

REPORT OF THE AUDITOR-GENERAL ON COUNTY EXECUTIVE OF UASIN GISHU 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.

REPORT ON THE FINANCIAL STATEMENTS

Qualified Opinion

I have audited the accompanying financial statements of County Executive of Uasin Gishu set out on pages 1 to 44, which comprise of the statement of assets and liabilities as at 30 June, 2022, and the statement of receipts and payments, the statement of cash flows and the statement of comparison of budget and actual amounts for the year then ended, and a summary of significant accounting policies and other explanatory information in accordance with the provisions of Article 229 of the Constitution of Kenya and Section 35 of the Public Audit Act, 2015. I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit.

In my opinion, except for the effect of the matters described in the Basis for Qualified Opinion section of my report, the financial statements present fairly, in all material respects, the financial position of the County Executive of Uasin Gishu 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 Public Finance Management Act, 2012 and the County Governments Act, 2012.

Basis for Qualified Opinion

1. Inaccuracies in the Financial Statements

The statement of receipts and payments reflects total revenue and expenditure of Kshs.9,265,267,117 and Kshs.10,252,542,027, respectively for the year ended 30 June, 2022. However, the amounts differed with the Integrated Financial Management Information System (IFMIS) ledger as detailed below:-

Payments	Financial Statements Amounts (Kshs)	Amounts in IFMIS Ledger (Kshs)	Variances (Kshs)
Use of Goods and Services	1,847,601,014	1,858,193,373	(10,592,359)
Transfers to Other Government Units	1,122,810,868	695,545,578	427,265,290
Other Grants and Transfers	620,168,057	209,495,650	410,672,407
Acquisition of Assets	3,045,647,234	3,084,283,424	(38,636,190)
Finance Costs, including Loan Interest	231,721	30,000	201,721

Management has explained that the variances were due to unaccounted for transactions in the system that have accumulated from the previous years.

Further, examination of the statement of cash flows reflects prior year other adjustments amounting to Kshs.111,500 and Kshs.160,517,070 in respect of outstanding imprests & advances and deposits & retentions, respectively. However, Management omitted the 2019/2020 outstanding balances of Kshs.3,343,895 and Kshs.133,443,364 in calculating the increase/(decrease) in the outstanding imprests & advances and deposits & retentions resulting to an unexplained variance of Kshs.3,232,395 and Kshs.27,073,706, respectively.

In the circumstances, the accuracy, completeness, presentation and disclosure of the amounts reflected in the financial statements could not be confirmed.

2. Late Transfers from the County Revenue Fund

The statement of receipts and payments reflects exchequer releases (transfer from the CRF) of Kshs.9,265,267,117 as disclosed in Note 1 to the financial statements. However, review of payment records and bank statements provided for audit revealed that transfers to the County Executive amounting to Kshs.135,177,841 were received on 18 July, 2022 after end of the financial year. As a result, the transactions were not recorded within the correct reporting period. This is contrary to Regulation 97(1) of the Public Finance Management (County Government) Regulations, 2015 on accounting and reporting states that the accounts of the County Government Entities shall record transactions which take place during a financial year running from 1, July to the 30, June.

In the circumstances, the accuracy, completeness, presentation and disclosure of the transfers to County Executive amounting to Kshs.135,177,841 could not be confirmed.

3. Inaccuracies in the Cash and Cash Equivalents

The statement of assets and liabilities reflects bank balances of Kshs.653,894,949 held in thirty – three (33) bank accounts and one Mpesa account as disclosed in Note 14A to the financial statements. However, monthly bank reconciliation statements for the bank accounts were prepared manually instead of using IFMIS. Further, the bank balance in respect of overseas education bank account in Kenya Commercial Bank for students proceeding for further studies in Finland and Canada was not disclosed in the financial statements.

In the circumstances, the accuracy and completeness of the bank balance of Kshs.653,894,949 could not be confirmed.

4. Non-Current Assets

4.1 Acquisition of Land Without Ownership Documents

The statement of receipts and payment reflects acquisition of assets amount of Kshs.3,045,647,234 as disclosed in Note 10 to the financial statements which includes an amount of Kshs.112,079,979 in respect of acquisition of land. Review of records provided for audit established that the County Executive paid fully for various parcels of land valued at Kshs.84,314,997. However, no ownership documents were provided for audit other than the original title deeds of the vendors. Further, full payment was made upon signed sale agreements despite the full ownership not transferred to the County Executive.

In the circumstances, ownership of the parcels of land acquired by the County Executive valued at Kshs.84,314,997 could not be confirmed.

4.2 Omission of Assets Inherited from Defunct Local Authorities

Annex 6 to the financial statements on summary of Non-Current Asset Register reflects historical cost carried forward balance of Kshs.15,745,789,109. However, the fixed assets register provided for audit revealed that assets inherited from the defunct Local

Authorities were omitted from the balances. Management explained that though the assets were excluded from the fixed assets register, they had been verified, validated and details forwarded to the Intergovernmental Relations Technical Committee (IGRTC) and Intergovernmental Budget and Economic Council (IBEC) so that they give guidance and direction. This is contrary to the gazette notice No. CXXI-No.81 of 21 June, 2019 which provided that County Governments to record the assets inherited from the defunct Local Authorities on the as-is-where-is basis.

