

REPORT OF THE AUDITOR-GENERAL ON COUNTY EXECUTIVE OF KISII FOR THE YEAR ENDED 30 JUNE, 2020

REPORT ON THE FINANCIAL STATEMENTS

Qualified Opinion

I have audited the accompanying financial statements of the County Executive of Kisii set out on pages 1 to 52, which comprise the statement of assets and liabilities as at 30 June, 2020, and the statement of receipts and payments, statement of cash flows and summary statements of appropriation – recurrent, development and combined for the year then ended, and a summary of significant accounting policies and other explanatory information in accordance with the provisions of Article 229 of the Constitution of Kenya and Section 35 of the Public Audit Act, 2015. I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit.

In my opinion, except for the effect of the matters described in the Basis for Qualified Opinion section of my report, the financial statements present fairly, in all material respects, the financial position of the County Executive of Kisii as at 30 June, 2020 and of its financial performance and its cash flows for the year then ended, in accordance with International Public Sector Accounting Standards (Cash Basis) and comply with the Public Finance Management Act, 2012 and the County Governments Act, 2012.

Basis for Qualified Opinion

1.0 Unsupported Pending Bills

As disclosed in Note 7.9.(1) on other important disclosures to the financial statements, the County Executive of Kisii had pending bills amounting to Kshs.923,956,981 as at 30 June, 2020 compared to pending bills of Kshs.1,076,394,434 as at 30 June, 2019. However, details of additional pending bills and those paid during the year under review were not disclosed in the financial statements. Further, supporting documents including contract documents, invoices, purchase orders, the certificates of completion or inspection and acceptance certificates were not provided for audit review.

Further, pending bills amounting to Kshs.318,761,350 incurred in 2013/2014 financial year and which related to court awards, legal fees and salaries paid by the Ministry of Health on behalf of the County Government were omitted from the pending bills balance of Kshs.923,956,981 as at 30 June, 2020.

Consequently, the accuracy, validity and completeness of the Kshs.923,956,981 in respect to pending bills as at 30 June, 2020 could not be confirmed.

2.0 Presentation and Disclosure of Prior Year Adjustments

As disclosed in Note 25 to the financial statements, the statement of assets and liabilities reflects a negative prior year adjustments of Kshs.8,096,020. However, the adjustment was effected in the current financial year instead of prior year, contrary Paragraph 47 of International Public Sector Accounting Standards (IPSAS) 3—Accounting Policies, Changes in Accounting Estimates and Errors which requires an entity to correct material prior period errors retrospectively in the first set of financial statements authorized for issue after their discovery by restating the comparative amounts for prior period(s) presented in which the error occurred.

Consequently, the accuracy of the financial statements as presented could not be confirmed.

3.0 Summary of Fixed Assets

Annex 5 to the financial statements reflects a balance of Kshs.14,364,601,913 being the historical cost of assets as at 30 June, 2020. The balance includes additions during the year of Kshs.1,934,278,539 while the assets register maintained by the County reflected additions of Kshs.731,955,464 leading to an unreconciled variance of Kshs.1,202,323,075. However, assets inherited from the defunct local authorities have not been valued to facilitate processing of the ownership documents.

Under the circumstances, the accuracy, completeness, valuation and existence of assets at historical cost of Kshs.14,364,601,913 as at 30 June, 2020 could not be confirmed as fairly stated.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of the County Executive of Kisii Management in accordance with ISSAI 130 on Code of Ethics. I have fulfilled other ethical responsibilities in accordance with the ISSAI and in accordance with other ethical requirements applicable to performing audits of financial statements in Kenya. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my qualified opinion.

Key Audit Matters

Key audit matters are those matters that, in my professional judgment, are of most significance in the audit of the financial statements. There are no other key audit matters to report in the year under review.

