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

REPORT ON THE FINANCIAL STATEMENTS

Qualified Opinion

I have audited the accompanying financial statements of County Executive of Lamu set out on pages 1 to 51, which comprise the statement of assets and liabilities as at 30 June, 2020, statement of receipts and payments, statement of cash flows and the summary statement of appropriation - recurrent and development 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 effects 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 Lamu as at 30 June, 2020 and 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 County Governments Act, 2012.

Basis for Qualified Opinion

The financial statements reflect several balances whose accuracy and completeness; or occurrence and probity, has not been confirmed:

1.0 Own-Generated Revenue

Statement of receipts and payments and Note 9 to the financial statements reflect County's own-generated revenue for the year under review totalling Kshs.108,906,153. However, the balance contains the following anomalies:

i) Management collected the revenue without an approved Finance Act, contrary to Section 129(1) of the Public Finance Management Act, 2012 which requires the County Executive for Finance to submit County Budget Estimates for the incoming financial year to the County Assembly for approval.

ii) The staff payroll indicated that deductions totalling Kshs.1,008,500 were made against salaries of staff occupying houses owned by the County Government. However, the revenue was not paid to the County revenue collection account and was not recognized in the financial statements as County-own-generated revenue.

iii) Manual Counterfoil receipt book registers (CRBs) indicated that receipt books issued to revenue collectors were not surrendered and accounted for. There was no indication that the Revenue Department had made any effort to recover the outstanding books.

iv) Counterfoil receipt book registers were not updated on issue of receipt books to various departments and were not signed by the recipients. Examination of revenue control sheets further revealed that newly printed receipt-books in the stores had not been captured in the Counter-receipt book registers.

In view of these issues, the accuracy and completeness of the own revenue balance totalling Kshs.108,906,153 reflected in the statement of receipts and payments has not been confirmed. In addition, the revenue management function in the County Executive was not carried out in accordance with the law.

2.0 Use of Goods and Services

The statement of receipts and payments reflects payments for use of goods and services totalling Kshs.706,913,890 for the year under review, as further disclosed in Note 12 to the financial statements. However, the balance contains the following anomalies:

2.1 Variance in Financial Statements and Ledger Balance

The use of goods and services expenditure balance totalling Kshs.706,913,890 reflected in the statement of receipts and payments includes rentals of produced assets amounting to Kshs.9,511,051. However, the respective ledger reflects Kshs.8,256,169 in respect to the item resulting to an unexplained variance of Kshs.1,254,882.

In the circumstance, the accuracy and completeness of the use of goods and services balance totalling Kshs.706,913,890 reflected in the statement of receipts and payments could not be confirmed.

2.2 Domestic Travel and Subsistence

Payments totalling Kshs.13,016,950 were not properly supported with travel and other relevant records. In addition, the payees were not issued with imprests but instead lodged refund claims after they, reportedly, attended various workshops and meetings.

In view of these issues, the occurrence and propriety of the expenditure totalling Kshs.13,016,950 incurred on domestic travel and subsistence as at 30 June, 2020 could not be confirmed.

2.3 Unaccounted for Fuel, Oil and Lubricants

Payments totalling Kshs.7,909,850 spent on fuel, oil and lubricants were not supported with receipt and issue records in fuel registers and signed local purchase orders. As a result, the occurrence and probity of the expenditure could not be confirmed.

2.4 Hospitality, Services and Supplies

Payments totalling Kshs.7,253,200 incurred on hospitality, services and supplies. included refund claims made by officers who had reportedly incurred expenses on behalf of the County Executive from their own personal funds. Further, in some instances, payments in respect of workshops held were not supported with training programmes and attendance registers.

Consequently, the occurrence and probity of the expenditure totalling Kshs.7,253,200 spent on hospitality, supplies and services in the year under review could not be confirmed.

In view of these issues the accuracy, completeness and validity of the goods and services expenditure balance totalling Kshs.706,913,890 reflected in the statement of receipts and payments has not been confirmed.

