REPORT OF THE AUDITOR-GENERAL ON COUNTY EXECUTIVE OF KITUI FOR THE YEAR ENDED 30 JUNE, 2022

PREAMBLE

I draw your attention to the contents of my report which is in three parts:

A. Report on the Financial Statements that considers whether the financial statements are fairly presented in accordance with the applicable financial reporting framework, accounting standards and the relevant laws and regulations that have a direct effect on the financial statements.

B. Report on Lawfulness and Effectiveness in Use of Public Resources which considers compliance with applicable laws, regulations, policies, gazette notices, circulars, guidelines and manuals and whether public resources are applied in a prudent, efficient, economic, transparent and accountable manner to ensure Government achieves value for money and that such funds are applied for intended purpose.

C. Report on Effectiveness of Internal Controls, Risk Management and Governance which considers how the entity has instituted checks and balances to guide internal operations. This responds to the effectiveness of the governance structure, the risk management environment and the internal controls, developed and implemented by those charged with governance for orderly, efficient and effective operations of the entity.

An unmodified opinion does not necessarily mean that an entity has complied with all relevant laws and regulations, and that its internal controls, risk management and governance systems are properly designed and were working effectively in the financial year under review.

The three parts of the report are aimed at addressing the statutory roles and responsibilities of the Auditor-General as provided by Article 229 of the Constitution, the Public Finance Management Act, 2012 and the Public Audit Act, 2015. The three parts of the report, when read together constitute the report of the Auditor-General.

Qualified Opinion

I have audited the accompanying financial statements of County Executive of Kitui set out on pages 1 to 41, which comprise of the statement of assets and liabilities as at 30 June, 2022, and the statement of receipts and payments, statement of cash flows and statement of Comparison of Budget and Actual amounts - 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 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 County Executive of Kitui as at 30 June, 2022, 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 County Governments Act, 2012 and the Public Finance Management Act, 2012.

1. Inaccuracies in Financial Statement

1.1 Variances between Financial Statement and the IFMIS Balances

Comparison between the financial statements presented for audit and the IFMIS trial balance revealed some differences as shown below:

Variances between Financial Statements and IFMIS			
Item	**Financial Statements (Kshs)**	**Trial Balance (IFMIS) (Kshs)**	**Differences (Kshs)**
Compensation of Employees	4,325,180,836	4,645,241,832	(320,060,996)
Use of Goods and Services	1,961,942,463	1,919,696,802	42,245,661
Subsidies	50,000,000	87,647,890	(37,647,890)
Transfers to Other Government Entities	916,548,462	(1,828,449,455)	2,744,997,917
Other Grants and Transfers	672,174,541	476,796,753	195,377,788
Social Security Benefits	0	27,792,786	(27,792,786)
Acquisition of Assets	2,737,376,630	3,205,612,887	(468,236,257)
Fund Balances Brought Forward			0
Bank Balances	331,291,587		331,755,081
Outstanding Imprests and Advances	13,675,717	181,284,508	(167,608,791)
Deposits and Retentions	14,010,147	982,689,521	(968,679,374)
Fund Balance Brought Forward	860,015,254	0	860,015,254
Prior Year Adjustments	(846,247,052)	0	(846,247,052)
Surplus/Deficit for the Year	317,188,955	0	317,188,955
Other Receipts	1,417,959,108	1,090,153,370	327,805,738
Exchequer Releases	9,562,452,779	10,537,116,169	(974,663,390)

In the circumstances, the accuracy of the indicated figures could not be ascertained.

1.2 Acquisition of Assets

Note 10 to the financial statements reflects an amount of Kshs.2,737,376,630 in respect of acquisition of assets. Included in this amount is Kshs.1,828,000 relating to acquisition of land that was not supported by ownership documents. Further, assets valued at Kshs.450,000 were not supported by payment vouchers. Additionally, review of Annex 6 to the financial statements (summary of non-current assets registers) disclose additions in assets amounting to Kshs.2,736,913,137 resulting to unexplained variance of Kshs.463,493.

In the circumstances, the accuracy, ownership and authenticity of acquisition of assets amount of Kshs.2,737,376,630 could not be confirmed.

2. Unsupported Expenditures on Fuel Oil and Lubricants

The statement of Receipts and Payments and as disclosed in Note 5 reflects an amount of Kshs.1,961,942,463 in respect of use of goods and services. Included in this amount is Kshs.94,934,992 relating to fuel and lubricants expenditure out of which an amount of Kshs.4,525,324 was not sufficiently and appropriately supported by detailed orders and registration numbers of vehicles.