Other Matter

1.0 Budgetary Control and Performance

The summary statement of appropriation- recurrent and development combined reflects total budgeted receipts of Kshs.12,925,562,961 and actual receipts of Kshs.8,743,886,949 resulting to a budget shortfall of Kshs.4,181,676,012 or 32% of the budget. Similarly, the County Executive spent Kshs.9,545,307,353 against an approved budget of Kshs.12,925,562,961 resulting to an under-expenditure of Kshs.3,380,255,608 or 26% of the budget. The underfunding and underperformance constrained execution of planned activities and delivery of services to the residents of Kisii County.

2.0 Late Exchequer Releases

Note 1 to the financial statements indicates total Exchequer releases of Kshs.7,934,953,302 out of which an amount of Kshs.1,049,840,824 or 13% was received by the County Government from The National Treasury during the month of June, 2020 as detailed below:

Received Date	Reference Number	Details	Amount Kshs
4/06/2020	FT20156JLBP3	Exchequer issue	26,138,997
4/06/2020	FT20156ZGBLV	Exchequer issue	37,276,649
4/06/2020	FT20156QNP1R	Exchequer issue	117,337,803
4/06/2020	FT0156HD8M	Exchequer issue	156,872,000
4/06/2020	FT20167SNW5H	Exchequer issue	11,484,375
15/06/2020	FT201760W2Z2	Exchequer issue	700,731,000
	Total		1,049,840,824

As a result of the delayed receipt of funds, the County Executive did not have sufficient time to absorb its total budget for the year.

3.0 Project Implementation Status

3.1 Budgeted Projects

The County Executive had a development budget of Kshs.4,167,011,149 out of which only an amount of Kshs.2,442,487,869 or approximately 59% was spent on various projects leaving a balance of Kshs.1,724,523,280 unutilized as shown below:

Department	Budget Kshs	Actual Kshs	Under Absorption Kshs.	Budget Utilization (%)
County Executive and Public Service Board	15,000,000	2,394,924	12,605,076	16%
County Administration, Corporate Services	47,945,650	25,431,373	22,514,277	53%

Department	Budget Kshs	Actual Kshs	Under Absorption Kshs.	Budget Utilization (%)
and Stakeholder Management				
Finance and Economic Planning	82,667,353	52,794,364	29,872,989	64%
Roads, Public Works and Transport	1,113,212,745	633,136,117	480,076,628	57%
Health	1,121,248,133	659,397,468	461,850,665	59%
Education, Labour, Manpower Development and ICT	195,084,859	143,589,444	51,495,415	74%
Agriculture, Livestock, Fisheries and Cooperative Development	592,090,738	476,709,635	115,381,103	81%
Energy, Water, Environment and Natural Resources Sector	257,692,584	98,894,572	158,798,012	38%
Culture and Social Services	187,115,380	97,004,620	90,110,760	52%
Lands, Physical Planning and Urban Development	138,861,501	105,708,554	33,152,947	76%
Trade Development and Regulations	113,846,483	51,196,033	62,650,450	45%
Kisii Municipality	302,245,723	96,230,765	206,014,958	32%
Total	4,167,011,149	2,442,487,869	1,724,523,280	59%

Under the circumstance, the residents of Kisii County did not receive the expected goods and services equivalent to Kshs.1,724,523,280 being the budgeted projects that had not started and projects that were partially completed or ongoing during the year under review.

3.2 Key Ongoing Projects

A review of the Projects Implementation Status Report as at 30 June, 2020 revealed that thirty-three (33) projects with a total budget of Kshs.1,431,151,142 and actual expenditure of Kshs.626,940,306 were on-going as at 30 June, 2020. The projects were expected to be completed by 30 June, 2020. However, as at the time of our audit in November, 2020, the projects had not been completed. The slow pace of projects implementation may negatively affect goods and service delivery to the residents of County Government of Kisii and the intended purpose of the projects may not be actualized.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

As required by Article 229(6) of the Constitution, based on the audit procedures performed, except for the matters described in the Basis for Conclusion on Lawfulness and Effectiveness in Use of Public Resources section of my report, I confirm that, nothing else has come to my attention to cause me to believe that public resources have not been applied lawfully and in an effective way.

