the letters appendix marked" JW2"
- IV. According to the inspection/acceptance team and technical team, works were complete and thus the issuance of completion certificate.

Committee Observation:

The Committee found that the contractor was paid the full contract sum for works certified as "100% complete," yet physical verification revealed multiple incomplete items and a section of the wall destroyed due to land encroachment. This represents a catastrophic failure in the certification and payment process, resulting in payment for work not fully delivered.

Committee Recommendation:

- The Committee recommends that the matter before investigated further by the Ethics and Anti-Corruption Commission;
- That officers who certified the project as complete must be held liable;
- The County must recover the proportionate cost of the incomplete and destroyed works from the contractor and resolve the land encroachment issue with the adjacent church before repairs commence.

3.1.97. Rehabilitation of Joseph Kangethe/Woodley Stadium

The contract for proposed rehabilitation of Joseph Kangethe Stadium was awarded to a contractor at a contract sum of Kshs. 135,245,229 with a completion period of six (6)

months. Review of supporting documents revealed that a payment of Kshs. 29,885,152 was made in respect of payment certificate No.1. However, the inspection and acceptance certificate dated 29 September, 2023 was not supported with a technical report detailing the works done. Therefore, it was not possible to confirm whether the amount paid commensurate with the level of works done at the site.

Physical verification of the project in October, 2024 revealed that the contractor that was awarded the contract in financial year 2022/2023 abandoned the works at 20% completion after payment of 1st certificate. The expected works were construction of perimeter wall, main stand with changing rooms and placement of artificial turf. The drainage had also not been completed. However, records on termination of the previous contract were not provided and testing of the existing structure's integrity was not done.

Further, a new contract was awarded to another contractor on 2 August, 2024 at a contract sum of Kshs. 123,957,878 with a completion period of six months for construction of sitting terraces, playground area and toilet block. It was observed that the incomplete works of the former contractor were not included in the scope of the new contractor. Management did not explain how it intended to complete the works abandoned by the former contractor.

In the circumstances, the value for money and propriety of expenditure of Kshs. 29,885,152 spent on the projects could not be confirmed.

Management Response

- i. The contractor was awarded the tender in 2022/2023 financial year, completed construction of the perimeter walls, drainage system (part) and ground preparation for laying of the turf and had started construction of changing rooms. The contractor had a lot of materials on site also.
- The payment of certificate no 1 took long according to the contractor and he demanded upfront payment which was declined by the department of housing and urban renewal of the County.
- iii. All incomplete works not completed by first contractor were incorporated in the new contract hereby report that:
- 1. Drainage system works ongoing.
- 2. Earthworks for laying of turf have been completed just awaiting laying of the turf.
- 3. Turf was already on site.
- I. The terms citing terraces and main stand terraces refer to the same thing. Refer to **Appendix 34.6**

Committee Observation:

The Committee observed a gross mismanagement of public funds, where an initial contractor was paid Kshs. 29.9 million for only 20% of the work before abandoning the site. A new contract was then awarded without incorporating the incomplete scope from the first contractor, creating a high risk of duplicated payments and leaving critical works unaddressed.

Committee Recommendation:

- The Committee recommends that the awarding of the new contract must be reviewed for propriety;
- That the County Executive must ensure the new contractor's scope explicitly includes completing all abandoned works from the first contract;
- The process of terminating the first contract and recovering funds should be finalized, documented and a report submitted to the County Assembly within sixty days after the adoption of this report.

3.1.98. Lack of Non-Current Assets Ownership Documents

Annex 5 to the financial statements reflects Kshs. 32,981,009,614 in respect to summary of non-current assets register as at 30 June, 2024 which include buildings and structures valued at Kshs. 6,068,472,562. However, analysis of the buildings and ownership records on the parcels of land where the buildings and structures are constructed were not provided for review.

Similarly, documents provided in respect to Dandora Dumpsite indicate that the dumpsite is approximately thirty-two (32.41) hectares. However, the County has ownership documents for land measuring fifteen (15.02) hectares while seventeen (17.39) hectares only have allotment documents. This was contrary to Regulation 166(4) of the Public Procurement and Asset Disposal Regulations, 2020 which states that, for effective, economic, efficient, and transparent use of government inventory, stores and assets at all levels, an Accounting Officer of a procuring entity shall take full responsibility of the management or control of inventory and assets.

Management Response

Ownership documents are provided in Appendix 35

Committee Observation:

The Committee noted with extreme concern that the County lacks ownership documents for a significant portion of its multi-billion-shilling asset base, including nearly half of the Dandora Dumpsite land. This exposes the County to immense risk of asset loss, legal disputes, and inability to leverage its assets for development.

Committee Recommendation:

— The Committee recommends that the County Executive must establish a task force to urgently secure all missing title deeds and ownership documents for County land and buildings and submit a report to the County Assembly within ninety days after the adoption of this report.