In the circumstances, the accuracy, completeness and propriety of expenditures of Kshs.4,525,324 could not be confirmed.

3. Management of own Generated Revenue

(i) Note 3 to Financial Statements disclose an amount of Kshs.359,219,242 in respect of County own source revenue. Included in this amount is Kshs.188,556,171 relating to revenues collected from public health facilities. However, revenue reports and reconciliation statements for the hospitals were not provided for audit review thus the accuracy of the Kshs.188,556,171 could not be confirmed.

(ii) The revenue collection account bank reconciliation statements as at 30 June, 2022 showed unbanked cash receipts collected through point of sale gadgets under ZIZI platform of Kshs.10,488,599. The Management did not provide explanation as to why the revenue was not banked intact as required by the law.

(iii) The county reported revenues amounting to Kshs.1,999,300 and Kshs.61,506,705 collected from rent of County stalls and business permits respectively. Review of the revenue collection system and other documents showed that the County was unable to collect an amount of Kshs.10,180,440 and Kshs.99,987,300 for rental of county stalls and business permits respectively.

(iv) Review of the County's electronic Revenue Collection system records for Land Rates (LAIFOMS) revealed that Management did not collect outstanding property rates totaling to Kshs.620,743,780 owed over the years and no evidence of measures put in place to recover the outstanding amount was provided for audit review. Further, the outstanding amount was not supported by updated records hence hindering effective debt management.

In the circumstances, the accuracy and completeness of the County own source revenue amounting to Kshs.359,219,242 could not be confirmed.

4. Unsupported Employee costs

The statement of receipts and payments and as disclosed in Note 4 reflects an amount of Kshs.4,325,180,836 in respect of compensation of employees. Included in this amount is Kshs.3,854,586,260 relating to basic salaries for permanent employees. However, basic salary supporting payment vouchers provided for audit showed an amount of Kshs.3,354,643,525 resulting to unexplained variance of Kshs.499,942,735.

In the circumstances, the accuracy, and validity of basic salaries of permanent employees amounting to Kshs.499,942,735 could not be confirmed.

5. Unconfirmed Pending Bills balances

Annexes 3 and 4 to the financial statements under other important disclosures reflects outstanding pending bills amounting to Kshs.1,810,944,338. These comprised of amounts of Kshs.1,735,281,542 for accounts payable, Kshs.1,195,000 for staff payables and Kshs.74,467,796 for other pending payables. However, analysis of the annexures provided for audit revealed total pending bills payables of Kshs.1,256,339,140 resulting to unexplained variance amounting to Kshs.554,605,198. The pending bills comprised of an amount of Kshs.348,098,676 relating to payables dating back to financial year 2015/2016 and an amount of Kshs.908,240,464 relating to payables for the year under review. The long outstanding pending bills did not form first charge in succeeding years and therefore the Management was in contravention to Regulation 41(2) and (3) of the Public Finance Management (County Governments) Regulations, 2015. Further, the list of the eligible pending bills and a report of the pending bills resolution committee were not provided for audit review.

In the circumstances, the accuracy, completeness and validity of pending bills totalling Kshs.1,810,944,338 could not be confirmed.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of the County Executive of Kitui 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.

Emphasis of Matter

1. Budgetary Control and Performance

The statement of Comparison of Budget and Actual amounts; recurrent and development combined, reflects final expenditure budget and actual on comparable basis of Kshs.12,468,642,561 and Kshs.10,663,222,931 respectively resulting into an under-absorption of Kshs.1,805,419,630 or 14% of the budget.

Further, analytical review procedures revealed that acquisition of assets and compensation of employees accounted for the bulk of the under-absorption of Kshs.1,017,763,217 (or 56%) of the total un-utilized amount. This is indicative of the County Government's failure to implement all the planned projects and programmes for the year, thereby denying residents of Kitui County goods and services of equivalent value.

In addition, total development expenditure amount of Kshs.2,937,582,068 accounted for 27.5% of the total expenditure amount of Kshs.10,663,222,931 which is below the 30% threshold stipulated by Section 25(1)(g) of the Public Finance Management (County Governments) Regulations, 2015.

2. Revenue Under collection

The statement of comparison of budget and actual amount - recurrent and development combined reflects amounts of Kshs.12,468,642,561 and Kshs.10,980,411,887 in respect to receipts budget and actual amount realized respectively indicating 88% performance level. However, it was noted that the County Government had budgeted to collect a total of Kshs.800,000,000 from own source revenue but only realized an amount of Kshs.359,219,242 resulting to a Kshs.440,780,758 or 55% shortfall.