Basis for Conclusion

1.0 Compensation of Employees

As disclosed in Note 11 to the financial statements, the statement of receipts and payments reflects an expenditure of Kshs.4,454,073,166 under compensation of employees. However, the following anomalies were noted in relation to the expenditure:

1.1 Non-Compliance with the Law on Wage Bill

During the year under review, the County Government collected total revenues of Kshs.8,743,886,949 and spent a total of Kshs.4,454,073,166 on compensation of employees representing 51% of the total revenues raised. This is contrary to Regulation 25(1)(b) of the Public Finance Management (County Governments) Regulations, 2015 which limits the County Executive's expenditure on wages and benefits to not more than 35% of the total revenue for the year.

The high wage bill is an indication that most of the County's resources are spent on staff salaries at the expense of development projects and thus impacting negatively on service delivery to the residents of Kisii.

1.2 Staff Recruitments

The expenditure of Kshs.4,454,073,166 under compensation of employees also includes an amount of Kshs.2,686,308,160 incurred on basic salaries of permanent employees. Review of the personnel records revealed the County Executive recruited two hundred and seventy-two (272) officers with none reserved for people with disabilities. This is contrary to Section B 23(2) of the Kisii County Public Service Human Resource Policy that requires that at least five (5) percent of all appointments shall be for persons with disabilities.

Consequently, the Management is in breach of the County Policies.

1.3 Employees Earning Below the Statutory Minimum

A review of the County Executive's payroll revealed that seventy-two (72) members of staff were earning less than a third of their basic salary. This was contrary to Section 19(3)

of the Employment Act, 2007 which states that the total amount of deduction of the wages of an employee should not exceed two thirds of such wages.

1.4 Shared Bank Accounts

Review of the payroll and other personnel records revealed that nineteen (19) officers shared the same bank account numbers as shown below;

Payroll Number	Agent Code at FOSA Accounts	Branch Code	Account Number
20140149266	99	63-Gusii Malimu Sacco	32809
20140150241	99	63-Gusii Malimu Sacco	32809
20140168832	99	63-Gusii Malimu Sacco	37222
20140168850	99	63-Gusii Malimu Sacco	37222
20140147539	99	63-Gusii Malimu Sacco	38256
20140150009	99	63-Gusii Malimu Sacco	38256
20140142696	99	63-Gusii Malimu Sacco	2005023578
20140149426	99	63-Gusii Malimu Sacco	2005023578
20140149757	99	63-Gusii Malimu Sacco	2005023694
20140145642	99	63-Gusii Malimu Sacco	2005023694
1987075492	99	194-Shirika Sacco	10100100598
1988024826	99	194-Shirika Sacco	10100100598
2003011440	99	194-Shirika Sacco	1100069026301
20170166186	99	194-Shirika Sacco	1100069026301
2010108290	99	194-Shirika Sacco	1100069026301
20140099832	99	194-Shirika Sacco	1100069026301
2011220134	99	194-Shirika Sacco	1100069026301
2009054006	99	92-Ukulima Sacco	5000020834000
20180099049	99	92-Ukulima Sacco	5000020834000

The shared accounts contravene Section B 12(1)(vii) of the Public Service Human Resource policy that requires each candidate on first appointment to provide bank account details. The Management did not explain why the officers were using the same bank account in the same Sacco.

1.5 Staff Ethnic Composition

Review of recruitment by the County Public Service Board revealed that 269 out of 272 (98%) were recruited from the dominant community contrary to Section 65(1)(E) of County Government Act, 2012 that requires that, in selecting candidates for appointment, the County Public Service Board should consider the need to ensure that at least thirty percent (30%) of the vacant positions at the entry level are filled by candidates who are not from the dominant ethnic community in the County.

The Management is in breach of the law, to this extent.