In the circumstances, the accuracy and completeness of the summary of non-current assets register balance of Kshs.15,745,789,109 could not be confirmed.

4.2 Incomplete Fixed Assets Register

The summary of fixed assets register disclosed in Annexure 6 to the financial statements reflects total historical costs of assets balance of Kshs.15,745,789,109. However, review of County Executive's fixed asset register revealed that assets whose total historical cost amounts to Kshs.14,846,535,780 were not included in the summary of fixed asset register. Further, the register does not indicate the size of each parcel of land and the terms in which they are held by the County Executive of Uasin Gishu as required by Regulation 136 (2) of Public Finance Management (County Government) Regulations, 2015. Further, the Management has not tagged or branded its assets for tracking and safeguarding. As a result, County Executive is likely to lose its assets due to weak controls in asset monitoring and control.

In the circumstances, the completeness and accuracy of fixed assets balance of Kshs.15,745,789,109 as at 30 June, 2022 could not be confirmed.

4.3 Fixed Assets Without Ownership Documents

The summary of fixed assets register in Annexure 6 to the financial statements reflects total historical costs of assets balance of Kshs.15,745,789. Included in the balance is historical cost of land balance of Kshs.290,611,733 which includes a balance of Kshs.202,446,669 relating to forty-six (46) parcels of land whose ownership documents were not provided for audit. Although Management explained that the process of obtaining title for the said land were underway, the process had not been finalized as at the time of audit. In addition, included in transport equipment balance of Kshs.451,912,340 is an amount of Kshs.246,568,586 in respect of eighty-six (86) transport equipment out of which seventy-one (71) motor vehicles had nil cost as indicated in the fixed asset register. Further, the logbooks were not provided for audit.

In the circumstances, the completeness, accuracy and ownership of assets balance of Kshs.15,745,789,109 could not be confirmed.

5. Unremitted Retirement Benefits Contributions

The statement of receipts and payments reflects compensation of employees amount of Kshs.3,612,444,534 as disclosed in Note 4 to the financial statements which includes Kshs.222,014,340 paid to pension and other social security contributions. Review of the

payrolls and payment vouchers in respect of Local Authorities Provident Fund (LAPFUND), Local Authority Pension Trust (LAPTRUST) and Public Services Superannuation Scheme (GOK PSSS) reflects gross amount of Kshs.194,561,899 in respect of pension contributions for seven (7) months. However, the remittance records indicated that an amount of Kshs.192,361,734 was paid resulting to underpayment of Kshs.2,200,165. In addition, no documentary evidence was provided for review to confirm subsequent remittance of the balance and non-inclusion of the amount in the pending payables.

In the circumstances, the accuracy and completeness of social security contributions of Kshs.222,014,340 could not be confirmed.

6. Non-disclosure of Outstanding Pension Contributions

Note 2 on other important disclosures and Annex 3 to the financial statements reflects pending staff payables balance of Kshs.51,360,496 as at 30 June, 2022. However, review of records reflects unremitted retirement benefits contributions to pension funds totalling Kshs.297,813,110 resulting in an unexplained and undisclosed variance of Kshs.246,452,614. Further, the Management did not provide satisfactory explanation for the failure to settle the bills in the year when they were incurred or paid as a first charge during the year under review. This is contrary to Section 53 A (1) of the Retirement Benefits Act, 1997 which requires an employer to remit the deduction from the employee's emoluments to a pension scheme within fifteen (15) days of the deduction.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of the County Executive of Uasin Gishu 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. Budgetary Control and Performance

The statement of comparative budget and actual- recurrent and development combined amounts reflects final receipts budget and actual on comparable basis of Kshs.13,213,659,493 and Kshs.9,265,267,117, respectively resulting to an under-funding of Kshs.3,948,392,376 or 30% of the budget. Similarly, the County Executive expended Kshs.10,252,542,027 against an approved budget Kshs.13,213,659,493 resulting to an over-expenditure of Kshs.2,961,117 or 22% of the budget.

The underfunding and underperformance affected the planned activities and may have impacted negatively on service delivery to the public.

2. Pending Cases Against the County Executive

As reported earlier, Annex 8 to the financial statements discloses one hundred and nine (109) cases with estimated financial impact of Kshs.496,814,946 pending against the County Executive as at 30 June, 2022. Further, examination of records provided for audit revealed that over seven hundred (700) court cases were pending against the County Executive. The Management explained that several measures have been put in place to deal with the increasing court cases including handling the matters in-house, operationalizing the office of the County Attorney, out-of-court settlements and establishment of an independent fund to deal with the court cases.

The unresolved cases may have a significant financial impact on the County Executive and can adversely affect future cash flows.