Further, a trend analysis for county own generated revenue for the past 3 financial years showed that revenue collections have been on the decline compared to the budget as shown in the table below:

Financial Year	Budgeted Amount (Kshs)	Actual Amount (Kshs)	Variance (Kshs)	%
2018/2019	528,413,076.00	335,127,474.00	193,285,602.00	37%
2019/2020	600,000,000.00	408,285,164.00	191,714,836.00	32%
2020/2021	600,000,000.00	316,000,000.00	284,000,000.00	47%
2021/2022	800,000,000.00	359,219,242	440,780,758.00	55%

No satisfactory explanation was provided for the shortfall and measures put in place to address it.

In the circumstances, under funding and under absorption in expenditure affected the planned activities and may have impacted negatively on service delivery to the public.

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

Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the report on financial statements, report on lawfulness and Effectiveness in use of public resources, and report on effectiveness of Internal controls, risk management and Governance. However, the Management had not resolved the issues.

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. Bank Reconciliation (FO 30) Reports

Review of Annex 11 to the financial statements in respect of bank reconciliation (FO 30) reports from Integrated Financial Management Information System (IFMIS) revealed that bank reconciliation for all Central Bank of Kenya (CBK) accounts were not attached as required by the reporting template provided for by the Public Sector Accounting Standards Board for County Governments.

In the circumstances, the Management failed to comply with the reporting template.

2. Law on Ethnic Diversity in Employment

Review of the Kitui County Executive Compensation of Employees master roll and other staff records revealed that 2,974 employees or 84.7% of the total staff of 3,510 were from the dominant ethnic community in the County contrary to Section 7(2) of the National Cohesion and Integration Act, 2008 which requires that no public establishment shall have more than one third (1/3) of its employees from the same ethnic community.

Further, Section 65(1)(e) of the County Government Act 2012 states that **i**n selecting candidates for appointment, the County Public Service Board shall consider the need to ensure that at least thirty percent of the vacant posts at entry level are filled by candidates who are not from the dominant ethnic community in the county.

In the circumstance, the County Government was in breach of the law.

3. Unremitted Retirement Benefits Contributions

Review of Treasury circular No.14/2021 (Ref No IGFR/PB/01/J/ (69) dated 28 October, 2021 on the matter of failure to remit retirement contributions by County Governments indicated that the County Government of Kitui had an outstanding debt of Kshs.22,117,103 relating to retirement contributions for County Governments employees and County affiliated entities. No explanation was provided as to why the debt has not been settled and no evidence was provided to demonstrate County efforts to settled the same.

In the circumstances, the County Management was in breach of Section 104(1)(e) of the Public Finance Management Act, 2012 that requires County Management to manage and develop a framework of debt control.

4. Non-adherence to Public Finance Management (PFM) Fiscal Responsibility Principles-Limit on Personnel Emolument Expenditure

The statement of receipts and payments and as disclosed in Note 4 reflects compensation of employees amount of Kshs.4,325,180,836.This expenditure is equivalent to 39.4% of the total receipts of Kshs.10,980,411,887. The spending exceeded the threshold of 35% prescribed in Section 25(1)(a) and 25(b) of the Public Finance Management (County Governments) Regulations, 2015.

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

5. Lack of Approved Staff Establishment

Review of Human Resource documents revealed that the County Executive does not have an approved staff establishment in place. It was therefore not possible to confirm if the current staffing level is optimal, and appropriate to ensure achievement of the Entity's strategic objectives.

In the circumstances, County Management was in contravention to County Public Service Human Resource Manual 2013 section B 6(3) which states that the County Executive should have appropriate organizational structure in each department, optimal staffing level, schemes of service and career progression guidelines.

6. Stalled Projects

As previously reported, various projects under the department of health have stalled, and there appears to be no action being taken by Management to fast track their completion. Although the related project files were not provided for audit verification, information available indicated that the projects started way back in 2017. Further, a project inspection exercise conducted on 6 July, 2022 revealed that construction projects funded at approximately Kshs.499,555,498 under the Department are still incomplete and contractors had abandoned sites.

In the circumstances, the residents of Kitui county have been denied benefits that would have accrued from completed projects and no value for money has been realized from the incurred amount.