2.5 Routine Maintenance – Other Assets

Records examined indicated that Kshs.1,792,600 was spent on purchase of office equipment, water tanks and air conditioners. However, contrary to Section 40(1) of the Public Finance Management (County Governments) Regulations, 2015, the items were not related to the goods and services component to which the expenditure was charged. As a result, the goods and services balance totalling Kshs.706,913,890 is overstated by Kshs.1,792,600. Further the air conditioners were upon installation not tagged, and as a result, it was not possible to confirm that they were purchased in the year under review.

3.0 Acquisition of Assets

Note 17 to the financial statements indicates assets valued at Kshs.447,008,112 were acquired by the County Executive during the year under review. However, examination of the respective records revealed the following discrepancies:

3.1 Fixed Assets Acquisitions

Note 17 to the financial statements indicates that assets costing Kshs.447,008,112 were acquired during the year under view whereas the Summary Fixed Assets Register in Annex 5 to the financial statements reflects acquisitions totalling Kshs.233,331,096. The difference amounting to Kshs.213,677,014 between the two sets of records was not explained.

In view of these issues, the accuracy and completeness of the fixed assets balance totalling Kshs.1,709,112,175 as at 30 June, 2020 could be confirmed.

3.2 Furniture and Equipment

Included in acquisition of assets balance totalling Kshs.447,008,112 is Kshs.11,398,333 spent on purchase of office furniture and general equipment. However, examination of payment records and other documents indicated that payments totalling Kshs.9,412,882 had the following anomalies:

i) The furniture and other equipment procured were not recorded in the assets register.

ii) Stores ledgers and counter requisition and issue vouchers (S11) for some of the office furniture and general equipment purchased were not provided for audit review.

iii) Physical verification of office furniture and equipment supplied indicated that the items were not tagged and therefore no confirmation could be made that the items were purchased during the financial year under review.

In the circumstances, the accuracy and completeness of the expenditure totalling Kshs.9,412,882 spent on purchase of office furniture and general equipment as at 30 June, 2020 could not be confirmed.

3.3 Construction of Buildings

The acquisition of assets balance totalling Kshs.447,008,112 reflected in the Note 17 to the financial statements includes construction of buildings payments balance totalling Kshs.185,309,694 which in turn includes Kshs.5,524,516 spent on purchase of stationaries, laboratory equipment, rehabilitation of sewerage system and purchase of welding materials. Audit review of the expenditure indicated that it did not relate to acquisition of assets item under which it was reported but had been misclassified contrary to Section 40(1) of the Public Finance Management (County Governments) Regulations. The Regulation requires each County Government's budget estimates to follow the budget classification system prescribed by The National Treasury.

In the circumstance, Management was in breach of the Public Finance Management (County Governments) Regulations, 2015.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of the County Executive of Lamu 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 were no key audit matters to report in the year under review.

Other Matter

1. Budget Control and Performance

1.1 Budget Performance

The summary statement of appropriation recurrent and development combined reflects actual recurrent expenditure totalling Kshs.2,235,553,102 against an approved budget of Kshs.2,655,940,022 resulting to an under-expenditure of Kshs.420,386,920 equivalent to 19% of the budget. Similarly, the statement reflects development vote expenditure totalling Kshs.866,920,078 against an approved budget of Kshs.2,080,377,010 resulting to an under-expenditure of Kshs.1,213,456,932 equivalent to 58% of the approved development budget. The total under-expenditure for the recurrent and development accounts was Kshs.1,633,843,852.

The under-expenditure constrained implementation of planned activities and may have impacted negatively on service delivery to the residents of Lamu County.

1.2 Late Disbursement of Funds

During the year under review, the County Executive received Exchequer releases in the months of June and July, 2020 as detailed in the table below:

Receipt of Exchequer Releases in 2019/2020		
S/No.	**Date of Receipt**	**Amount (Kshs.)**
1	04 June, 2020	2,451,034
2	04 June, 2020	20,649,149
3	18 June, 2020	52,351,716.50
4	24 June, 2020	233,577,000
5	30 June, 2020	3,955,000
6	02 July, 2020	8,800,000
7	02 July, 2020	30,000,000
8	02 July, 2020	35,761,939.80
	Total	**387,545,839**

The late disbursement of Funds from The National Treasury delayed the start of several projects and activities planned for the year under review.