3. Accumulation of Pending Accounts Payables

Note 1, 2 and 3 of other important disclosures to the financial statements reflects pending accounts payable, pending staff payables and other pending payables balance of Kshs.620,546,085, Kshs.51,360,496 and Kshs.43,589,664, respectively totalling Kshs.715,496,245. However, the supporting schedule reflects total pending bills balance of Kshs.710,286,352 resulting to an unexplained variance of Kshs.5,209,893. Accumulation of pending bills is contrary to The National Treasury Circular Ref AG 3/101/75 which requires Accounting Officers to establish effective financial controls and maintain financial discipline for efficient use of resources and Regulation 41(2) of the Public Finance Management (County Government) Regulations, 2015 which requires that debt service payments shall be a first charge on the County Revenue Fund. Further, failure to settle pending bills during the year in which they relate distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

4. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the report on Financial Statements, Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, Management had not resolved the issues or explained failure to implement the recommendations.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

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

Basis for Conclusion

1.0 Compensation of Employees

1.1 Non-compliance with Fiscal Responsibilities Principles on Wage Bill

The statement of receipts and payments reflects compensation of employees amount of Kshs.3,612,444,534 representing 39% of the total revenue totalling Kshs.9,265,267,117. This is contrary to Regulation 25(1)(b) of the Public Finance Management (County Governments) Regulations, 2015 which states that in addition to the fiscal responsibility principles set out in Section 107 of the Act, the following fiscal responsibility principles shall apply in the management of public finances, the limit set under paragraph (a) above, shall not exceed thirty five (35) percent of the County Government's total revenue.

1.2 Salaries Paid Outside Integrated Personnel and Payroll Database (IPPD) System

The statement of receipts and payments reflects compensation of employee's expenditure of Kshs.3,612,444,534 as disclosed in Note 4 to the financial statements. Included in the expenditure is an amount of Kshs.46,912,273 paid as salaries and allowances outside the Integrated Personnel and Payroll Database (IPPD), contrary to The National Treasury guidelines. No explanation has been provided for the processing of the wages outside the IPPD system. Further, there is risk of unauthorized payments through manual payrolls and the calculations are prone to error or manipulations.

1.3 Non-Compliance with the One Third of Basic Pay

The statement of receipts and payments reflects compensation of employee amount of Kshs.3,612,444,534 as disclosed in Note 4 to the financial statements. However, review of the payroll for the year ended 30 June, 2022 revealed instances where some employees received net salaries less than a third of their respective basic salaries while other staff members received negative salaries. This is contrary to Section 19(3) of the Employment Act, 2007 which requires that deductions made by an employer from the wages of his employee at any one time shall not exceed two thirds of such wages.

1.4 Non-Compliance with Law on Staff Ethnic Diversity

Review of personnel records provided revealed that during the year, the County Public Service Board recruited a total of seventy-five (75) County staffs who were employed in various categories. However, out of the seventy-five(75) County staffs recruited sixty-eight (68) or approximately 91% were from the dominant community in the County contrary to the provisions of Section 65(1)(e) of the County Governments Act, 2012 which requires that the County Public Service Board in selecting of employees, to ensure that at least thirty percent (30%) of the vacant posts at entry level are filled by candidates for appointment who are not from the dominant ethnic community in a County.

Further, there was no evidence to show that Management submitted to the National Employment Authority notification of employment contrary to Section 31(1) of National Employment Authority Act, 2016 which states that that upon successful interview and securing of employment by a person registered under this Act, the successful applicant shall communicate the same to the Authority in the prescribed manner. No explanation was provided for the omission.

In addition, the County Executive had a total of three thousand two hundred and twenty-two (3,222) employees out of whom two thousand five hundred and ninety-three (2,593) or approximately 79% were from the dominant community.

1.5 Casuals in Manual Payroll for More Than Three Consecutive Months

The statement of receipts and payments reflects amount of Kshs.3,612,444,534 in respect of compensation of employees as disclosed in Note 4 to the financial statements which includes an amount of Kshs.132,310,267 paid to County casual employees. Included in the expenditure is an amount of Kshs.108,619,333 incurred on casual employees who were engaged on temporary terms continuously for more than three (3) months contrary to the provisions of Section 37(1)(a)(b) and (3) of the Employment Act, 2007 which provides for conversion of the casual employment to a regular employment terms for employees who have worked in an entity continuously for more than three months. No explanation was provided for the anomaly.

1.6 Staff Members and Interns with Similar Bank Account Numbers

Review of the County Executive's payroll revealed instances where members of the County Executive have the same bank codes, branch and account number in the same bank which were not joint bank account contrary to Section 1.5.1 of the Financial Accounting Recording and Reporting Manual which requires that salaries are paid directly into staff bank accounts.

Further, there were instances where interns shared the same bank account numbers in the same bank. The Management did not explain why different members of staffs have the same bank account numbers in the same bank.

In view of the foregoing, the County Executive is at risk of incurring irregular payments.

1.7 Failure to Establish Occupational Safety and Health Committee

The County Executive has not established a safety and health committee at the workplace as required under Section 9 (1) of the Occupational Safety and Health Act, 2007. Further, Management has not provided a safety and health audit report as required under Section 11(1) of the Occupational Safety and Health Act, 2007 which stipulates that the occupier of a workplace shall cause a thorough safety and health audit of his workplace to be carried out at least once in every period of twelve months by a safety and health advisor.