3.1.99. Lack of Preparedness to Transition to IPSAS Accrual

Requirements for transition from IPSAS Cash to IPSAS Accrual by County Governments included development of planning documents and technical capacity which entails sensitization and training. However, updates on transition arrangements established that the County Executive constituted a steering committee in the month of November, 2024 to develop a road map, create awareness and capacity building of staff on accrual principles. This was five (5) months after closure of IPSAS Cash reporting period. Therefore, the County may not have prepared adequately for the transition. Further, there was no evidence to indicate that training and sensitization of staff had taken place.

In the circumstances, the County Executives preparedness to transition to IPSAS Accrual could not be confirmed.

Management Response

Accountants involved in preparation of financial statements have been sensitized and trained by the National Treasury and Public Sector Accounting Standards Board (PSASB). Evidence of staff training and sensitization is attached in **appendix labelled C1.** Additionally, quarter 1 and Quarter 2 reports and financial statements of the financial year 2024/2025 have been prepared in Accrual basis of accounting and submitted to the statutory offices. **Find appendix labelled C2**

Committee Observation:

The Committee observed that the County was late in initiating its transition to the IPSAS Accrual basis of accounting, constituting its steering committee five months after the deadline. While management provided evidence of some training, the overall preparedness for this fundamental shift in financial reporting, which affects asset recognition and liability management, remains in doubt.

Committee Recommendation:

- The Committee recommends that the County Executive to accelerate its transition plan;
- That a comprehensive training should be rolled out to all finance and procurement staff;

— That the County Assembly should receive quarterly progress reports on the transition to ensure the County is fully compliant by the statutory deadline.

3.1.100. Lack of Human Resource Manual and Policies

The County Executive did not have an approved staff establishment document, human resource and procedure manual, career progression guidelines, succession plan policy, disciplinary procedure policy, casual policy, recruitment plan and procedures relevant for the effective management of its public services. However, the County Executive's Schemes of Service and Human Resource Policy Manual, 2016 indicated that they were prepared and developed by the National Government for use by its officers. In addition, the schemes of service adopted by the County Executive did not include all the cadres of staff employed by the County Executive or incorporate the changes that have occurred within the County Executive's staff establishment over the years.

In the circumstances, the effectiveness of internal control on staff management could not be confirmed.

Management Response

The County has been fully relying on the Public Service Commission (PSC) Human Resource Manual 2016 and national government career progression guidelines. However, we are in the final stages of developing the Nairobi County Human Resource Manual. The Zero Draft was submitted to the Auditors for review. The same is re-attached herewith for perusal. The manual contains: Human Resource policy, Succession Plan, disciplinary procedure policy, casual policy

During the year under review the Board had been using the Nairobi City County Staff Structure and Establishment developed in 2023. The same was reviewed in 2024 to suit the County needs. The said structure was used to guide recruitments within the County Public Service during the year under review (Copy re-attached). Prior to that, the County had been using the approved County Staff Structure and Establishment, 2018. The same was reviewed in 2023 and amended in 2024. (Copy attached)

The Board can hardly project the County Staffing needs at the beginning of the Financial Year. This is because, recruitments are done as per sector needs. The Board recruits based on sector needs which are submitted in terms of formal recruitment requests supported by availability of budget and existence of vacancy in the staff establishment.

Committee Observation:

The Committee found that the County operates without a customized, approved Human Resource Manual, relying on outdated national government documents. The absence of key policies like a staff establishment, succession plan, and customized career guidelines creates

a significant governance risk, leading to potential inequity, irregular appointments, and a demotivated workforce.

Committee Recommendation:

- The Committee recommends that the County Executive should finalize, approve, and implement its own comprehensive Human Resource Manual within sixty days after the adoption of this report;
- That the Human Resource Manual should be developed through a consultative process with all stakeholders and be tailored to the County's specific structure and needs.

3.1.101. Incomplete Assets Register

Annex 5 to the financial statements reflects summary of non-current assets register with historical cost of Kshs. 32,981,009,614. However, the asset register provided by Management was incomplete and had not been updated to reflect the balances disclosed in Annex 5 to the financial statements.

In the circumstances, the effectiveness of internal controls on assets management may not be achieved.

Management response

The county maintains an asset register that is continuously updated whenever a new asset is acquired. The county has engaged the services of County valuers for valuation of immovable properties (Land and Buildings) which appear in our assets register with no values. This ongoing process ensures that all assets owned by the county are systematically documented and reflected in the register in real time.

Committee Observation:

The Committee noted that the asset register is incomplete and does not reconcile with the figures in the financial statements. An inaccurate asset register undermines internal controls, facilitates loss or misuse of assets, and renders the financial statements unreliable.

Committee Recommendation:

— The Committee recommends that the County Treasury should conduct a comprehensive physical verification of all its assets to reconcile and update the asset register. This exercise should be supported by the ongoing valuation of immovable assets and must be completed before the end of the next financial year. The register should be maintained in real-time going forward and an annual report submitted to the County Assembly.