1.3 Pending Bills

Note 7.9 of Other disclosures reflects pending accounts payables totalling Kshs.167,158,077 as at 30 June, 2020. The balance is comprised of sums owed in relation to construction of buildings, construction of civil works, supply of goods and supply of services. No disclosure has been made to indicate the reasons for the failure to pay the debts.

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 the 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.

1.0 Irregularities in Use of Goods and Services

Examination of records revealed the following irregularities were noted in respect to use of goods and services expenditure incurred during the year under review:

1.1 Unbudgeted for Expenses on Consultancy Services

The County Executive spent Kshs.7,449,280 on land survey and regularization of Mikinduni Farms and Kiongwe Madukani Trading Centre. However, no budgetary provision had been made for the two (2) projects. Therefore, the expenditure totalling Kshs.7,449,280 incurred on the projects was irregular as it had not been provided for as required by Regulation 53(1) of the Public Finance Management (County Governments) Regulations, 2015.

1.2 Over-expenditure on Certified Seeds, Breeding Stock and Live Animals

1.2.1 Certified Seeds, Breeding Stock and Live Animals

Expenditure records indicated that Management spent Kshs.15,963,138 on the purchase of certified seeds, breeding stock and live animals. However, examination of payment vouchers and other supporting documents indicated the following anomalies:

i) There were no elaborate criteria to identify the beneficiaries to the project;

ii) One of the suppliers was awarded a contract to deliver seedlings based on a certificate of participation in a training activity despite the evaluation criteria requiring a certificate of registration as a seedlings nursery operator. In another instance, a supplier was awarded a contract to supply coconut seedlings based on an expired certificate as a nursery operator;

iii) Several contracts for the supply of the seeds were awarded to suppliers who were not in the list of prequalified contractors.

iv) The supplementary budget had allocated Kshs.15,460,000 only for the item resulting to over-expenditure of Kshs.503,138 on the vote. The overspending was contrary to Section 22(2)(g) of the Public Finance Management (County Government) Regulations, 2015 which requires an Accounting Officer not to commit a County Government entity to any liability for which money has not been appropriated.

In the circumstances, the regularity and value for money on the expenditure totalling Kshs.15,963,138 incurred on purchase of seeds, breeding stock and live animals during the year under review could not be confirmed.

1.3 Undisclosed Criteria for Youth Sponsorships

Payments totalling Kshs.14,040,000 were made to two (2) driving colleges appointed to impart motor -vehicle driving skills on 1,000 youths in the County. However, records on the criteria used to identify and select the youth were not provided for audit review.

As a result, it was not possible to confirm that the selections were made equitably and value for money was attained on the expenditure.

1.4 Purchase of Specialized Materials and Services

Procurement records indicated that the County Executive through the Department of Public Health, Medical Services and Sanitation, procured medical supplies worth Kshs.71,818,757 from Kenya Medical Supplies Agency. However, examination of records on the expenditure revealed the following anomalies:

i) Payments totalling Kshs.38,112,793 were not supported with Inspection and Acceptance Committee Certificates contrary to Section 48(1) of the Public Procurement and Asset Disposal Act, 2015.

ii) Expenditure commitments for the medical supplies were done on 26 June, 2020 contrary to Section 50(1) of the Public Finance Management (County Governments) Regulations, 2015 which prescribes that all commitments for goods and services should be done not later that 31st May each year.

iii) Supplies of gillnets, snorkeling gear and diving masks purchased at Kshs.13,764,400 were procured from a supplier who was not in the pre-qualified list of contractors contrary to Section 95(3) of the Public Procurement and Asset Disposal Act, 2015. In addition, some of the supplies were not taken on charge in stores ledgers and further, records on their issue from the stores were not provided for audit.

In the circumstances, Management contravened Section 44(1) of the Public Procurement and Asset Disposal Act, 2015 which requires each Accounting Officer of a public entity to comply with the provisions of the Act.