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

2.0 Use of Goods and Services

As disclosed in Note 5 to the financial statements, the statement of receipts and payments reflects expenditure of Kshs.1,847,601,014 in respect of the use of goods and services. Review of records in respect of the expenditure revealed the following unsatisfactory issues:-

2.1 Irregular Payment of Training Services

Note 5 to the financial statements reflects an amount of Kshs.208,598,936 in respect of training expenses. Examination of documents in support of the expenditure reflects that a payment of Kshs.3,000,000 was made to Chebororwa ATC in respect of provision of catering and full board services during training of sixty-six (66) County Officers from Roads Department. However, review of the County Executive training needs analysis for the year 2019-2020, revealed that the Department did not submit any training requirements during the year contrary to Paragraph 2.3.1 of the PSC Human Resource Development Policy for Public Service June, 2015, which states that all training in public service organizations shall be based on comprehensive Training Needs Assessments (TNA) to be conducted every three (3) years or as need arises.

In the circumstances, it was not been possible to confirm value for money for the expenditure totalling Kshs,3,000,000.

2.2 Irregular Award of Legal Dues or Fees, Arbitration and Compensation Payments

The statement of receipts and payments reflects use of goods and services amount of Kshs.1,847,601,014 as disclosed in Note 5 to the financial statements which includes an amount of Kshs.40,526,089 paid to six(6) legal firms representing the County Executive in various legal cases and providing legal consultancy services. According to the signed framework contract dated 3 January, 2018, the law firms were to provide legal services as instructed by the County Executive for a period between three (3) years and five (5) years commencing immediately upon signing of the contract and were subsequently

renewed on 4 January, 2021. However, the procurement documents of how the legal firms representing the County Executive were identified and appointed were not provided for audit. No documentary evidence was provided to show that Management prepared value for money assessment report as required by Section 114(2) of Public Procurement and Asset Disposal Act, 2015.

Further, no documentary evidence was provided to show that the Management prepared and submitted to the Accounting Officer with a copy to the internal auditor quarterly reports detailing analysis of the items procured through framework agreements as required by Section 114(6) of Public Procurement and Assets Disposal Act, 2015. Further, no documentary evidence was provided to show that the Accounting Officer reported the contracts awarded to Public Procurement Regulatory Authority as required in Section 138(2) of Public Procurement and Asset Disposal Act, 2015.

In the absence of the requisite procurement documents, it was not possible to confirm the competitiveness in the procurement process and value for money for the Kshs.46,526,089 payments on legal dues or fees, arbitration and compensation payments.

3.0 Acquisition of Assets

The statement of receipts and payments reflects acquisition of assets amount of Kshs.3,045,647,234 as disclosed in Note 10 to the financial statements. Review of records and inspections carried out revealed the following unsatisfactory issues:

3.1 Construction of Buildings

3.1.1 Complete and Not in Use Seventy (70) Beds Maternity Ward

The statement of receipts and payments reflects acquisition of assets amount of Kshs.3,045,647,234 which includes construction of buildings amount of Kshs.551,337,013 as disclosed in Note 10 to the financial statements. Included in the expenditure is an amount of Kshs.7,504,866 that was paid towards the construction of seventy (70) beds maternity ward at West Health Centre in the financial year under review. The tender for the construction of seventy (70) Beds Maternity at West Health Centre was competitively procured at a contract sum of Kshs.63,005,156. The contract agreement was signed on 29 March, 2017 with expected completion time of fifty-six (56) weeks from the date of signing the agreement. A total sum of Kshs.59,871,749 or approximately 94% of the contract sum had been paid to the contractor as at 30 June, 2022. Physical verification conducted in the month of August, 2022, approximately two hundred and seventy-six (276) weeks after the signing of the contract agreement revealed that the works had been completed and not in use. Further, payments for year 2019, 2020, 2021 and 2022 were paid after the expiry of the contractor's performance bond that expired on 26 June, 2018.

3.1.2 Delay in the Proposed Erection and Completion of Model Kesses Sub County Hospital

The statement of receipts and payments reflects acquisition of assets amount of Kshs.3,045,647,234 which includes construction of buildings amount of Kshs.551,337,013 as disclosed in Note 10 to the financial statements. Included in the expenditure is an amount of Kshs.113,776,165 that was paid towards the proposed erection and completion of Model Kesses Sub County Hospital phase two in the financial year under review. The tender for the proposed erection and completion of Model Kesses Sub County Hospital Phase two was competitively procured and awarded to a Company at a contract sum of Kshs.450,565,250. The contract agreement was signed on 29 May, 2020 with expected completion time of one hundred and four (104) weeks commencing immediately upon signing of the contract agreement. The contract involved construction of out-patient department block, family planning block, kitchen block, incinerator and laundry and morgue block. A total amount of Kshs.277,478,076 or approximately 62% of the contract had been paid as at 30 June, 2022. Physical verification conducted in the month of August, 2022 revealed that the substructures of the buildings were complete, roofing of the buildings was done, the works were approximately 78% complete. Although the contractor was on site the construction was behind schedule by six (6) months which was over one hundred and twelve (112) weeks after signing of the contract agreement.