6.0 SUMMARY OF ALL RECOMMENDATIONS OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF NAIROBI CITY COUNTY EXECUTIVE FOR THE YEAR ENDED 30^{TH} JUNE 2024

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 2024" and having considered responses from the Accounting Officer, the Committee urges the County Assembly to resolve as follows: -

1. Inaccuracies in Compensation of Employees

— The Committee recommends that the County Treasury and Human Resource directorate should strengthen payroll reconciliation, ensure all payments are processed through IPPD, and seek advisory from Salaries and Remuneration Commission before new recruitments.

2. Discrepancies in Cash and Cash Equivalents

- The Committee recommends that the County Executive Committee Member for Finance should close all dormant accounts should be closed and a report submitted to the County Assembly within sixty days after the adoption of this report; and
- That the County treasury to conduct reconciliations on monthly basis, and all bank accounts consolidated under County Treasury oversight and the County Revenue Fund balances should be disclosed transparently.

3. Unexplained Double Payments in Bank Statements

- The Committee recommends that the County Treasury should undertake a reconciliation of all flagged transactions be conducted and recovery measures instituted where actual double payments occurred;
- That the County Treasury should strengthen Internal controls on supplier bank details.

4. Misstatement of Accounts Payables

- The Committee recommends that the County Treasury must maintain an updated debt register with accurate classification and ageing of bills;
- That an independent verification of pending bills should be completed annually and a report submitted to the County Assembly for noting.

5. Unreconciled Related Entities Balances

— The Committee recommends that the County Treasury to conduct a joint reconciliation with the Kenya Power and a Lighting Company and report signed by both parties be produced and submitted to the Assembly within 60 days after the adoption of this report.

6. Long Outstanding Pending Accounts Payable

— The Committee recommends that the County Treasury should develop a comprehensive arrears clearance plan in collaboration with National Treasury, prioritize genuine suppliers, and stop accumulation of new arrears.

7. Undisclosed Pending Bills

- The Committee recommends that the County Treasury should ensure that all liabilities must be captured in the debt register;
- That the County Treasury should be held accountable for non-disclosure and that the County Executive Committee Member responsible for Finance to take disciplinary action against officers responsible for omission.

8. Over and Under Expenditure of Items in the Financial Statements

- The Committee recommends that the County Treasury in conjunction with the Nairobi Revenue Authority should enhance revenue mobilization strategies, including automation of revenue collection;
- That the budget absorption must be improved through timely procurement and project planning.

9. Commitments Over and Above the Approved Budget

- The Committee recommends that the County Treasury should ensure that no expenditure or commitments should be incurred outside IFMIS;
- That pending statutory arrears should be budgeted and settled progressively to avoid misstatements.

10. Contingent Liabilities

— The Committee recommends that the County Attorney should finalize and publish a comprehensive contingent liability register, and develop a legal risk management framework to minimize future exposure. The framework to be submitted to the Assembly within ninety days after the adoption of this report.

11. Low Absorption of Development Expenditure

— The Committee recommends that the County Treasury should ensure that future budgets prioritize development spending and strictly adhere to PFMA thresholds.

12. Unresolved Prior Year Matters

— The Committee recommends that the County Executive should establish and strictly adhere to an audit implementation matrix with quarterly reporting to the Assembly to ensure timely resolution of prior audit queries.

13. Lack of Substantive County Secretary

— The Committee recommends that the County Public Service Board should fast-track the recruitment and appointment of a substantive County Secretary within 60 days after the adoption of this report to ensure compliance with the law and strengthen leadership.

14. Irregular Engagement of Casual Workers

- The Committee recommends that all casuals should be regularized under the County Public Service Board guidelines with proper records maintained;
- That the County treasury should immediately subject payments to statutory deductions;
- That the County Executive should adopt competitive, transparent recruitment aligned with the provisions of the Constitution 2010.

15. Irregular Payment to Nairobi Metropolitan Staff (NMS) Staff

- The Committee recommends that the County Treasury must ensure all payroll is processed strictly through IPPD;
- That a forensic audit of the Nairobi Metropolitan Services staff absorption should be conducted to establish legality and recover any irregular payments within ninety days after the adoption of this report.

16. Irregular Payment of Salary to Dismissed Staff

- The Committee recommends that the County Human Resource Management should implement strict supervisory accountability where delayed reporting of absenteeism attracts surcharges;
- That the disciplinary policies should be finalized and enforced and overpayments should be recovered without delay.

17. Irregular Recruitment of County Staff

- The Committee recommends that the County Public Service Board should audit all recent recruitments with a view of revoking irregular appointments within ninety days after the adoption of this report;
- That the County Public Service Board should ensure all future recruitment are competitive and merit-based.

18. Late Remittance of Staff Deductions

— The Committee recommends that the County Treasury should establish a compliance calendar to prioritize remittance of staff deductions at source to avoid future breaches.