1.5 Office General Supplies and Services

Payments totalling Kshs.2,849,060 were not supported with Inspection and Acceptance Committee minutes, counter-receipt vouchers (S13), store ledgers and other tender documents. In addition, the respective suppliers were not in the list of the prequalified contractors. Some of the quotations did not indicate the dates they were returned by the bidders and as a result, their validity could not be confirmed.
In the circumstance, it was not possible to confirm that in executing the procurements, the Accounting Officer complied with the law as required by Section 44(1) of the Public Procurement and Asset Disposal, 2015.

1.6 Irregular Procurement of Insurance Services

1.6.1 Indigent Households Cover

Management paid National Hospital Insurance Fund Kshs.120,000,000 for provision of a medical insurance scheme for 20,000 needy households after having signed a Memorandum of Understanding (MOU) with the Fund on 6 April, 2020. Records examined indicated that the service was procured through the Direct Procurement Method.

However, there were no records to confirm whether the following prescribed processes were followed:

(i) That tender documents were issued to the Fund;

(ii) an Ad Hoc Evaluation Committee was appointed to negotiate with the Fund and;

(iii) that Management approved the medical cover offered.

In view of insufficient evidence, it was not possible to confirm that the Accounting Officer adhered to the procedures for Direct Procurement prescribed in Section 104 of the Public Procurement and Asset Disposal Act, 2015. In the circumstance, value for money may not have been obtained on the expenditure totalling Kshs.120,000,00 incurred on the Scheme.

1.6.2 Staff Medical Insurance Cover

Management awarded contract for the provision of Comprehensive Medical Insurance, last expense and Group life cover for employees for the financial year 2019/2020 to the National Hospital Insurance Fund. During the financial year under review, Management made payments totalling Kshs.76,405,764 to the Fund.

However, there were no records indicating that the award of the contract was preceded by advertisement for expression of interest and submission and evaluation of proposals as procurement regulations require. Further, according to the procurement plan for financial year 2019/2020, Management had planned to procure and implement a staff medical scheme worth Kshs.45,000,000. However, the Scheme procured cost Kshs.76,405,764 or Kshs.31,405,764 more than the amount budgeted.

In view of the missing records, it was not possible to confirm whether the procurement conformed to the law and whether value for money was obtained from the expenditure totalling Kshs.76,405,764 incurred on the contract.

2.0 Unsatisfactory Implementation of Projects

2.1 Renovation and Extension of Lamu Island Market

During the year under review, Management awarded a contract for renovation and extension of Island Market at a contract sum of Kshs.43,448,077. The contract agreement was signed on 26 June, 2019 for implementation in one and half (1.5) years to 26 December, 2020.

Examination of payment records and other documents indicated that Kshs.14,371,981 had been paid to the contractor as at 30 June, 2020. Physical verification carried out in December, 2020 indicated that the project had not been completed and the contract period due to end one week later had not been extended. No explanation was provided for the failure to complete the project in due time, or the remedial action proposed by Management given the impending end of the contract period.

2.2 Construction of County Headquarters and Registry at Mokowe

Procurement records indicated that Management awarded a contract for construction of a new County Headquarters building and registry at Mokowe at a contract sum of Kshs.126,823,500. The contract agreement was signed on 24 June, 2019. Payments made to the contractor as at 30 June, 2020 totalled Kshs.31,987,330 or 25% of the contract sum. However, there were no records on the environmental impact study, if any, carried out in respect to the project, and no indication whether approval had been granted for its implementation.

In the circumstance, adherence of the project to environmental laws could not be confirmed.

2.3 Irregular Procurement of Projects

Examination of records on acquisition of assets indicated that Kshs.4,867,447 was spent on construction of Jua Kali sheds at Kiongwe and Kshs.4,636,106 on extension of Siyu Dispensary during the year under review. Records on the expenditures indicated that the respective contracts were procured through Restricted Tendering Method. No satisfactory explanation was provided by Management why competitive bidding was not applied as required under Section 102(1) of the Public Procurement and Asset Disposal Act, 2015.

In the circumstance, it was not possible to confirm whether the contracts were fairly awarded and whether there was value for money on the projects worth Kshs.9,503,553 implemented during the year.