3.1.3 Delay in the Construction and Completion of Turbo Sub-County Office Block

The statement of receipts and payments reflects acquisition of assets amount of Kshs.3,045,647,234 which includes construction of buildings amount of Kshs.551,337,013 as disclosed in Note 10 to the financial statements. Included in this amount is Kshs 24,876,814 that was paid to a local contractor towards construction and completion of Turbo Sub County office block in the year under review. The tender for the proposed construction and completion of Turbo Sub County office block was competitively procured and awarded to a Company at a contract sum of Kshs.105,055,705. The contract agreement was signed on 3 January, 2022 with an expected completion time of fifty-two (52) weeks commencing immediately upon signing of the agreement. The managerial reports and operational plan by the project implementation team, a risk register maintained to monitor all identified contract risks and the mitigation plan and a status report that include executive summary report on performance of activities and budget; and any other issues relevant to the contract such as environmental and general observation on the performance rating were not provided for verification. Further, there was no documentary evidence that report by the Implementation Committee to the Accounting Officer on the outcome of the project was prepared contrary to Regulation 138 (1) of Public Procurement and Asset Disposal Regulations, 2020 which states that a review meeting, status report that include executive summary, reports on the performance of the activities and budget by the implementation team be done and forwarded to the Accounting Officer.

Physical verification of the project conducted in the month of November, 2022, revealed that thirty-six (36) weeks had elapsed after the signing of the contract agreement with approximately 65% of the works done. At the time of verification, the contractor was on site and works on the project was ongoing.

3.1.4 Delay in the Proposed Erection and Construction of Low Cost Two-Bedroom Flats

The statement of receipts and payments reflects acquisition of assets amount of Kshs.3,045,647,234 which includes construction of buildings amount of Kshs.551,337,013 as disclosed in Note 10 to the financial statements. Included in the expenditure is an amount of Kshs.6,050,950 paid to a local contractor towards proposed erection and construction of low cost two-bedroom flats at Macharia Estate. The contract was competitively procured and awarded to a Company at a contract sum of Kshs.37,844,799. The contract agreement was signed on 5 January, 2022 with works expected to be completed within thirty-six (36) weeks. An amount of Kshs.6,050,950 was paid during the 2021/2022 approximately 16% of the contract sum.

Although the Project Implementation team was appointed to oversee the implementation of the project and submit to the Accounting Officer monthly reports, no reports were provided for audit. Further there was no documentary evidence by the Implementation Committee to the Accounting Officer on the outcome of the project contrary to Regulation 138 (1) Public Procurement and Asset Disposal Regulations, 2020. Physical verification of the project conducted in the month of November, 2022, revealed that over thirty-six (36) weeks after the signing of the contract agreement approximately 40% of the works had been done, the contractor was on site and works on the project were ongoing beyond the completion date. No approval for the extension was provided.

3.1.5 Stalled Construction of Chagaiya High Altitude Training Camp

The statement of receipts and payments reflects acquisition of assets amount of Kshs.3,045,647,234 which includes construction of buildings amount of Kshs.551,337,013 as disclosed in Note 10 to the financial statements. Included in the expenditure is an amount of Kshs.20,934,085 paid to a contractor for construction of Chagaiya High Altitude Training Camp in the year under review. The tender was competitively procured and awarded to a Company at a contract sum of Kshs.136,526,650. The contract agreement was signed on 27 March, 2020 with an expected completion time of seventy-two (72) weeks commencing immediately upon signing of the agreement. There was extension request for another thirty (30) weeks and the extension was granted by the procuring entity on 30 August, 2021 and the revised completion date was 30 March, 2022. An amount of Kshs.42,983,760 and Kshs.20,934,085 were paid to the contractor during the financial year 2020/2021 and 2021/2022 respectively all totalling Kshs.63,917,845 approximately 47% of the contract sum. However, physical verification of the project conducted in the month of November, 2022, that is over thirty-one (31) months after the signing of the contract agreement revealed that approximately 50% of the works had been done. At the time of verification, the contractor was not on site an indication that the project had stalled with only 50% of the works completed. Further, Management reports and operational plan by the

Implementation Team for the project were not provided for audit contrary to Regulation 138(1) Public Procurement and Asset Disposal Regulations, 2020 which states a review of meetings, status report that include executive summary, reports on the performance of the activities and budget by the implementation team be done and forwarded to the Accounting Officer.

3.1.6 Delay in the Upgrading of Sixty-Four (64) Stadium

The statement of receipts and payment reflects acquisition of assets amount of Kshs.3,045,647,234 which includes construction of buildings amount of Kshs.551,337,013 as disclosed in Note 10 to the financial statements. This amount includes Kshs.405,357,958 paid to a Company in respect of proposed upgrading of sixty-four (64) Stadium in the financial year under review. The tender for the proposed upgrading of sixty-four(64) stadium was competitively procured and awarded at a contract sum of Kshs.1,163,563,925. The contract agreement was signed on 9 April, 2021 with works expected to be completed within sixty (60) weeks commencing immediately upon signing of the agreement. However, there was no documentary evidence provided by the Project Implementation Committee on the contract management plan.