19. Employees Sharing Bank Accounts

— The Committee recommends that the County Treasury to undertake an independent payroll data reconciliation with KRA, NSSF, and banks to confirm authenticity of staff accounts within sixty days after the adoption of this report to eliminate ghost workers.

20. Duplicates Names

— The Committee recommends that the County Human Resource Management should establish and strictly implement unique biometric identifiers in payroll systems and conduct a headcount to confirm staff authenticity within ninety days after the adoption of this report.

21. Officers Active in the Payroll with No Pay

— The Committee recommends that the County Human Resource Management to ensure that the payroll reflect only active, valid staff, suspended/dismissed officers should be removed promptly to enhance payroll accuracy.

22. Officers Whose Bank Remittances were Higher than their Net Pay

— The Committee recommends that the County Human Resource Management must reconcile payroll on monthly; adhere to the Salaries and Remuneration Commission ceilings; and recover overpaid salaries immediately.

23. Officers Paid Gross Salaries Higher than the SRC Recommendation

— The Committee recommends that the County Executive Management should strictly harmonize salaries in line with SRC structures, review legacy CBA payments, and recover unjustified overpayments.

24. Officers not Deducted P.A.Y.E

— The Committee recommends that the County Executive Management should verify all exemptions with KRA, ensure strict compliance with tax laws, and penalize officers responsible for lapses.

25. Variances between IPPD Payroll Computation and Payment Vouchers

— The Committee recommends that the County Treasury should ensure an integration of IPPD and IFMIS more effectively, and submit quarterly payroll reconciliation reports to the Assembly.

26. Irregular Payment of Stipend and Salaries

— The Committee recommends that the County should digitize CHV registers, link stipends to the national population database, and conduct biometric verification to eliminate duplication.

27. Irregular Adjustment of Staffs Details in IPPD

— The Committee recommends that County should restrict payroll edits to authorized officers, subject all changes to audit trails, and conduct a staff headcount to cleanse payroll data.

28. Irregular Payment of Arrears

— The Committee recommends that arrears payments should be one-off and fully documented. The County should audit all arrears paid and recover irregular amounts.

29. Irregular Payment of Transport Allowances

- The Committee recommends that the County Executive should establish uniform transport allowance policies within ninety days after the adoption of this report;
- That a recovery of double payments be done after a report submitted to the County Assembly within sixty days after the adoption of this report.

30. Non-Compliance with Law on Mandatory Retirement

— The Committee recommends that the County Public Service Board should enforce retirement policy strictly and only re-engage retirees on contract where skills are critical and legally justified.

31. Reinstatement of Interdicted Staff

— The Committee recommends that the County Executive should finalize all interdiction cases as per PSC guidelines and ensure court withdrawals don't override disciplinary frameworks and submit a report to the County Assembly within sixty days after the adoption of this report.

32. Non-Remittance of Statutory Dues

— The Committee recommends that the County Treasury to reconcile and remit all statutory deductions, and officers responsible for diversion or delays should face surcharges.

33. Non-Compliance with Fiscal Responsibility Principles

— The Committee recommends that the County Executive should freeze non-essential recruitment, adopt voluntary retirement schemes, and progressively align with SRC wage guidelines to comply by 2028.

34. Failure to Settle Pending Bills

— The Committee recommends that the County Treasury should develop a verified arrears clearance plan, prioritize genuine suppliers, and ensure no new commitments are incurred without budgetary provision.

35. Pending Legal Costs

- The Committee recommends that the County Attorney should finalize reassessment of fee notes and submit a report to the Assembly within sixty days after the adoption of this report;
- That the County Attorney should establish a framework to reduce reliance on external lawyers, and strengthen contract management to avoid repeat litigations.

36. Non-Settlement of Payments Due

— The Committee recommends that the County should prioritize settlement of decreed liabilities, develop a legal risk management strategy, and avoid avoidable penalties.

37. Non-Payment of Dues Arising from Court Award

— The Committee recommends that the County should establish a litigation fund to promptly honor court awards and prevent unnecessary financial losses.

38. Irregular Pending Bills

— The Committee recommends that County should stop issuing imprests without budgetary backing, and surcharge officers authorizing illegal commitments.

39. Failure to Provide Support for Bursary and Scholarship Applications Vetting

— The Committee recommends that the County Executive Member for Talent, Skills Development and Care should establish digital bursary vetting and beneficiary records, enforce strict verification to avoid duplication, and ensure transparency in awards.

40. Un-Acknowledged Disbursements

- The Committee recommends that all bursary payments should be receipted and acknowledged formally.
- That disbursements must be linked to schools' bank accounts with electronic confirmations.

41. Failure to Prepare and Submit Separate Fund Financial Statements

— The Committee recommends that County Executive must operationalize fund accounts and submit them for audit annually, or seek legal amendments to consolidate them

properly and submit a report to the Assembly within ninety days after the adoption of this report.

42. Provision of Work Injury Benefit Act (WIBA), Group Personal Accident and Employer Liability

— The Committee recommends that the County Executive should strengthen contract management, verify training and claims, and ensure insurance updates reflect actual staff changes.