2.4 Stalled Projects

Expenditure records indicated that payments totalling Kshs.20,678,574 were made to local contractors for construction of a Command Centre at Hindi and an Accident and Emergency Unit at Witu. The projects commenced in May, 2016 but had not been completed four (4) years later as at 30 June, 2020. However, it was not possible to confirm the due dates for their completion as the relevant records were not provided for audit review. Further, the validity of payments made to the contractor could not be confirmed as the respective progress of work reports were not provided for audit.

In the circumstances, it was not possible to confirm that value for money was obtained on payments totalling Kshs.20,678,574 made to the contractor as at 30 June, 2020. Further the reasons for the failure to complete the projects were not disclosed by Management.

2.5 Unutilized Projects

Examination of payment records, project files and other tender documents provided for audit review indicated that the County Executive made payments totalling Kshs.20,565,975 to various contractors for construction of a Dispensary at Mavuno, a stadium and a motor-cycle (Bodaboda) shed at Witu and four (4) Social Halls, one each at Hindi, Lake Amu, Mokowe and Shangrubu. Although the projects were completed and handed over to the County Executive, they were not put to use for the benefit of the local communities.

Further, it was not possible to establish whether the County Government owns the plot of land on which Mavuno Dispensary is built as ownership documents for the land were not submitted for audit. In addition, the project was not fenced off to secure it from trespassers. Further access roads and sanitary facilities were not included in the contracted works and therefore the dispensary may not be utilized until after these are built.

In view of these anomalies, the benefits due to local communities from public funds totalling Kshs.20,565,975 invested in the projects did not materialize.

2.6 Irregular Procurement of Water Desalination Plants

2.6.1 Kiungu, Kizingitini, Ndau

During the year under review, Management, awarded contracts for the supply and installation of a five cubic meters per hour (5m3/hr) desalination plants, at Kiungu, Kizingitini and Ndau Villages at a contract sum of Kshs.39,705,696. Payments totalling Kshs.35,735,126 had been made to the contractor by the time of the audit in November, 2020. However, the project's records indicated the following anomalies:

(i) The tender opening minutes prepared by the Tender Opening Committee were signed on 21 May, 2019, one day before the deadline for submitting tenders on 22 May, 2019. This was contrary to Section 78(3) of the Public Procurement and Asset Disposal Act, 2015 which prohibits any Tender Opening Committee from opening tenders before the deadline.

(ii) The Bills of Quantities for the project were not made available for audit examination and therefore it was not possible to confirm the scope of the project and how it was costed.

(iii) Although the tender evaluation report that recommended the award of the contract to the firm was dated 24 May, 2019, the firm's tender evaluation sheet was dated 11 June, 2019 which implied the evaluation was done after the tender had been awarded. Further, the tender notification sent to the winning bidder by the Accounting Officer was dated 10 June, 2019, one day before the tender evaluation score sheet was prepared.

(iv) In addition, an advance payment totalling Kshs.27,793,987 equivalent to 70% of the contract sum was paid to the contractor in March, 2020. The payment was made contrary to Section 147(1) of the Public Procurement and Asset Disposal Act, 2015 which only allows for payment of allowances not exceeding 20% of the price of the tender, unless under exceptional circumstances. No special reasons were cited for the advance payment.

(v) The contract agreement signed on 4 September, 2019 set the contract period at eight (8) months to June, 2020. In addition, progress of work reports were not presented for audit and as a result, the level of the work completed could not be confirmed.

(vi) There were no records to indicate that Management carried out environmental impact assessment studies before the project was implemented.

In view of these issues, the lawfulness and value for money on the project expected to cost Kshs.39,705,696, with Kshs.35,735,126 spent as at 30 June, 2020, could not be confirmed.

2.6.2 Desalination Plant and Generator at Mikokoni

Examination of expenditure records indicated that the Executive through the Department of Water, awarded contracts for supply, delivery and installation of a one cubic meter (1m3) per hour desalination plant, a 31KVA generator and a plant house at Mkokoni Village in Kiunga. The contract was awarded on 14 April, 2020 to one firm at a contract sum of Kshs.8,102,229. As at the time of audit in November 2020, payments made to the contractor totalled Kshs.1,359,054.