7. Irregular Recruitment of New Employees

Review of human resource records showed that the County Government recruited five hundred and twenty-two (522) new staff in various capacities during the year under review. However, relevant documentation such as approval for hire, advertisement for the jobs, interview results, placement details and personal files in support of the recruitment process were not provided for audit verification. It was therefore not possible to confirm whether the recruitment process was undertaken as required by Section 3.4 of Kitui County Human Resource Policies and Procedures Manual for the County Public Service, which stipulates that recruitment be undertaken on the basis of fair competition and merit, representation of Kenya's diverse communities, adequate and equal opportunities to all gender, youth, members of all ethnic groups, persons with disabilities and minorities.

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

8. Lack of an Updated Assets Register

Note 10 to the financial statements reflects an amount of Kshs.113,832,659 in respect of acquisition of Specialized plant, Equipment's and Machinery. Included in this amount are assets worth Kshs.8,095,339 and Kshs.54,503,798 procured by the Office of the Governor and the Ministry of Trade, Cooperatives and Investments respectively during the year under review. However, the assets register had not been updated to reflect the new acquisitions. This is contrary to regulation 136(1) of the Public Financial Management (County Governments) Regulations of 2015, that requires the Accounting Officer to maintain an updated assets register. In absence of an updated assets register, the trail and safe custody of the assets could not be ascertained.

In the circumstances, Management was in breach of law.

9. Irregular Payment of Prime Costs and Provisional Sums

The statement of receipts and payments and as disclosed in Note 10 reflects an amount of Kshs.2,737,376,630 in respect of acquisition of assets. Included in this amount is an amount of Kshs.76,258,146 paid to eleven contractors under taking construction works for various projects within the County. However, review of the payment records revealed that amounts of Kshs.4,22,2,243 and Kshs.140,000 being provisional sums paid to project managers for documentation and contingencies and to a limited company respectively were not supported by approvals from the Accounting Officer to justify the payments as required under Section 139(2) of Public Procurement and Asset Disposal Act, 2015.
In the circumstances, the County Management was in breach of the law.

10. Public Participation

The statement of receipts and payments and as disclosed in Note 10 reflects an amount of Kshs.2,737,376,630 in respect of acquisition of assets. Included in this amount is Kshs.1,541,289,362 in respect of construction and civil works out of which an amount of Kshs.824,500,000 relates to the County Level Infrastructure Development progammes (CLIDP). However, review of the approved budget under the County Level Infrastructure Development Programme (CLIDP), revealed that the County prepared and submitted the budget estimates for approval by the County Assembly of Kitui before subjecting the same to public participation. Failure to get views of the public hinders guidance on project identification and implementation. Further, it was noted that public participation was done after the approval of the budget by the County Assembly, contrary to Section (2) of the Public Financial Management Act of 2012. No satisfactory explanation was provided for this anomaly.

In the circumstances. the County Government was in breach of the law.

11. Irregular Procurement of Insurance Cover for Motor Vehicles, Data Centre and Administration Block

Note 5 to the financial statements reflects an amount of Kshs.1,961,942,463 in respect of Use of Goods and Services. Included in this amount is Kshs.145,348,748 relating to insurance costs out of which an amount is Kshs.25,393,129 was paid by the Office of the Governor to an Insurance firm for provision of comprehensive motor vehicle insurance cover, insurance of Data Centre and the Governor's Administration Block (inclusive of the Annex) for a period of one year effective from 27 January, 2022. However, examination of expenditure records revealed that the contract was awarded as an extension of an earlier one year contract that had been awarded to another Insurance firm on 3 February, 2021 at a contract sum of Kshs.20,060,605. The Management explained that the award of the extension contract to a different firm without following proper procurement procedures was based on the fact that the new Insurance Company had acquired part ownership of earlier Insurance firm.

Examination of an internal memo Ref. CGTI/CA/LC/113(6) dated 26 January, 2022, revealed that the County Attorney had advised the Office of the Governor through the

Director Supply Chain Management to extend the previous contract by a short period to enable the County Government to undertake a fresh regular procurement instead of awarding an irregular direct contract the new firm. However, the advice was not taken and the Office of Governor proceeded with the process and extended the contract with the new Insurance firm. Further, it was observed that the contracted firm submitted the performance bond on 23 March, 2022, two months after the signing of the contract agreement on 27 January, 2022. The County Management did not provide satisfactory explanations for the anomalies.

In the circumstances, the County Management is in violation of Section 103(1) and (2)(a) of Public Procurement and Asset Disposal Act of 2015 that states that a procuring entity may use direct procurement as allowed under sub-section (2) as long as the purpose is not to avoid competition, and on condition that the goods, works or services are available only from a particular supplier or contractor, or a particular supplier or contractor has exclusive rights in respect of the goods, works or services, and no reasonable alternative or substitute exists.