2.0 Supply of Liquid Nitrogen Artificial Insemination Equipment, Veterinary Supplies Materials and Drugs

The statement of receipts and payments reflects an expenditure of Kshs.1,609,492,141 under use of goods and services which, as disclosed in Note 12 to the financial statements, includes an amount of Kshs.409,924,172 in respect to specialized materials and services. The latter balance includes an amount of Kshs.32,975,000 incurred on supply and delivery of liquid nitrogen, artificial insemination equipment, veterinary supplies, materials, drugs and vaccines using framework contracts with four (4) suppliers. Review of documents revealed that the County entered into a framework contract with four (4) suppliers which was below the minimum of seven (7) required under Section 114(1)(c) of the Public Procurement and Asset Disposal Act, 2015 where a minimum of seven(7) alternative vendors are included for each category

Under the circumstances, the County Executive is in breach of the law.

3.0 Acquisition of Assets

As disclosed in Note 17 to the financial statements, the statement of receipts and payments reflects an expenditure of Kshs.1,968,476,289 under acquisition of assets. The following observations were made:

3.1 Construction of Roads

3.1.1 Maintenance of Gianchere Secondary – Nyanturubo – Obichanga Road

The expenditure of Kshs.1,968,476,289 under acquisition of assets includes an amount of Kshs.396,132,817 incurred on construction of roads. The latter balance includes an amount of Kshs.3,540,320 for repair and maintenance of Gianchere Secondary – Nyanturubo – Obichanga road. The road was to be repaired at a contract sum of Kshs.3,540,320 for a contract period of 4 months starting from 13 March, 2020 and ending on 13 July, 2020. Physical verification on 14 October, 2020 revealed that some sections of the road had been washed away by runoff storm water casting doubt on the quality of workmanship.

Consequently, the propriety and value for money of Kshs.3,540,320 expenditure could not be ascertained.

3.1.2 Masakwe - Nyanhogu Road Drainage Works and Slope Protection

The expenditure of Kshs.396,132,817 on construction of roads further includes an amount of Kshs.3,914,130 paid to a contractor for drainage works and slope protection of Masakwe – Nyanhogu road at a contract sum of Kshs.3,942,097. Physical verification on 14 October, 2020 revealed the stone pitching done at a cost of Kshs.2,184,000 had already been washed off by storm water in some sections. Further, gabion boxes laid at a cost of Kshs.1,020,000 were laid using very light gauge hexagonal double twisted steel meshes which were already torn.

Consequently, the propriety and value for money of Kshs.3,914,130 expenditure could not be ascertained.

3.1.3 Rehabilitation of Kisii Main Stage – Gitare Road

Included in the expenditure of Kshs.396,132,817 on construction of roads is also an amount of Kshs.22,433,561 paid to contractor for rehabilitation of Kisii main stage –Gitare road at a contract sum of Kshs. 49,414,550 for a contract period of six (6) months starting date 16 May, 2018 to 16 November, 2018. However, the final certificate was issued on 16 March, 2020 an indication that the project was completed after twenty-two (22) months. Project verification on 14 October, 2020 revealed that the road marking with white and yellow reflectorized paint at a cost of Kshs.1,131,400 has faded out and was not visible. Wearing course on major accesses and service roads (approaches) were not done. The road is also wearing out at the edges.

In the circumstances, the propriety and value for money of Kshs.22,433,561 expenditure could not be ascertained.

3.2 Incomplete Construction of Ward Offices

The expenditure of Kshs.1,968,476,289 under acquisition of assets includes an amount of Kshs.187,392,664 relating to construction of buildings which further includes an expenditure of Kshs.2,129,837 for construction of Riana and Nyatieko Ward Offices at a contract sum of Kshs.4,835,924 and Kshs.4,856,437 respectively. Physical verification of projects revealed that the two projects were incomplete and contractor was not on site.

Consequently, the value for money of the Kshs.2,129,837 expenditure for the year ended 30 June, 2020 could not be confirmed.