However, examination of procurement records indicated that, contrary to Section 78(11) of the Public Procurement and Assets Disposal Act, 2015, three (3) of the four (4) Tender Opening Committee members did not append their signatures to the minutes of the tender opening meeting. The law requires each member of the Committee to append his or her signature and initials to the final page of the minutes and indicate their full name and designation. In addition, there was no evidence that an environmental impact assessment had been carried out before the project was implemented.

In view of these anomalies, the validity of the contract could not be confirmed.

2.7 Opening of New Roads

The expenditure records indicated that Kshs.150,412,375 was incurred on construction of roads out of which Kshs.66,783,556 was spent on opening new roads and installing cabro works surfaces. However, the records indicated that payments to contractors totalling Kshs.42,217,688 had the following anomalies:

i) Contracts for the opening of new ring roads at Mkomani - Nadhomi - Kizuke, were awarded to bidders whom the Tender Evaluation Committee had assessed as ‘non-responsive’ to the tender requirements and, further, the bidders had quoted higher prices than their competitors. No satisfactory explanation was provided by Management for the award of the contracts to unqualified, costly bidders.

ii) Audit verification conducted in June, 2020 at Nadhomi – Kizuke, indicated that the works done covered only 4.3 kilometres instead of the six kilometres contracted.

In the circumstances, Management may have contravened Section 86(1) of the Public Procurement and Asset Disposal Act, 2015 by failing to award the contract to the lowest responsive bidders. Further value for money may not have been obtained on the public funds totalling Kshs.42,217,688 spent on the road works that were not implemented as contracted.

2.8 Construction of Sefu Tank Tower

Examination of records indicated that Management through the Department of Water, awarded a tender for construction of Sefu Tank Tower at Sefu-Sinambio Village through Request for Quotation. The contract was awarded on 13 December, 2016 at a contract sum of Kshs.1,172,441. Audit verification done in December, 2020 and examination of the inspection and acceptance certificate provided for audit confirmed that the project had been completed four (4) years earlier but had not been put to use.

As a result, no value for money was obtained on expenditure totalling Kshs.1,172,441 incurred on construction of the tank.

3.2 Irregularities in Acquisition of Other Assets

3.3 Purchase of Motor Vehicles and Other Transport Equipment

Expenditure records indicated that Management procured a heavy duty utility motor vehicle from the franchise owner at a contract sum of Kshs.9,900,000. However, the following irregularities were noted in respect to the expenditure:

i) The pre-delivery inspection report was done on 28 June, 2019, eight (8) months before the vehicle was purchased on 24 February, 2020 and delivered to the County Executive on 11 March, 2020.

ii) The notification of award was done by Chief Officer, lands on 24 April, 2019, ten (10) months before the purchase of the vehicle.

iii) No specific contract agreement was signed between the supplier for the purchase. Contract agreement (SB/4/2016-2017) between Ministry of Transport Infrastructure, Housing and Urban Development of the National Government and the supplier signed on 23 February, 2017 was used instead although the term of the agreement had already expired.

iv) The vehicle was not recorded in the consolidated asset register of the County Executive.

No satisfactory explanation was provided for the irregularities in procurement of the vehicle and as a result, it was not possible to confirm whether value for money was obtained on the expenditure totalling Kshs.9,900,000.

3.4 **Purchase of Specialized Plant, Equipment and Machinery**

As sum of Kshs.1,469,931 was spent on purchase of specialized plant, equipment and machinery during the year under review. However, examination of payment vouchers and other supporting documents indicated that the expenditure was not supported with inspection reports from the Mechanical Department. As a result, it was not possible to confirm whether the equipment was supplied in accordance with the terms of the respective contract agreement.