12. Extension of Contract Period without Approval

The statement of receipts and payments and as disclosed in Note 8 reflects an amount of Kshs.672,174,541 in respect of Other Grants and Payments. Included in this amount is Kshs.358,935,045 in respect of transfers to Level IV Hospitals out of which an amount of Kshs.30,000,000 relates to a contract awarded for construction of a perimeter wall and chain link fencing at Mwingi Level IV hospital. The contract was for a period of five (5) months with completion date of 4 June, 2019. However, the project has not been completed, 3 years after the expiry of contract period and no evidence of approval for contract extension was provided for audit. Section 139(2) of Public Procurement and Asset Disposal Act, 2015, require approval of among other things, the extension of the contract period by the Accounting Officer. However, no evidence was provided to confirm that approval for extension was sought and or granted. Documents reviewed also showed that the Contractor was paid an amount Kshs.4,995,000 vide payment voucher No.43556 dated 09 June, 2022.

Further, a physical inspection on the project carried out on 18 July, 2022 showed that the project is 70% complete thirty-eight (38) months after the completion date and the contractor was not on site. The Management did not indicate when the project would be completed.

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

13. Anomalies in Use of IFMIS Procurement Process

Review of the procurement records showed that the County Government of Kitui procured goods and services amounting to Kshs.3,064,963,677 through e-procurement as required under regulation 49(2) of the Public Procurement and Assets Disposal Act Regulations, 2020 and the Executive order No. 2 of 2018, Part IV that provides that procuring entities shall undertake all their procurement through the e-procurement module on IFMIS.

However, it was noted that procurement plans, participation of bidders in meetings and digital signatures certificates were not done through e-procurement system as required.

In the circumstances, the Country Management was in breach of the procurement regulations.

14. Delayed project Completion-Muuani Elevated Tank and Pipeline Extension

The County awarded a contract for construction of Muuani elevated steel water tank and pipeline extension to other areas (water distribution) to a Limited company at a contract sum of Kshs.5,640,230. The contract agreement was signed on 1 January, 2022. However, it was noted that the contract agreement did not have an end date, but the project engineer indicated that the contract was to last for a duration of three (3) months. A certificate of practical completion dated 4 April, 2022 provided for audit showed that the project is complete. However, review of the project file and physical inspection of the project conducted on 20 July, 2022 revealed that although the pipeline extension from borehole site to the elevated water tanks and associated pipe works had been done, water distribution works was pending as return line works had not been completed and the contractor had abandoned the site.

Management explained that completion and testing of pipeline was not done as the initial pump designed to pump water to the new elevated tank broke down and was replaced with a smaller pump which could not deliver water to the new site, although plans were in place to replace the pump and test the distribution lines. No satisfactory explanation was given as to why the low capacity non performing pump was as procured wasting public funds.

Further, documents reviewed also showed that despite the delay in substantial completion of the project, the contractor has been paid Kshs.4,809,755 or 85% of the contract sum. The project completion has delayed for more than 6 months and there was no evidence of an extension of the contract period.

In the circumstances, the contractor is in violation of the contract agreement and value for money incurred has not been realized.

15. Implementation of Project for Rehabilitation of the Waste Management and Disposal System and Removal of the Matter at the Slaughter House

The statement of receipts and payments and as disclosed in Note 10 reflects an amount of Kshs.2,737,376,630 in respect of acquisition of assets. Included in this amount is Kshs.1,541,289,362 in respect of construction and civil works out of which an amount of Kshs.3,146,800 relates to rehabilitating the waste management and disposal system and removal of matter at the slaughter house. However, the contract agreement provided for audit was not supported by Bills of Quantities(BOQs) and therefore it was not possible to confirm whether works done was in accordance to the scope and specifications. Further, physical verification conducted in July, 2022 revealed that the waste is disposed at an adjacent parcel next to human dwelling which is hazardous. Further, drainage from the slaughter house was incomplete and without covers and grills posing risk to animals and the slaughter house attendants, the offloading drainage system had not been done posing flooding risk in case of rains and the Contractor had used non-durable weak soft wood to partition the livestock holding paddocks with a faulty weak wooden gate. The Management did not offer an explanation as to why the inspection and acceptance committee did not highlighted the defects noted.

In the circumstances, value for money incurred was realized.