3.3 Construction and Civil Works

3.3.1 Repair and Maintenance Isanta Box Culvert

The expenditure of Kshs.1,968,476,289 under acquisition of assets includes an amount Kshs.784,167,460 in respect of construction and civil works which further includes an amount of Kshs.5,079,988 paid to a contractor for repair and maintenance of Isanta Box Culvert. Physical verification of the project on 14 October, 2020 revealed that the guardrails erected at a cost of Kshs.378,000 had been vandalized and completely cut on both sides. Also, rock fill gabions costed at Kshs.252,000 that were certified as having been done and subsequently paid for were not done.

In the circumstances, the value for money for the expenditure Kshs.630,000 could not be confirmed.

3.3.2 Incomplete Construction of Ablution Block and Cabro Paving

The expenditure of Kshs.784,167,460 in respect of construction and civil works also includes an amount of Kshs.7,126,167 paid to a contractor for construction of ablution

block and cabro paving at a contract sum of Kshs.12,318,775 for a period of twenty (20) weeks commencing 31 May, 2019 and ending 31 January, 2021. Physical verification conducted on 21 October, 2020 revealed that the work was incomplete and the contractor was not on site.

In the circumstances, the propriety, value for money for the expenditure of Kshs.7,126,167 could not be ascertained.

3.3.3 Irregular award of Construction of Reproductive Health Unit

The expenditure of Kshs.784,167,460 under construction and civil works includes an amount of Kshs.149,768,957 paid to a contractor for the construction of reproductive health unit at Kisii Referral Hospital at a contract sum of Kshs.794,006,152 for a period of four (4) years commencing on 19 March, 2019 to 19 March, 2023. Review of the procurement documents revealed the following;

- i. The contract was awarded to a non-citizen contractor even though it was reserved for citizen contractor in the 2018/2019 procurement plan in line with Section 33(2)(f) of the Public Procurement and Asset Disposal Act, 2015 which promote preference and reservation schemes for small and micro enterprises and other disadvantaged groups, citizen contractors, women, youth, persons with disabilities, minorities and marginalized groups in public procurement at the County.
- ii. The registration certificate and practicing license for the contractor from the National Construction Authority expired on 30 June, 2019. The contractor was, therefore, carrying out the construction works unlawfully contrary to Section 7 of the National Construction Authority Regulations, 2014 which states that a person or firm shall submit annual application for renewal to the Authority.

3.3.4 Construction of Pavilion at Gusii Stadium

Included in the expenditure of Kshs.784,167,460 under construction and civil works is an amount of Kshs.54,732,570 paid to a contractor for construction of Pavilion at Gusii Stadium at contract sum of Kshs.85,722,196. A review of the documents revealed that the contractor registration certificate and practicing license from the National Construction Authority expired on 30 June, 2019. The contractor was therefore, been carrying out the construction works contrary to Section 7 of the National Construction Authority Regulations, 2014 which states that a person or firm shall submit annual application for renewal to the Authority. The project faces possible closure by the National Construction Authority leading to avoidable delays and costs.

3.3.5 Stalled Construction of Marani Town Hall

The expenditure of Kshs.784,167,460 under construction and civil works further includes an amount of Kshs.18,085,916 paid to a contractor for construction of Marani Town Hall at a contract sum of Kshs 26,245,960. Physical verification on 21 October, 2020, twenty

two (22) months after the agreed completion date of 30 December, 2018, revealed the project had stalled and the contractor had abandoned the site.

Consequently, the residents of Kisii have not received value for money for the amount of Kshs.18,085,916 invested on the project.

3.3.6 Stalled Construction of Mosocho Town Hall

The expenditure of Kshs.784,167,460 under construction and civil works further includes an amount of Kshs.20,709,435 paid to a contractor for the construction of Mosocho Town Hall at contract sum of Kshs.24,346,979. The project was to be completed on 30 December, 2014. Physical verification on 21 October, 2020 revealed the project was incomplete and the project had stalled and the contractor had abandoned the site.

Consequently, the public have not received value for money for the amount of Kshs.20,709,435 invested in this project.