4 Routine Maintenance of Roads

Expenditure records indicated that Kshs.83,628,819 was spent on routine maintenance of various roads. A sum of Kshs.61,778,610 was for contracts procured in the year under review and Kshs.21,850,209 for 2018/2019. The records revealed the following unsatisfactory issues:

i) The supplementary budget had allocated Kshs.11,950,236 and Kshs.6,151,897 for routine maintenance works for A7 Junction-Sinambio Road and Mpeketoni-Bahari Road respectively. However, the payments made totalled Kshs.14,604,165 and Kshs.5,926,221 resulting to over-expenditure of Kshs.2,653,929 and Kshs.225,676 respectively. Records to confirm that the over-expenditure was approved were not made available for audit and as a result, its validity could not be confirmed.

ii) The procurement plan for the year under review indicated that works for routine maintenance of access roads were to be procured through open tender method. However, several roads maintenance works costing Kshs.83,628,818 were procured through Restricted Tendering Method. Management did not provide sufficient reasons for choosing the Method that restricts competition and may therefore result in high contract prices.

iii) The contractual agreement for various routine maintenance road works totalling Kshs.83,628,819 were entered into without considering the fourteen (14) day period required by law for signing of procurement contracts after the successful bidder is notified of the tender outcome.

iv) Some of the contracts were awarded to suppliers who were evaluated by the evaluation team as non-responsive.

v) Some of road works project files for the road maintenance works did not contain copies of tender security and National Construction Authority (NCA) certificates.

vi) Physical verification conducted on 15 December, 2020 on Mpeketoni-Ndambwe Road revealed that maintenance works were done on four-kilometres (4kms) instead of the contracted ten (10) kilometers. Similarly, only three and eight-tenths (3.8) kilometers of four-and-half (4.5) kilometres of Nyongoro-Chalaluma Road were maintained.

In view of the unsatisfactory way these contracts were executed, value for money may not be obtained on expenditures totalling Kshs.83,628,819 incurred thereon.

5 Irregularities in Compensation of Employees

5.1 High Wage Bill

The statement of receipts and payments indicates that compensation of employees expenditure for the year under review totalled Kshs.1,213,953,423 equivalent to 42% of the revenue totalling Kshs.2,878,574,228 received in the year. The ratio was in excess of the threshold of 35% prescribed in Section 25(1) of the Public Finance Management (County Governments) Regulations, 2015.

Consequently, Management breached the law on prudent use of budgetary allocations. Further, in view of limited funding, the high wage bill may have constrained the capacity of the County Executive to fund public services and uplift the welfare of the majority of the County's residents.

5.2 Insufficient Records on County Public Service Board

Records, on the Lamu County Public Service indicated that the term of the previous Board ended in July, 2019 but a new Board was appointed one year latter in June, 2020. The County Executive did not therefore, have a Board to oversee the Management of human resources processes in the financial year under review.

Further, review of records on the new Lamu County Public Service Board members indicated vital documents such as Kenya Revenue Authority Pin, copy of National Identity Card and academic certificates were not available. Further, no documentary evidence was provided to show that the positions were filled through a competitive process.

5.3 Retention of Staff Aged Over Sixty Years

Review of the County Executive's payroll data indicated seven (7) officers in service were over 61 years of age even though no records indicated that the officers had any form of disability that allowed them to be retained beyond the prescribed retirement age of 60 years. Consequently Management may have contravened Section L.5 (1) of the County Public Services Human Resources Manual of May, 2013 which sets the retirement age for County Government workers at 60 years.

6 Irregular Bank Accounts

The statement of assets and liabilities and Note 21A and 21B to the financial statements reflect bank balances totalling Kshs.1,363,358,281 and a cash balance totalling Kshs.665,136 as at 30 June, 2020. However, examination of the bank accounts revealed that Management operated thirty-two (32) bank accounts out of which twelve (12) were operated at the Central Bank of Kenya whereas twenty (20) were at commercial banks and were used for the purposes listed below:

Account	Number of Accounts
Revenue Collection	5
Special Purpose	4
Hospitals and Health	6
Various Expenditure Accounts and Imprest Accounts	5
Total	**20**

The commercial bank accounts were operated contrary to Regulation 82(1)(b) of the Public Finance Management (County Governments) Regulations, 2015 which requires all County Government bank accounts to be opened at the Central Bank of Kenya except for imprest bank accounts for funding petty cash payments. Further, although Regulation 82(5) requires a copy of the authority granted to open any bank account outside the Central Bank of Kenya to be provided to the Controller of Budget and Auditor-General, Management did not comply with this requirement.