Further, there was no documentary evidence of a report by the implementation committee to the Accounting Officer on the outcome of the project contrary to Regulation 138(1) Public Procurement and Asset Disposal Regulations, 2020 which states a review meeting, status report that include executive summary, reports on the performance of the activities and budget by the implementation team be done and forwarded to the Accounting Officer. Physical verification of the project conducted in the month of November, 2022 over twenty (20) months after the signing of the contract agreement revealed that approximately 40% of the works had been done and the contractor was on site and works on the project was ongoing.

3.1.7 Delay in the Proposed Erection and Completion of Ziwa Level 5 Hospital

The statement of receipts and payments reflects acquisition of assets amount of Kshs.3,045,647,234 as disclosed in Note 10 to the financial statements which includes construction of buildings amount of Kshs.551,337,013. Included in the expenditure is an amount of Kshs.30,683,959 paid towards the proposed construction of Ziwa Sub County Level Five Hospital in the financial year under review. The tender for the proposed construction of Ziwa level five (5) Hospital was competitively procured and awarded to a Company at a contract sum of Kshs.806,562,179 being the lowest bidder. The contract agreement was signed on 2 January, 2020 and work was expected to be completed within forty (40) weeks commencing immediately upon signing of the agreement. The contract involved construction of X-Ray Block, Outpatient Department block, Records block, Pharmacy block and Maternity block. A total of Kshs.249,107,644 or approximately 31% of the contract sum was paid to the contractor as at 30 June, 2022.

Physical verification of the project conducted in the month of August, 2022, approximately sixty-eight (68) weeks after the signing of the contract agreement confirmed that the substructures of the buildings are complete but roofing of the buildings are not yet done. The contractor was on site and the works were approximately 58% complete.

As a result of the delay in implementation of the projects, the residents of Uasin Gishu County may not get value for money for funds already invested.

3.2 Irregular Procurement of Consultancy Services of Upgrading of Sixty-Four (64) Stadium

The statement of receipts and payments reflects acquisition of assets amount of Kshs.3,045,647,234 as disclosed in Note 10 of the financial statements which includes refurbishment of building expenditure of Kshs.38,217,070. Included in the expenditure is an amount of Kshs.10,848,800 in respect of request for consultancy services for supervision of the proposed upgrading of sixty-four (64) stadium. The tender was awarded to a Company at a contract sum of Kshs.56,800,000. The Management notified the unsuccessful tenders in writing but did not indicate the reasons why the successful bidder was chosen as required by Section 87(3) of Public Procurement and Assets Disposal Act, 2015. In addition, no documentary evidence was provided to show that the Accounting Officer reported monthly the contracts awarded to Public Procurement Regulatory Authority as required in Section 138(2) of Public Procurement and Asset Disposal Act, 2015 and PPRA CIRCULAR NO 01.2021 dated 21 April, 2021. According to the inspection and acceptance committee report dated 28 June, 2022, the service was at 48.8% complete whereas the performance bond expired on 29 October, 2022.

In the circumstances, Management was in breach of law.

3.3 Construction of Roads

3.3.1 Construction of Box Culvert at Chamnyet-Kabutia Road in Kipsomba Ward

The statement of receipts and payments reflects acquisition of assets amount of Kshs.3,045,647,234 as disclosed in Note 10 to the financial statements which includes construction of roads expenditure of Kshs.770,726,298. Included in the expenditure is an amount of Kshs.4,234,989 paid on 22 April, 2022 to a contractor for construction of Box Culvert at Chamnyet-Kabutia road in Kipsomba ward. According to letter of notification of award dated 31 May 2021 of ref No. 868899/2020-2021, Kshs.4,235,798 was offered and the contractor accepted the offer and the resulting contract was signed on 18 June, 2021. However, no evidence was provided to show that the Accounting Officer reported the contracts awarded to Public Procurement Regulatory Authority on monthly basis as required by Section 138(2) of Public Procurement and Asset Disposal Act, 2015 and the same was placed on the notice boards as per Circular No.01/2021 dated 21 April, 2021 of Ref No.PPRA/6/5 VOL.1/(10) of Public Procurement Regulatory Authority.

3.3.2 Hire of Construction Equipment for Construction of Assorted Roads

The statement of receipts and payments reflects acquisition of assets amount of Kshs.3,045,647,234 as disclosed in Note 10 to the financial statements which includes construction of roads expenditure of Kshs.770,726,298. Included in the expenditure is an amount of Kshs.94,153,028 incurred on hiring of construction equipment for construction of assorted roads in Uasin Gishu County. The tender for hiring

of construction equipment was competitively procured and the winning bidders notified on 29 November, 2021 and 2 December, 2021 and the resulting contracts were signed as from 22 December, 2021 to 4 January, 2022. However, no documentary evidence was provided to show that the Accounting Officer reported the contracts awarded to Public Procurement Regulatory Authority on monthly basis as required in Section 138(2) of Public Procurement and Asset Disposal Act, 2015 and the same was placed on their notice boards and Circular No.01/2021 dated 21 April, 2021 of Ref No.PPRA/6/5 VOL.1/(10) for Public Procurement Regulatory Authority. No explanation was provided for the anomaly.