3.4 Overhaul and Refurbishment of Construction and Civil Works

3.4.1 Market Sheds not Operational

The expenditure of Kshs.1,968,476,289 under acquisition of assets includes an amount of Kshs.246,449,083 for overhaul and refurbishment of construction and civil works which further includes Kshs.22,693,487 paid to seven (7) contractors for the construction of market sheds as detailed below:

Project	Amount Paid Kshs.
Ogembo Market	2,439,232
Nyabitunwa Mama Mboga Shed	3,193,100
Geteri Market	3,047,670
Ramasha Market Shed	3,047,620
Ogembo Upper Market Shed	3,949,995
Kiogoro Market	3,016,530
Nyamasibi Market Shed	3,999,340
Total	22,693,487

Physical verification in October, 2020 revealed that the market sheds are complete but not in use by the residents of Kisii County contrary to Section 162(2)(c)(i) of the Public Finance Management Act, 2012 that states that adequate arrangement should be made for proper use, custody, safeguarding and maintenance of public property.

Consequently, the value for money for the expenditure of Kshs.22,693,487 could not be confirmed.

4.0 Procurement Plan

The County Executive had a procurement plan which was not based on the final supplementary budget approved in May, 2020 contrary to Section 40(1) of the Public Procurement and Asset Disposal Regulations, 2020 that requires a procuring entity to prepare a procurement plan for each financial year as part of the annual budget preparation process. Further, the procurement plan did not contain details of development activities to be undertaken instead the activities were aggregated together making it difficult to identify the projects planned for procurement.

Further, the timelines within which the procurement cycle of the various activities was to be commenced and completed were not indicated contrary to Section 41 of the Public Procurement and Asset Disposal Regulations, 2020 that requires the annual procurement plan for each procuring entity to, among other information, include a detailed breakdown of the goods, works, or services required, a schedule of the planned delivery, implementation or completion dates for all goods, works, or services required.

The Management was, therefore, in breach of Regulations 50(2) of the Public Finance Management (County Governments) Regulations, 2015 that requires expenditure commitments for goods and services to be controlled against spending and procurement plans approved by the Accounting Officer, based on allocations and allotments from approved budgets.

5.0 Non-Submission of Reports on General Procurement Transactions

A review of procurement records revealed that various reports were not prepared and submitted to the Public Procurement Regulatory Authority as required under various provisions of the Public Procurement and Asset Disposal Act, 2015 as detailed below:

Report type	Frequency of submission	Statutory timeline	Section of the Act contravened
Contract awards	Quarterly	Within 14 days after close of the quarter (i.e., by 14th day of the subsequent Quarter).	Sec. 138 (2) PPAD Act, 2015
Contract Amendment/Variation	As and when used/done	Quarterly	Sec. 139(5) PPAD Act, 2015
Report on all contract awards where Preferences and Reservation schemes are applied	Quarterly	within 14 days after close of the quarter (i.e., by 14th day of the subsequent Quarter	Sec. 158(3) PPAD Act, 2015
Six (6) Months report on Preferences and Reservation of contracts awarded to	Every six (6) months/biannual	Within 14 days after close of the half of the Financial Year (i.e., by January	Sec157 (12) & (13) PPAD Act, 2015

Report type	Frequency of submission	Statutory timeline	Section of the Act contravened
Youth, Women and Persons with Disability.		14th and July 14th respectively).	
Part of Annual Procurement Plan demonstrating procurements set aside under the Preference and reservation scheme	Annually	Within sixty (60) days after commencement of the Financial Year i.e., by 31st August.	Sec. 44(2)(l) & 158(2) PPAD Act, 2015

Consequently, the County Executive is in breach of law.

6.0 Legal Cases

Review of legal documents from the County Attorney's Office - Kisii revealed that various court cases were pending against the Kisii County Government some of which were inherited from the defunct local authority. Out of these cases, twelve (12) were ruled against the county government and the plaintiffs or claimants awarded a total of Kshs.76,074,509. However, the county government has so far not settled the court awards and no evidence was adduced on any appeals on the matters. Failure to abide to the court rulings may results to incurrence of further avoidable costs in form of penalties and interests.