43. Provision of Comprehensive Medical Insurance Cover

— The Committee recommends that future medical insurance contracts should be performance-based, with penalties for non-compliance, and reporting requirements strictly enforced.

44. Provision of General Insurance Services

— The Committee recommends that the County Executive should strengthen internal controls during the tender preparation process to ensure consistency between schedules and supporting documents. All future tenders should be subjected to rigorous pre-audit verification before submission.

45. Irregular Direct Procurement of Insurance Cover

— The Committee recommends that the County Executive should ensure that all contract variations are explored before initiating new procurements, especially with existing service providers. All such decisions must be documented and approved in line with the Public Procurement and Asset Disposal Act, 2015.

46. Number of Vehicles Operated Against Excess Number of Staff Handling the Vehicles

- The Committee recommends that the County Executive should conduct a staff rationalization exercise to formally assign and redesignate staff performing driving duties.
- That a clear vehicle-driver assignment schedule should be maintained and made available for audit.

47. Grounded Vehicles

- The Committee recommends that the County Executive should develop and implement an annual asset disposal plan for grounded vehicles within sixty days after the adoption of this report;
- That all insurance claims must be pursued diligently, and proof of settlement should be maintained.

48. Motor Vehicles held in Private Garages

- The Committee recommends that County Executive should clear outstanding garage bills through a structured payment plan and ensure all future repairs are supported by duly signed job cards, local service orders, and inspection reports;
- That the County Executive to repair and equip all County owned garages to reduce taking the County vehicles to private garages thus reducing on pending bills from vehicles repairs; and
- The County Executive to develop a fleet management policy to provide for management of County fleets within ninety days after the adoption of this report.

49. Irregular Procurement of Motor Vehicle Prime Mover

— The Committee recommends that the County should expedite the insurance claim process and ensure all high value procurements are supported by complete contract documentation before payment.

50. Unsupported Payment of Taxes

— The Committee recommends that the County should seek immediate confirmation of payments from KRA and take advantage of any future tax amnesty programs to reduce penalties and interest.

51. Irregular Procurement of Services

- The Committee recommends that the County Executive must ensure full compliance with the Public Procurement and Asset Disposal Act for all procurements, regardless of value.
- That all payment vouchers must be supported by complete procurement documentation.

52. Irregular Payment for Consultancy for Development of the Tourism Policy for Nairobi City County

— The Committee recommends that the County should adhere to the mandatory advertising periods and ensure all consultancy contracts are duly signed and supported by complete procurement and performance records.

53. Payment for Consultancy Service for Sub-Sector Strategic Plan

— The Committee recommends that the County Executive should ensure that all evaluation committees are constituted in line with Regulation 28(2) of the Public Procurement and Asset Disposal Regulations, 2020, and all reports are duly signed.

54. Anomalies on Routine Maintenance of Motor Vehicles

- The Committee recommends that the County Executive should ensure that all maintenance works are supported by job cards, inspection reports, and returned spare parts;
- That a formal agreement on the vehicles under defunct Nairobi Metropolitan Services should be finalized and a status report submitted to the Assembly within sixty days after the adoption of this report.

55. Payment for Stalled Construction of Perimeter Wall in Mji wa Huruma

— The Committee recommends that the County Executive should conduct a technical assessment of the project and ensure necessary repairs are undertaken before further payments are made. The contractor should be held accountable for project completion.

56. Rehabilitation of Lot 13 Roads in Eastleigh Area Nairobi (Athumani, Kipande, Mwende Road, Blue Estate and Kitui Village)

— The Committee recommends that the County Executive Management should ensure all projects commence timely, performance bonds are commensurate with contract value, and all procurement documents are obtained and maintained.

57. Irregular Payment for Rehabilitation of Roads in Industrial Area

— The Committee recommends that the County Treasury should recover all payments made for non-performing contracts and ensure all future contracts are monitored for timely execution.

58.Irregular Engagement of Bidders Without Advertising of Tenders for Construction and Civil Works Projects

- The Committee recommends that the County Executive must ensure all procurements are publicly advertised as required by law, and all awarded contracts are supported by complete tender documentation;
- That the further be investigated further by the Ethics and Anti-Corruption Committee.

59. Supply and Delivery of 3x16mm2 ABC Aluminium Round

— The Committee recommends that the County Executive to develop mechanisms to strengthen stores management to prevent pilferage, ensure delivered materials match specifications, and adhere to contract validity periods.

60. Supply and Delivery of Assorted Electrical Materials for Street Lighting

- The Committee recommends that the County Executive must enforce strict adherence to LPO validity periods and ensure all statutory deductions are made;
- That the Supply Chain Management and County Attorney's offices must streamline contract finalization to ensure all agreements are signed within the legally mandated tender validity period.