3.3.3 Unsupported Expenditure on Construction of Ziwa Township Road

Note 10 to the financial statements reflects construction of roads amount of Kshs.770,726,298 which includes an amount of Kshs.29,388,717 paid in two instalments to a Company in respect of construction of roads works at Ziwa Township. The tender was competitively procured and awarded to a Company at a contract sum of Kshs.29,392,030. The contract was signed on 6 December, 2021. However, included in the contract sum was an amount Kshs.1,444,000, Kshs.540,000 and Kshs.9,720,746 for preliminaries and supervisory or support services, HIV/AIDS awareness and education respectively not supported with site inspection register, signed daily reports, certified payment certificate and signed payment details of the same as required by Regulation 104 of the Public Finance Management (County Governments) Regulations, 2015.

3.3.4 Unsupported Expenditure in the Construction of Racecourse Primary-Oletebes-Pastrol Centre Marriot Junction Road

Note 10 to the financial statements reflects construction of roads and construction and civil works amount of Kshs.770,726,298 and Kshs.1,080,551,144, respectively totalling Kshs.1,851,277,442. Included in the expenditure are payments totalling Kshs.106,505,439 paid in three (3) instalments to a Construction Company in respect of construction of Racecourse Primary-Oletebes-Pastrol Centre Maroit junction road. The tender was competitively procured, awarded and contract signed on 9 January, 2021 at a contract sum of Kshs.130,712,766. According to letter of regret dated 10 December, 2020, the Management notified the unsuccessful tenders in writing and also indicated the successful bidder and tender price but did not state the reason for the bid submitted by the successful bidder as required by Regulation 82(3) of Public Procurement and Asset Disposal Regulations, 2020. Further, included in the expenditure is an amount of Kshs.2,035,000, Kshs.981,537 and Kshs.60,052,049 paid for preliminaries and supervisory/support services, HIV/AIDS awareness and education and third interim payment certificate totalling Kshs.63,068,586 which are not supported with site inspection register, signed daily reports, certified payment certificate and signed payment details of the same contrary to Regulation 104 of the Public Financial Management (County Government) Regulations, 2015. In addition, no documentary evidence was provided indicating that the Accounting Officer reported the contracts awarded to Public Procurement Regulatory Authority on monthly basis as required in Section 138(2) of Public Procurement and Asset Disposal Act, 2015 and the same was placed on their notice boards and Circular No.01/2021 dated 21 April, 2021 of Ref No.PPRA/6/5 VOL.1/(10) for Public Procurement Regulatory Authority.

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

3.4 Construction and Civil Works

3.4.1 Unsupported Variances in the Infrastructure Works in Eldoret Municipality

The statement of receipts and payments reflects acquisition of assets amount of Kshs.3,045,647,234 as disclosed in Note 10 to the financial statements which includes construction of civil works amount of Kshs.1,080,551,144. Included in the expenditure is an amount of Kshs.26,356,763 paid for infrastructure works in Eldoret Municipality during the year under review. The tender was awarded to a Construction Company at a contract sum of Kshs.154,800,000 for a period of seventy-two (72) weeks. The works covered non-motorized transport infrastructure; Chepkoilel - Sogomo, Zion mall – Rupa – RVTTI - AIC Kaplimo – Sosiani - Oil Libya, Public works – PCEA - A104(ACK Cathedral). During the year under review, two payments were made in respect of retention money totalling Kshs.26,356,763. Review of summary of bill of quantities on interim payment certificate number 3 for earth works revealed an unexplained material variance of Kshs.20,010,114 (about 502%) between the billed amounts of Kshs.3,990,000 and expenditure to date of Kshs.24,000,114.

This is contrary to Section 139(4) of the Public Procurement and Asset Disposal Act, 2015 which provides that, the quantity variation for goods and services does not exceed fifteen per cent of the original contract quantity the quantity variation of works does not exceed twenty per cent of the original contract quantity.

3.4.2 Unsupported Expenditure - Proposed Paving of Miyako-Maxxis Tagore, Ndupawa-Fish Point

Note 10 to the financial statements reflects construction of roads, construction and civil works and research, project preparation, design & supervision amount of Kshs.770,726,298, Kshs.1,080,551,144 and Kshs.132,986,555, respectively totaling Kshs.1,984,263,997. Included in the expenditure is an amount of Kshs.62,597,829 paid in three(3) instalments to a Company in respect of paving of Miyako-Maxxis Tagore, Ndupawa-Fish Point.