16. Delayed Project completion-Construction of Pump House Equipped with Power at Nzeeu River (Mukameni) Sump Well Project

Note 10 to the financial statements reflects an amount of Kshs.1,541,289,362 in respect of Construction and Civil Works. Included in this amount is Kshs.11,044,423 relating to project for construction of pump house equipped with power at Nzeeu river sump well and pump rehabilitation of Mukameni line and replacement of battery. The contract was awarded to an Enterprise and signed on 1 January, 2022. However, it was noted that the contract agreement did not have a contract end date. Further, documents provided for audit including certificate of practical completion, inspection and acceptance reports and correspondences between Management of Country Executive and the Contractor revealed that the project was at fifty five percent (55%) complete, though no payments had been made to the contractor.

In addition, project inspection exercise conducted on 20 July, 2022 confirmed that the contractor was not on site and there was no sign of ongoing works. Though the contract did not have expected completion date, the engineer explained that the contract was to last for a duration of three (3) months. It was also observed that the project had been executed for more than 6 months and there were substantial pending works valued at approximately Kshs.5,081,026. The Contractor wrote to the County Executive on 5 December,2022 requesting for extension of the contract period and no evidence was provided for audit to confirm that the same was granted.

In the circumstances, Kitui County residents are denied benefits that would have accrue from the complete project.

17. Execution of Civil Works Contracts-Kyaoni water project

Note 10 to the financial statements reflects an amount of Kshs.1,541,289,362 in respect of Construction and Civil Works. Included in this amount is Kshs.9,124,161 relating to rehabilitation of Thao Kyaoni water project under the Ministry of Agriculture, Water and Irrigation. A contract agreement was awarded and signed on 6 January, 2022. However, the contract was not supported by documents covering the project execution phase, paid or unpaid payment vouchers, approved interim payment certificates-IPCs, invoices, certificates of project's practical completion, minutes of inspection and acceptance committee for completed projects phases, project progress reports and correspondences with contractors as require by the Public Procurement and Assets Disposal Act 2015. It was therefore not possible to confirm the project's implementation and payments status as indicated in the project implementation status report provided for audit.

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

18. Award of Contract to Un-Registered Supplier

Note 5 to the financial statements reflects an amount of Kshs.1,961,942,463 in respect of Use of Goods and Services. Included in this amount is Kshs.182,901,364 relating to Other Operating Expenses out of which an amount is Kshs.1,999,740 was paid to a consultancy firm for conducting feasibility study on elevation of Mutomo Urbam Centre to a town in the department of Lands, Infrastructure, Housing and Urban Development. This amount was paid vide payment voucher No.42259 dated 28 September, 2021.However, it was noted that the consultant was registered by the County for supply of certified seeds, tree seedlings, fungicides, insecticides and sprays for the years 2021 to 2022 and not for consultancy services on construction and other infrastructure. The award of the consultancy contract was therefore in contravention Section 95(3) of Public Procurement and Asset Disposal Act of 2015, that stipulates that a procuring entity shall invite tenders from only the approved persons who have been pre-qualified.

In the circumstances, the County Government was in breach of the law.

19. Funding of Self-Help Projects by Ministry of Livestock, Apiculture and Fisheries

Note 10 to the financial statements reflects an amount of Kshs.13,125,470 in respect of purchase of certified seeds, breeding stock and live animals. However, review of documents relating to funding of several self-help groups under Ministry of Livestock, Apiculture and Fisheries revealed that various groups applied for funding and were funded for bee hives accessories worth Kshs.1,426,580, and others for Galla Bucks, Galla Does, Dairy Bucks and Dairy Does worth Kshs.5,972,660.However, the funding was not supported by any evidence that public participation had been conducted to establish actual preferences of the self-help groups. Further no trainings on matters of animal husbandry and maintenance of the goats and bee hives was given to the groups. An audit inspection conducted in the month of July 2022 revealed that the groups had no capacity of handling the exotic breeds and therefore were not able to achieve their goals and objectives.

Failure to train and build the capacity of the beneficiaries, the Management did not comply with Section 214(b) of Public Finance Management, (County Governments) Regulations, 2015 that states that activities promoted by entities shall be effective in achieving their national objectives and represent value for money for the expenditure of tax payer funds.

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

20. Delay in Completion of Kithomboani Modern Market

Note 10 to the financial statements reflects an amount of Kshs.1,541,289,362 in respect of Construction and Civil Works. Included in this amount is Kshs.87,599,412 relating to contract No.CGOKTI/KM/198/2018-2019. The County signed contract No. CGoKTI/KM/198/2018-2019 on 27 May, 2019 with a construction company for the proposed Construction of Kithomboani modern market in Kitui town at a contract sum of Kshs.351,585,554.50. The project commencement date was 25 June, 2019 for a period of one twenty (120) weeks with an expected completion date of 6 September, 2021. During the year under audit, the County paid the Contractor an amount of Kshs.87,599,412 while the total value of work certified and paid for from inception amounted to Kshs.216,251,012 as per interim payment certificate No.13 of 1 February, 2022.