61. Supply and Delivery of 5000 Tonnes of Quarry Chips

- The Committee recommends that the County Treasury should develop and should implement a system where payments for bulk supplies are only processed upon verification against daily delivery notes;
- That all contracts must be executed within the tender validity period, and no LPOs should be issued before a valid contract is in place.

62. Supply and Delivery of 8000 Tonnes of Crusher and 1,200 Drums of K160

— The Committee recommends that for all framework contracts, the County Executive must ensure that mandatory documents including signed contracts, performance bonds, and acceptance letters are in place before any orders are placed or payments are made.

63. Supply and Delivery of Asphalt Plant Accessories

- The Committee recommends that the County Executive must adhere to the financial thresholds for different procurement methods as stipulated in the law;
- That all procurement officers should be retrained on these thresholds to prevent future breaches.

64. Irregular Procurement of Bitumen

- The Committee recommends that the procurement of bitumen should be investigated for possible integrity issues by the Ethics and Anti-Corruption Commission;
- The County Executive must ensure all future evaluations are conducted by committees constituted in strict compliance with the law and that a complete and verifiable procurement record is maintained for.

65. Irregular Procurement of Renovation of County Flats in Uhuru Estate

- The Committee recommends that the County Executive must not initiate any procurement without verified budgetary allocation;
- That for this stalled project, a decision must be made to either formally extend the contract and secure a completion date or terminate it and explore alternative solutions.

66. Payment for Construction of ECDE Centre at Ngunyumu Primary School

— The Committee recommends that the County Executive should regularize all ongoing contracts where the period has lapsed by obtaining proper approvals for time extensions before any further payments are processed.

67. Irregular Procurement of Events Management Services

— The Committee recommends that the County should justify the use of third-party service providers over in-house venue services. All evaluation reports and score sheets must be duly signed, and performance bonds must be obtained as a mandatory requirement for all awarded contracts.

68. Anomalies in Provision of Legal Services

- The Committee recommends that the County Attorney should develop and implement a transparent case allocation system that ensures equitable rotation among prequalified advocates;
- That the County Attorney should establish a structured and prioritized payment plan for legal bills to manage the ballooning pending bills and avoid accruing further interest.

69. Unfair Award of Cases and Payment to Advocates

- The Committee recommends that the County Attorney should develop and implement a transparent case allocation system that ensures equitable rotation among prequalified advocates;
- That a structured and prioritized payment plan for legal bills must be established to manage the ballooning pending bills and avoid accruing further interest.

70. Long Outstanding Court Payments

— The Committee recommends that the County Executive must treat the settlement of decretal sums as a critical financial priority by developing and funding a multi-year payment plan in the annual budgets to systematically clear these debts and stop the financial bleeding from accrued interest.

71. Construction of Governor's Residence

- The Committee recommends that the County Executive must seek ratification and a waiver from the SRC for the excess expenditure and acreage;
- That all future projects must strictly adhere to national guidelines, and full ownership documents for the land must be provided for audit.

72. Failure to Construct Deputy Governor's Residence and Irregular Rental House Allowance

— The Committee recommends that the County Executive should expedite the process of acquiring land and constructing the Deputy Governor's official residence and submit a status report to the Assembly within ninety days after the adoption.

73. Irregular Payments to Dishi Na County Implementer (shs 45 per plate, county pays 25 bob parents 5 bob and donor 15 bob) implementing partner has a donor who subsidizes the meal)

— The Committee recommends that a special audit of the programme be undertaken by the Office of the Auditor-General.

74. Irregular Procurement of Proposed Construction of Central Kitchen

— The Committee recommends that a special audit of the programme be undertaken by the Office of the Auditor-General.

75. Irregular Procurement for Construction of Market

— The Committee recommends that the County Executive must demand the renewal of the performance bond and either secure a credible plan for the project's completion from the contractor or initiate termination and recovery processes. A full status report on all stalled projects must be submitted to the Assembly within sixty days after the adoption of this report.

76. Procurements above the Budgeted Amount

- The Committee recommends that the County Executive must strictly adhere to the approved budgets. Any procurement must be fully funded within its specific budget line before initiation, as required by law;
- That a system of pre-commitment control should be strengthened to prevent such occurrences.

77. Supply and Delivery of Non-Pharmaceuticals -

— The Committee recommends that the County Treasury must enforce strict adherence to the legally mandated inspection timeline. The practice of post-delivery LPO "validation" must cease. LPOs should be issued with realistic delivery periods, and any delays must lead to the cancellation and re-tendering of the procurement.

78. Supply and Delivery of Health Products for Mutuini Hospital

- The Committee recommends that County Executive should ensure that all procurement processes are sequentially documented and free from discrepancies to safeguard integrity, transparency, and compliance with PPADA, 2015;
- That the County Executive should strengthen the functioning of the Inspection and Acceptance Committee to ensure goods are inspected immediately upon delivery, in strict compliance with Section 48 of PPADA, 2015;
- That for essential and emergency supplies such as health products, the County Executive should establish a framework for framework contracts or standing agreements with prequalified suppliers to avoid delays and lapses in validity while still ensuring compliance with the law.