7.0 Own Generated Receipts

The statement of receipts and payments reflects receipts of Kshs.478,209,672 in respect of County own generated receipts which includes amounts of Kshs.6,662,089 and Kshs.3,515,267 relating to revenue from land property rates and property rates arrears respectively. However, records availed for audit review including land registers revealed an accumulated arrears of land rates of Kshs. 344,613,676 which has been outstanding over a period of fifteen (15) years as some were inherited from defunct local Authorities. No measures seems to have been taken by the County Government to collect the outstanding land rates and therefore the same risk being not collected.

The total County own generated revenue of Kshs 478,209,672 includes an amount of Kshs.145,058,497 realized from public health facilities operations. This source of revenue was not included in the budget contrary to Section 31(a) of the Public Finance Management (County Governments) Regulations, 2015 that requires that all revenue is entered into the County Government budget estimates. Further, Section 63(1)(a) of the Public Finance Management (County Governments) Regulations, 2015 requires an Accounting Officer and a Receiver of Revenue to ensure that adequate safeguards exist and are applied for the prompt collection and proper accounting for, all county government revenue and other public moneys relating to their county departments or agencies.

Consequently, the County Executive is breach of the law.

8.0 Implemented Projects Without an Approved Budget

The projects implementation status report also revealed that eighteen (18) projects with a total expenditure of Kshs.41,313,279 were implemented even though the projects were not in the approved budget. This is contrary to Section 36(4) of the Public Finance Management (County Governments) Regulations, 2015 which requires that funds withdrawn from the County Revenue Fund are utilized only for services for which funds have been provided for in the budget estimates submitted to the County Assembly.

Consequently, the County Executive is in breach of law.

9.0 Unresolved Prior Year Matters

Various prior year audit issues remained unresolved as at 30 June, 2020. Management has not provided reasons for the delay in resolving the prior year audit issues. Further, the unresolved prior year issues are not disclosed under the progress on follow up of auditor's recommendations section of the financial statements as required by the Public Sector Accounting Standards Board.

The audit was conducted in accordance with ISSAI 4000. The standard requires that I comply with ethical requirements and plan and perform the audit to obtain assurance about whether the activities, financial transactions and information reflected in the financial statements are in compliance, in all material respects, with the authorities that govern them. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my conclusion.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

As required by Section 7(1)(a) of the Public Audit Act, 2015, based on the audit procedures performed, except for the matters described in the Basis for Conclusion on Effectiveness of Internal Controls, Risk Management and Governance section of my report, I confirm that, nothing else has come to my attention to cause me to believe that internal controls, risk management and overall governance were not effective.

Basis for Conclusion

1.0 Lack of Human Resource Plans

The Kisii County Public Service Board operated without human resource plans in place contrary to Section B2 of Kisii County Public Service Human Resource Policy which requires every Department to prepare Human Resource Plans out of which annual recruitment plans will be developed and forwarded to Public Service Board at the beginning of each financial year to enable it plan to fill the vacancies. The County

Executive may be operating without optimum number of personnel and is in breach of its Public Service Human Resource Policy.

2.0 Lack of Documented Risk Management Policy

The County Executive operated without a Risk Management Policy and Strategies during the financial year 2019/2020. This is contrary to Regulations 158(1) of the Public Finance Management (County Governments) Regulations, 2015 which requires a county government entity to develop risk management strategies, which include fraud prevention mechanism; and a system of risk management and internal control that builds robust business operations. It was therefore not possible to ascertain how risks were identified, their significance estimated and how likelihood of their occurrence was determined. Further, it could not be established how the risks were controlled and monitored to ensure that correction or mitigation measures were effective in the absence of documentation and reports on the same.

Consequently, without risk a management policy in the Executive, it was not possible to ascertain how risks were identified and mitigated during the year under review.