A physical verification carried out on 15 July, 2022 revealed that works had stalled and the contractor had abandoned the site.

Further, documents reviewed showed that the contract period expired on 7 March, 2022 when the project was approximately 62% complete, and although the contract period extension was granted up to 24 October, 2022, there is a risk that the extension may lead to escalation of costs. Further, delayed completion of the project has denied Kitui residents befits that would have accrued from the complete project.

In the circumstances, County Management contravened section 151(2) of the Public Procurement and Assets Disposal Act, 2015 which requires proper monitoring of the performance of the contractor, to ensure that all delivery or performance obligations are met and the contractor acts in accordance with the provisions of the contract.

21. Irregular Legal Expenses

Note 5 to the financial statements reflects an amount of Kshs.1,961,942,463 in respect of Use of Goods and Services. Included in this amount is Kshs.182,901,364 relating to Other Operating Expenses out of which an amount of Kshs.36,051,103 relates to legal expenses incurred during the year under review. However, it was noted that the County legal office engaged the services of several consultants without the approval of the County Executive Committee as required under Section 16(1-3) of the County Attorney Act of 2020. Further, the payments were not supported by itemized fee notes and invoices hence making it difficult to determine how the consultants' charges were determined.
In the circumstances, the County Management was in breach of the law.

22. Construction of Kwa Ngelu-Mwaani-Kamweu-Thwake Dam Road

The County Government awarded a contract for Construction of Kwa Ngelu-Mwaani-Kamweu-Thwake Dam Road to a contractor at a contract sum of Kshs.17,400,000 on 12 March, 2021, with contract period of four (4) months and expected completion date of 12 July, 2021. Further, the total payments as at the time of audit for certified works was an amount of Kshs.16,626,804 as per Interim certificate No. 2 dated 29 June, 2021. Review of the site meeting minutes dated 25 June, 2021 revealed that the project was at 95% complete. However, a site inspection of the project conducted on 14 July, 2022 revealed that, though the project was done to completion, it was not in use as it was blocked halfway denying access to the rest of the road. The residents of the area and the county have not received value for money invested in the project.

In the circumstances, County residents have been denied benefits expected from the investment and therefore, value for money has not been received.

23. Funding of Projects in Public Institutions under the National Government Functions

Note 10 to the financial statements reflects an amount of Kshs.1,541,289,362 in respect of construction and civil works out of which an amount of Kshs.14,432,364 was irregularly incurred on funding projects in Primary and Secondary schools which are under the National Government functions**.** The County Executive Management was therefore in contravention of Fourth(4th) Schedule of the Constitution of Kenya, 2010, which lists Primary and Secondary schools as functions of the National Government.

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

24. Failure of County to Observe the One Third Basic Rule

Analysis of the payrolls for the months of April, 2022 and July, 2021 respectively showed that a total of twenty-five (25) employees drew net salaries that were below one third of their basic pay contrary to Section 19(3) of the Employment Act, 2007 which requires that the total amount of all deductions which may be made by an employer from the wages of his employee at any one time shall not exceed two-thirds of the basic pay**.**

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

25. Irregularities in Training Expenses

Note 5 to the financial statements reflects an amount of Kshs.1,961,942,463 in respect of use of goods and services. Included in this amount is Kshs.295,861,194 relating to training expenses. However, no evidence was provided to confirm that the County Executive established a training committee to continuously consider and review training needs in order to ensure fairness, equity and relevance as required under Section 9.6 of the County Public Service Human Resource Policy and Procedures Manual 2015.

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

26. Failure to prepare and Submit Account for Receiver of Revenue

Note 3 to the financial statements reflects an amount of Kshs.1,417,959,108 in respect of other receipts. Included in the amount is Kshs.359,219,242 being county own generated revenue for the year under review. However, the County Management did not prepare and submit accounts for the revenue contrary to the requirement of section 165 of Public Finance Management Act, 2012, which requires receivers of revenue to prepare and submit revenue accounts. Failure to prepare revenue accounts exposes the county to risk of misappropriation of revenue.

In the circumstances, Management was in breach of law.

27. Delayed Exchequer Releases

The statement of receipts and payments and as disclosed in Note 1 reflects exchequer releases amounting to Kshs.9,562,452,779 during the year under review. Analysis of revenue records provided for audit showed that an amount of Kshs.2,650,462,456 was received in the month of June and July, 2022, a month before and after cut-off.