79. Supply and Delivery of Non-Pharmaceuticals and Linen for Health Facilities

- The Committee recommends that the County Executive should ensure that inspection and acceptance of goods is done immediately upon delivery, in compliance with Section 48 of the PPADA, 2015, and establish strict timelines and monitoring mechanisms for all inspection committees.
- That the County Treasury and Procurement Unit should adopt a standardized documentation and record-keeping framework, including clear interpretation and use of the Stores Received Statement (SRS), to eliminate inconsistencies and discrepancies in records.

80. Supply and Delivery of Yellow Fever Certificate

- The Committee recommends that the County Executive should ensure that all deliveries are receipted in real time and that inspection and acceptance strictly follow delivery in compliance with Section 48 of the PPADA, 2015.
- That the practice of "validating" expired LPOs should be discontinued immediately, and any extensions of delivery periods should only be done through formal contract variations approved in line with procurement law.
- That the County Treasury and Procurement Unit should digitize and synchronize procurement and stores records to eliminate inconsistencies in delivery notes, SRS entries, and inspection dates.

81. Procurement and Payment of Fuel, Oil and Lubricants

— The Committee recommends that the County Executive must implement a transparent and equitable rotation system for all framework contractors;

- That a comprehensive fuel management policy must be developed and implemented, ensuring proper vehicle maintenance, accurate record-keeping, and clear accountability for all fuel drawn;
- That the issue of fueling County Assembly vehicles must be regularized with a proper inter-governmental recharge system.

82. Construction of Gikomba Fire Station

- The Committee recommends that the County Executive must ensure the strict separation of Tender Opening and Evaluation Committees as required by law;
- That all progress payments for projects must be supported by detailed technical reports and verified physical progress;
- That the project should be closely monitored to ensure timely completion.

83. Irregular Procurement of Affordable Housing Project

— The Committee recommends that all multi-billion-shilling projects must be subjected to thorough independent review for the County Executive to ensure full compliance with all legal requirements, particularly regarding the calculation of performance securities and the integrity of the evaluation process, to protect the County's significant public asset (land) and ensure value for money.

84. Irregular Procurement for Completion Works of a Modern OPD Complex at Mutuini Hospital

- The Committee recommends for the investigation of the procurement process by the Ethics and Anti-Corruption Commission for possible impropriety;
- That the County Executive should halt all further payments and commission an independent engineering and financial audit to validate the necessity and cost of the additional scope of works before proceeding.

85. Stalled Rehabilitation of Desert Play Ground in California Ward

- The County Executive should strengthen contract management and supervision mechanisms, including mandatory monitoring reports and timely extension approvals where delays are justified.
- The project implementation unit should ensure that future contracts are planned comprehensively, including essential components such as perimeter walls, to ensure the facilities are functional, safe, and sustainable upon completion.

86. Stalled Construction of Social Hall at Kahawa West Ward

— The Committee recommends that the County Executive must develop and implement a comprehensive Stalled Projects Recovery Plan. This should include a forensic audit of all stalled projects, termination of non-performing contracts, and blacklisting of responsible contractors. A project management unit must be established to oversee all projects from inception to completion.

87. Other Stalled Projects

- The Committee recommends that the County Executive must develop and implement a comprehensive Stalled Projects Recovery Plan. This should include a forensic audit of all stalled projects, termination of non-performing contracts, and blacklisting of responsible contractors;
- That a project management unit must be established to oversee all projects from inception to completion.

88. Irregular Expenditure under Framework Contracting on Purchase of Food and Non-food Items

- The Committee recommends that the County Executive must ensure that call-offs under framework contracts are awarded based on the most advantageous prices offered at the time of the call-off, not the initial prequalification;
- That a transparent and documented rotation system must be implemented immediately.

89. Irregularities at Nanyuki Road Stores

- The Committee recommends that the County Executive must undertake an immediate, comprehensive stock-taking and automation of all stores. The Head of Procurement must be held accountable for conducting mandatory quarterly stock takes;
- That all obsolete and slow-moving items must be identified and disposed of according to the law;
- That security and accountability measures must be drastically improved.

90. Asphalt Plant Store

— The Committee recommends that the County Executive must undertake an immediate, comprehensive stock-taking and automation of all stores. The Head of Procurement must be held accountable for conducting mandatory quarterly stock takes;

- That all obsolete and slow-moving items must be identified and disposed of according to the law;
- That security and accountability measures must be drastically improved.

91. General Store

- The Committee recommends that the County Executive must undertake an immediate, comprehensive stock-taking and automation of all stores. The Head of Procurement must be held accountable for conducting mandatory quarterly stock takes;
- That all obsolete and slow-moving items must be identified and disposed of according to the law;
- That security and accountability measures must be drastically improved.