Records indicate that the tender for proposed paving of Miyako-Tagore, Ndupawa-Fishpoint was competitively procured and awarded to a Company and a contract signed on 8 January ,2021. According to letter of regret Ref No. CGU/ME/KUSP/004/2020-2021 dated 10 December, 2020, the Management notified the unsuccessful tenders in writing and indicated the successful bidder and tender price but did not state the reason why the bid submitted by winning bidder was successful as required by Regulation 82(3) of Public Procurement and Assets Disposal Regulations, 2020. Further interim certificate No. 1 had a sum of Kshs.83,032,801 which included Kshs.5,115,000 and Kshs.2,338,750 for preliminaries and supervisory or support services and for HIV/AIDS awareness and education totalling Kshs.7,453,750 which are not supported with site inspection register, signed daily reports, certified payment certificate and signed payment details of the same as required by Regulation 104 of the Public Finance Management (County Government) Regulations, 2015.

3.4.3 Acquisition of Intangible Assets

The statement of receipts and payments reflects acquisition of assets amount of Kshs.3,045,647,234 as disclosed in Note 10 to the financial statements. This amount includes acquisition of intangible assets expenditure of Kshs.7,414,324. Included in the expenditure is an amount of Kshs.3,431,173 paid to a consultant in June, 2022 for acquisition of intangible assets. According to letter of notification of award dated 30 March, 2022 an amount of Kshs.8,577,934 was offered which the consultant accepted as indicated in the unreferenced letter of acceptance dated 12 April, 2022 and a contract was signed on 25 April, 2022. The consultant was to conduct the service immediately and deliver within twelve (12) weeks. According to the final report dated 17 June, 2022, the Consultant had implemented all the deliverable terms as showed in the signed contract. However, the software's rights were still housed in the Consultant's server and not clear when the software will be handed over to the County Executive as the contract is behind schedule.

As a result of the delayed implementation of the project, the residents of Uasin Gishu County may not obtain value for money.

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

4.0 Non-Surrender of Outstanding Imprest

The statement of assets and liabilities reflects account receivable - outstanding imprests and advances balance of Kshs.3,601,760 as disclosed in Note 15 to the financial statements. The imprests were overdue and ought to have been surrendered within seven (7) days of the officers returning to their duty stations as required in Regulation 93 of the Public Finance Management (County Governments) Regulations, 2015. No justification was provided for the failure to recover the above amounts from staff salary.

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

5.0 County Assembly Budget

During the year under review, the County Executive allocated the County Assembly a final budget of Kshs.807,971,808. This exceeded the lower of seven percent of the total revenues of the County Government of Kshs.9,677,712,285 (8%) or twice the personnel emoluments of that County Assembly of Kshs.350,654,059, whichever is lower (i.e Kshs.701,308,118) by Kshs.106,663,690. This is contrary to Regulation 25(1)(f) of the Public Finance Management (County Governments) Regulations, 2015.

The excess budget may have adversely affected the implementation of County Executive programmes and service delivery to the public.

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. Failure to Prepare Monthly Payroll Reconciliation Statements

The statement of receipts and payments reflects compensation of employees amount of Kshs.3,612,444,534 as disclosed in Note 4 to the financial statements. However, during the year, monthly payroll reconciliation statements were not prepared reconciling changes in month to month payroll payment; this may lead to non-detection of errors in payroll data. This is contrary to Regulation 158(1) of Public Finance Management (County Government) Regulations, 2015 which states that the Accounting Officer shall ensure that (a) the County Government entity develops risk management strategies, which include fraud prevention mechanism; and (b) the County Government entity develops a system of risk management and internal control that builds robust business operations.

In the circumstances, risk management strategies, which include fraud prevention mechanism and a system of risk management and internal control could not be confirmed.

2. Lack of Inventory Policy

Review of procurement records revealed that there was no documentary evidence provided indicating that the procurement entity had an Inventory Policy to guide on inventory management, stores and assets purchased. Further there were no yearly stock take reports. This is contrary to Regulation 132 (1) Public Finance Management (County Governments) Regulations, 2015 which states the Accounting Officer of a County Government entity shall take full responsibility and ensure that proper control systems exist for assets and that - (a) preventative mechanisms are in place to eliminate theft, security threats, losses, wastage and misuse; (b) movement and conditions of assets can be tracked; and (c) stock levels are at an optimum and economical level.

In the absence of proper inventory management, financial and accounting records, may lead to theft, security threats, losses, wastage and misuse of assets.

3. Lack of Risk Management Policy

Review of Uasin Gishu County Executive for the year 2021/2022 revealed that Risk Management Policy was not in place contrary to Regulation 158 1(a)(b) of the Public Finance Management (County Governments) Regulations, 2015 which requires each County Government entity to develop risk management strategies and a system of risk management strategies, which include fraud prevention mechanism; and the County Government entity develops a system of risk management and internal control that builds robust business operations.

In the absence of the policy, the County Executive was not capable of identifying operational areas prone to risks and put in mitigation measures against misuse or loss of public resources.

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 controls, 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 sustainability of services and using the applicable basis of accounting unless Management is aware of the intention to dissolve the County Executive 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's financial reporting process, reviewing the effectiveness of how the 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 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 controls 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 policies and procedures may deteriorate.

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

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a

basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.

- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the Management.
- Conclude on the appropriateness of the Management's use of the applicable basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on 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 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 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

01 March, 2023