3.0 Internal Auditing Arrangement

The internal audit function does not have access rights to critical IFMIS modules including the audit trail module. Further, the Audit Committee which was formed in the month of July, 2020 has not been operational and therefore, the audit charter, audit plans and programmes were not approved contrary to Section 155 Sub-Section (1) the Public Finance Management (County Governments) Regulations, 2015 that requires the Head of Internal Audit unit in a County Government to enjoy operational independence by reporting administratively to the Accounting Officer and functionally to the Audit Committee and Sub-Section 3 that requires the internal auditor to have unrestricted, direct and prompt access to all records, officials or personnel holding any contractual status and to all the premises and properties of the entity. The internal audit has not been operating independently and efficiently thereby exposing the public resources at the risks of abuse and fraud.

Consequently, the County Management is in breach of the law.

The audit was conducted in accordance with ISSAI 2315 and ISSAI 2330. The standards require that I plan and perform the audit to obtain assurance about whether effective processes and systems of internal control, risk management and overall governance were operating effectively, in all material respects. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my conclusion.

Responsibilities of Management and those charged with Governance

Management is responsible for the preparation and fair presentation of these financial statements in accordance with International Public Sector Accounting Standards (Cash Basis) and for maintaining effective internal control as Management determines is

necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error and for its assessment of the effectiveness of internal control, risk management and governance.

In preparing the financial statements, Management is responsible for assessing the County Executive's ability to continue to sustain services, disclosing, as applicable, matters related to sustainability of services and using the applicable basis of accounting unless Management is aware of the intention to dissolve the County Executive, or cease operations.

Management is also responsible for the submission of the financial statements to the Auditor-General in accordance with the provisions of Section 47 of the Public Audit Act, 2015.

In addition to the responsibility for the preparation and presentation of the financial statements described above, Management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities which govern them, and that public resources are applied in an effective way.

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

Auditor-General's Responsibilities for the Audit

The audit objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion in accordance with the provisions of Section 48 of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution. Reasonable assurance is a high level of assurance but is not a guarantee that an audit conducted in accordance with ISSAIs will always detect a material misstatement and weakness when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

In addition to the audit of the financial statements, a compliance audit is planned and performed to express a conclusion about whether, in all material respects, the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities that govern them and that public resources are applied in an effective manner, in accordance with the provisions of Article 229(6) of the Constitution and submit the audit report in compliance with Article 229(7) of the Constitution.

Further, in planning and performing the audit of the financial statements and audit of compliance, I consider internal control in order to give an assurance on the effectiveness of internal controls, risk management and governance processes and systems in accordance with the provisions of Section 7(1)(a) of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution. My consideration of the internal control would not necessarily disclose all matters in the internal control that might be material weaknesses under the ISSAIs. A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements caused by error or fraud in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions.

Because of its inherent limitations, internal control may not prevent or detect misstatements and instances of noncompliance. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the County Executive of Kisii policies and procedures may deteriorate.

As part of an audit conducted in accordance with ISSAIs, I exercise professional judgement and maintain professional skepticism throughout the audit. I also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the Management.
- Conclude on the appropriateness of the Management's use of the applicable basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on County Executive's ability to continue to sustain its services. If I conclude that a material uncertainty exists, I am required to draw attention in the auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my audit report. However, future events or conditions may cause County Executive of Kisii to cease to continue sustaining its services.
- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

- Obtain sufficient appropriate audit evidence regarding the financial information and business activities of the County Executive of Kisii to express an opinion on the financial statements.
- Perform such other procedures as I consider necessary in the circumstances.

I communicate with the Management regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that are identified during the audit.

I also provide Management with a statement that I have complied with relevant ethical requirements regarding independence, and to communicate with them all relationships and other matters that may reasonably be thought to bear on my independence, and where applicable, related safeguards.



CPA Nancy Gathungu, CBS
AUDITOR-GENERAL

Nairobi

15 October, 2021