92. Dandora Stadium

- The Committee recommends that the County Executive must hold the contractor liable for rectifying all identified defects at no additional cost to the government;
- That a comprehensive inspection and certification process must be implemented before any project is handed over;
- That the contractors for all four stadia should be required to show cause why they should not be blacklisted.

93. Renovation of Huruma Estate

- The Committee' recommends that the County must immediately appoint a new contractor to complete the outstanding and remedial works;
- That the project manager and supervising officer for this project should be held accountable for the poor supervision and project failure.

94. Rehabilitation of Joe Kadenge City Stadium

- The Committee recommends that the County Executive must immediately issue a default notice to the contractor and invoke the lapsed performance security;
- That the project should be re-tendered, and the works already paid for must be rigorously verified to ensure the County recovers value for the funds expended.

95. Renovation of Uhuru Estate

— The Committee recommends that the County Executive should issue a reprimand to the Inspection and Acceptance Committee for certifying substandard work;

- That a new committee should be constituted to re-inspect the project within thirty days after the adoption of this report;
- That the contractor should be compelled to rectify all defects at their own cost before any further payments are considered.

96. Construction of Jericho Perimeter Wall

- The Committee recommends that the matter before investigated further by the Ethics and Anti-Corruption Commission;
- That officers who certified the project as complete must be held liable;
- The County must recover the proportionate cost of the incomplete and destroyed works from the contractor and resolve the land encroachment issue with the adjacent church before repairs commence.

97. Rehabilitation of Joseph Kangethe/Woodley Stadium

- The Committee recommends that the awarding of the new contract must be reviewed for propriety;
- That the County Executive must ensure the new contractor's scope explicitly includes completing all abandoned works from the first contract;
- The process of terminating the first contract and recovering funds should be finalized, documented and a report submitted to the County Assembly within sixty days after the adoption of this report.

98. Lack of Non-Current Assets Ownership Documents

— The Committee recommends that the County Executive must establish a task force to urgently secure all missing title deeds and ownership documents for County land and buildings and submit a report to the County Assembly within ninety days after the adoption of this report.

99. Lack of Preparedness to Transition to IPSAS Accrual

- The Committee recommends that the County Executive to accelerate its transition plan;
- That a comprehensive training should be rolled out to all finance and procurement staff;
- That the County Assembly should receive quarterly progress reports on the transition to ensure the County is fully compliant by the statutory deadline.

100. Lack of Human Resource Manual and Policies

- The Committee recommends that the County Executive should finalize, approve, and implement its own comprehensive Human Resource Manual within sixty days after the adoption of this report;
- That the Human Resource Manual should be developed through a consultative process with all stakeholders and be tailored to the County's specific structure and needs.

101.Incomplete Assets Register

— The Committee recommends that the County Treasury should conduct a comprehensive physical verification of all its assets to reconcile and update the asset register. This exercise should be supported by the ongoing valuation of immovable assets and must be completed before the end of the next financial year. The register should be maintained in real-time going forward and an annual report submitted to the County Assembly.

7.0 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 2023/2024" and oral/written responses by witnesses it invited, has made various recommendations that require implementation by the County Executive Committee Member, Finance and Economic Affairs, Accounting Officers and state agencies. The recommendations are aimed at deterring future misappropriation of public funds.

8.0 ANNEXURES

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

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	Tige provide
2.	Hon. Abel Osumba Atito, MCA - Vice -	
	Chairperson	- tuttullum Cas
3.	Hon. Benter Juma Obiero, MCA	Office
4.	Hon. Redson Otieno Onyango, MCA	IS.
5.	Hon. John Rex Omolleh, MCA	The state of the s
6.	Hon. Stazo Omung'ala Ang'ila, MCA	Jens
7.	Hon. Richardo Nyantika Billy, MCA	(i) 6
8.	Hon. John Ndile Musila, MCA	CAD .
9.	Hon. Cyrus Mugo Mubea, MCA	at-
10.	Hon. Jane Musangi Muthembwa, MCA	Dane
11.	Hon. Emmy Khatemeshi Isalambo, MCA	Feed
12.	Hon. Fuad Hussein Mohamed, MCA	
13.	Hon. Fatuma Abduwahid Abey, MCA	
14.	Hon. Eutychus Mukiri Muriuki, MCA	
15.	Hon. Fredrick Njoroge Njogu, MCA	4
16.	Hon. Rachel Wanjiru Maina, MCA	Dochel
17.	Hon. Aaron Kangara Wangare, MCA	(Human)
18.	Hon. Carrington Gichunji Heho, MCA	Carineyon House
19.	Hon. Mark Thiga Ruyi, MCA	AH-
20.	Hon. Simon Maina Mugo, MCA	672
21.	Hon. Paul Wachira Kariuki, MCA	P.W.K.
22.	Hon. Martin Mbugua Mwangi, MCA	Mins.
23.	Hon. Mary Wanjiru Kariuki, MCA	MIK



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

<u>IN-ATTENDANCE</u> – 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;
- 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

SIGNATURE

CHAIRPERSON (

DATE

15/10/2025