In the circumstances, County programmes and activities were not implemented in due time, and may have impacted negatively on service delivery to the residents of Kitui County.

28. Lack of Risk Management Policy and a Disaster Recovery Plan

Documentary review, and Information provided by the Management of the County Government indicated that the County Government lacks a risk management policy, as required by Section 158(1) of Public Finance Management (County Governments) Regulations, 2015.However, it was noted that there is a draft undergoing review for purpose of approval and implementation. Consequently, there was no risk assessment carried out for the entity during the year under review.

Further, information provided also indicated that the County Government does not have in place a disaster recovery and business continuity plans contrary to provisions of Section 158(b)(1) of the Public Finance Management (County Governments) Regulations, 2015.

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

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. Use of Manual Payroll

Review of records provided for audit showed that the County Executive operated two payroll systems namely; a manual (Excel format) payroll system and the Integrated Personnel and Payroll Database (IPPD) system. Out of the total compensation of employees expenditure of Kshs.4,325,180,836, an amount of Kshs.1,073,358,807 was reported through the manual payroll system. The use of the manual system requires manual calculations of deductions to arrive at net monthly pay, and constant updates of the data, which makes it prone to human error and misuse leading to weak internal controls on management of personnel emoluments.

In the circumstances, the County Payroll Management is prone to errors.

2. Management of Revenue Collection system

Review of revenue records and revenue collection systems revealed following weaknesses:

(i) Unbanked Revenues

Review of Revenue Collection Account bank reconciliation statements as at 30 June, 2022 showed unbanked cash receipts collected through point of sale gadgets under ZIZI platform of Kshs.10,488,599. Further, supporting cashier's analysis indicated that an amount of Kshs.400,000 was held by revenue collection officers and no evidence was provided to demonstrate recoveries from the concerned staff.

Therefore, exist a risk of loss of revenue.

(ii) Lack of land and property Valuation Roll

Review of records provided in support of own generated revenue showed that the County does not have in place a valuation roll. It was therefore not possible to confirmed whether the land and property rates charged and applied in the year under review were valid and correct, and or whether they reflected the true property prices in the County.

In the absence of such a document, the County Government could overcharge or undercharge on their services. In case of undercharging, low revenue would be collected leading to loss of own generated revenue.

(iii) Unfunctional Revenue Collection System

During the year under review, monthly revenue reports generated from the revenue system were not provided for audit. Management explained that this was due to a shut down by the supplier due to lack of payments for maintenance of the system and the last payment was done in September, 2021.

(iv) A physical verification of the revenue collection for several streams such as Cess collection, crusher sales, market fees and parking fees within Kitui County revealed that the County did not have a billing system as at the time of the audit and instead relied on reports submitted by revenue officers within the County. However, the clerks were not adequately supervised since revenue supervisors only paid weekly inspection visits.

(iv) Incomplete Migration of Revenue System

Data clean up during migration to the County revenue collection system was not done to completion as there were cases of unidentified location for some businesses, incomplete information in some entries such as period for which services have been paid for and contact details for some businesses. The system reports could not therefore provide accurate status of existing clients to the County.

(v) Revenue Collection System not Integrated to Banking Systems of the County

The revenue collection system was not integrated to banking systems of the County as provided for in Section 31.1.4 of the ZIZI System contract, and further, manual reconciliations were done by the revenue officers. Failure to integrate the revenue system to banking system may allow human intervention which may cause manipulation of records.

(vi) Hospital Revenue Management Systems not Implemented

The County Government of Kitui is yet to implement a Hospital revenue management system for the hospitals within the County that is linked to the County revenue collection system. The County is therefore not able to centrally oversee the revenue collection and reporting process for public health facilities within the County.

In the foregoing, the County risks loss of revenue owing to the weak revenue management system.

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 controls, 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 controls 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 controls, risk management and governance.

In preparing the financial statements, Management is responsible for assessing the Kitui County Executive's ability to continue to sustain services, disclosing, as applicable, matters related to sustainability of services and using the appropriate basis of accounting unless Management is aware of the intention to dissolve the County or to 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 of Kitui financial reporting process, reviewing the effectiveness of how Management monitors compliance with relevant legislative and regulatory requirements, ensuring that effective processes and systems are in place to address key roles and responsibilities in relation to governance and risk management, and ensuring the adequacy and effectiveness of the control environment.

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 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 County Executive of Kitui 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 controls.

- 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 the Kitui County Executive ability 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 Kitui County Executive to cease 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 of Kitui 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 controls 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

06 February, 2023