7 Abandoned Digital Revenue Management System

In the year 2016, Management procured a digital revenue system from three (3) firms at a total cost of Kshs.54,000,000. In June, 2020, one of the suppliers was paid Kshs.285,000 as consultation and maintenance fee. However, in the financial year under review, Management reverted back to collecting revenue manually. There were no records to explain why the electronic system was abandoned.

In addition, no reports were generated from the abandoned system and as a result, audit trails on revenue collected through the system could not be established.

In the circumstances, the County Executive may not have obtained value for money on public funds totalling Kshs.54,000,000 incurred on purchase and installation of the abandoned electronic system.

8 Irregular Expenditure on Council of Governors

Examination of payment vouchers and other supporting documents revealed payments for office rent totalling Kshs.1,254,883 for the Council of Governors' Liaison office located in the County. However, Section 37 of the Intergovernmental Relations Act, 2012 provides that operational expenses of the Council and other structures established under the Act shall be met from the budget of the National Government.

In the circumstance, the expenditure totalling Kshs.1,254,883 was irregular.

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 Information Communication Technology Policy

Audit review of the operational systems in the County Executive indicated that that there was no documented policy on use of Information Communication Technology (ICT) during the year under review. As a result, processes to manage upgrades of all financial performance information systems and for data recovery in the event of system breakdowns were lacking.

In the circumstance, the risk of ineffective use of resources in procurement and maintenance of ICT resources, of and lack of business continuity in the event of breakdowns or other kinds of service disruptions, was high.

2.0 Irregular Placement of Internal Audit Department

Review of the operations of the Internal control systems revealed that the County Executive had established an Internal Audit unit to oversee governance mechanisms and promote transparency and accountability in management of County resources. However, the Unit was headed by an Acting Director assisted by three other internal auditors. Further, the Unit was not independent as its operations were overseen by the Accounting Officer to whom it functionally and administratively reported contrary to Regulation 55(1) and Regulation 55(2) of the Public Finance Management (County Governments) Regulations, 2015 which requires Internal Audit Units to report to an Audit Committee.

As a result, the Unit did not have sufficient authority to oversee governance mechanisms and promote transparency and accountability in management of public resources in the County.

3.0 Failure to Appoint New Audit Committee

Records examined indicated that the term of the Audit Committee expired in the previous (2018/2019) financial year. However, a new Committee was not appointed thereafter. As a result, Management contravened Regulation 167 of Public Finance Management (County Governments) Regulations, 2015 which requires County Government entities to establish Audit Committees to monitor entities' governance and accountability processes as well as internal control and risk management systems.

In the circumstance, there was high risk of ineffective oversight and governance in the County Executive.

4.0 Lack of Risk Management Policy

Audit review of Management's handling of risk indicated that the County Executive had not established and documented a risk management policy and framework as required by the Institutional Risk Management Framework (IRMRF) prescribed in National Treasury Circular No 3/2009 of 23 February, 2009. As a result, means to identify, asses, evaluate and mitigate operational and other risks facing the Count Executive were inadequate.

5.0 Failure to Maintain a Fixed Assets Register

Annex 5 to the financial statements includes a summary of fixed assets which indicates that the County Executive owned assets valued at Kshs.1,709,112,175 as at 30 June, 2020. However, contrary to Section 149(2) of the Public Finance Management Act, 2012 and Regulation 136(I) of the Public Finance Management (County Governments) Regulations, 2015, Management did not maintain a fixed asset register. This omission was previously highlighted in the audit report for the previous year.

No satisfactory explanation was provided by Management for the failure to observe the law on management of public assets.

6.0 Use of Manual Payroll

In addition to the Integrated Payroll and Personnel Database (IPPD) system, Management also maintained manual payrolls in excel spreadsheets. A review of the payrolls for the month of June, 2020 indicated that salaries for forty (40) employees were paid through the manual payroll. No reason was provided by Management why the employees were not paid through IPPD system established for payment of salaries to all public servants in Kenya.

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 overall governance.

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

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 financial reporting process, reviewing the effectiveness of how the County Executive 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 way, 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 overall 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 non-compliance. 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 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 Management.

- Conclude on the appropriateness of 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 the 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 the County Executive to cease to continue to sustain 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 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 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

10 November, 2021