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 the 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 the County Executive of Kisii set out on pages 1 to 50, 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 for the year then ended and a summary of significant accounting policies and other explanatory information in accordance with the provisions of Article 229 of the Constitution of Kenya and Section 35 of the Public Audit Act, 2015. I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit.

In my opinion, except for the effect of the matters described in the Basis for Qualified Opinion section of my report, the financial statements present fairly, in all material
respects, the financial position of the County Executive of Kisii as at 30 June, 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.

**Basis for Qualified Opinion**

1.0 **Unsupported Expenditure**

The statement of receipts and payments and Note 4 to the financial statements reflects expenditure on use of goods and services totalling to Kshs.1,630,997,716. The balance included other operating expenses of Kshs.164,825,299 out of which, an amount of Kshs.1,000,000 was incurred on supporting the operations of the Lake Region Economic Bloc. However, expenditure returns together with related supporting documents were not provided for audit. It was also noted that the payment was not based on any law.

Further, the balance included an amount of Kshs.7,955,000 that was spent on security services. Management of the County Executive extended the contract agreement with a security firm on 01 January, 2019 for a period of twelve (12) months at cost of Kshs.12,780,000. On 01 January, 2020, Management extended the contract by a further period of two years. However, the extensions were not supported by approvals by the tender evaluation committee and Management did provide explanations for the extension of the contract.

In addition, Note 4 to the financial statements reflects insurance costs of Kshs.201,196,632. Included in the balance is an amount of Kshs.6,719,462 incurred on other classes of insurance costs. However, the expenditure was not supported with tender evaluation reports and approved professional opinions. Further, an amount of Kshs.18,197,788 was paid to various firms for the insurance of various assets. However, the insurance policy documents to confirm the nature, risks and extent of the insurance coverage were not provided for audit.

Moreover, Note 4 to the financial statements reflects routine maintenance-other assets amount of Kshs.96,029,509 of out of which, an amount of Kshs.5,402,425 was spent on the supply of assorted spare parts. However, counter receipt vouchers (S13), issue vouchers (S11) and job cards for the maintenance of equipment within the departments were not provided for audit review.

In the circumstances, the accuracy, completeness and regularity of the expenditure of Kshs.1,630,997,716 on use of goods and services could not be confirmed.

2. **Unexplained Voided Transactions**

Review of the Integrated Financial Management Information System (IFMIS) system payments indicated that fifty-five (55) transactions amounting to Kshs.82,074,454 were voided. Available information also indicates that the Controller of Budget (CoB) had approved payments of the voided transactions. Management did not explain why the payments were voided yet they had been approved.
In the circumstances, the accuracy and completeness of the financial statements could not be confirmed.

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

**Key Audit Matters**

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

**Other Matter**

1.0 **Budgetary Control and Performance**

The statement of comparison of budget and actual amount reflects final receipts budget and actual on comparable basis of Kshs.12,590,694,978 and Kshs.8,983,386,920 respectively, resulting to under-receipt of Kshs.3,607,308,058 (or 29%) of the budget. Similarly, the County Executive spent Kshs.9,762,602,962 out of the approved expenditure budget of Kshs.12,590,694,978, resulting to an under expenditure of Kshs.2,828,092,016 (or 22%) of the budget.

In the circumstances, the under-receipt and under expenditure could have adversely affected service delivery.

2.0 **Late Exchequer Releases**

Note 1 to the financial statement reflects exchequer releases totaling Kshs.8,182,732,547 which includes an amount of Kshs.756,013,333 received by the County Government from the National Treasury on 17 June, 2022 and therefore the funds could not be utilized by the end of the financial year.

In addition, other exchequer releases of Kshs.711,541,962 were disbursed on 28 July, 2022 for the financial year 2021/2022.

In the circumstances, late exchequer releases could have had adverse effects on the implementation of the planned activities and projects by the County Executive.

3.0 **Non-Payment of Pension Contributions**

Review of financial records revealed that the County Executive owed the Local Authorities Provident Fund (LAPFUND) an amount of Kshs.25,288,547 in unremitted deductions as at 30 June, 2022. Out of this debt, Kshs.2,000,000 was paid in October, 2022.

In the circumstances, the ability of LAPFUND to service retirement benefits, as and when such benefits fall due, to the existing employees may have been adversely affected.
4.0 Unresolved Prior Year Matters

The Public Sector Accounting Standard Board (PSASB) financial reporting template issued in June, 2021 stipulates that the Management should reflect a progress on follow up on auditor's recommendations indicating issues raised by the auditor, status and timeframe when the issues are expected to be resolved. However, Note 15 on other important disclosures to the financial statements shows that thirty two (32) issues raised by the Auditor-General in the report for 2020/2021 had not been resolved. Management did not provide satisfactory reasons for failure to resolve the prior year audit issues.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

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

Basis for Conclusion

1.0 Non-adherence to the Public Finance Management Fiscal Responsibilities

Review of the financial records revealed that out of the actual total revenue of Kshs.8,983,386,920 an amount of Kshs.5,129,147,123 was incurred on compensation of employees' which was 57% of the revenue and which was above the maximum limit of 35% set in Regulations 25(1)(a) and (b) of the Public Finance Management (County Governments) Regulation 2015.

Further, the statement of comparison of budget and actual amounts for development vote reflects total actual development expenditure of Kshs.2,104,070,936 (or 22%) of the total expenditure of Kshs.9,762,602,962 reflected in the statement of receipts and payments. This was contrary to Regulation 25(1)(g) of the Public Finance Management (County Governments) Regulations, 2015 which states that
dev expenditure to be at least 30% of total expenditure.

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

2.0 Pending Accounts Payable

Note 1 under other important disclosures reflects pending accounts payable balance carried forward of Kshs.1,393,854,413, which increased by Kshs.649,495,292 or 87%, from the previous year's balance of Kshs.744,359,121. Further, out of the bills of Kshs.1,393,854,413, bills totalling Kshs.202,459,134 are long outstanding as they relate to 2018/2019 and earlier financial years. This was contrary to Regulation 41(2) of the Public Finance Management (County Governments) Regulations, 2015 which states that
debt service payments shall be a first charge on the County Revenue Fund and the 
Accounting Officer shall ensure this is done to the extent possible that the county 
government does not default on debt obligations.

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

3.0 Unapproved Salary and Remuneration of the County Attorney Staff

The expenditure of Kshs.5,129,147,123 on compensation of employees' included an 
amount of Kshs.18,861,016 spent on the salaries and remunerations of nine (9) officers 
working in the County Attorney Office. However, no evidence was provided for audit to 
show that the Salaries and Remuneration Commission was consulted in determining their 
remunerations, contrary to section 19 of the Office of the County Attorney Act, 2020, 
which stipulates that the County Attorney, County Solicitor and County Legal Counsel 
appointed under this Act shall serve on such terms as the County Public Service Board 
shall, in consultation with the Salaries and Remuneration Commission, determine.

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

4.0 Irregular Engagement of Officers

The statement of receipts and payments reflects compensation of employees balance of 
Kshs.5,129,147,123. Out of the balance, an amount of Kshs.300,000,000 was paid to 
three hundred and thirty three (333) officers occupying positions in eight (8) departments 
in the County that were not in the approved staff establishment. Further, review of the 
Integrated Personnel and Payroll Database (IPPD) payroll for the month of June, 2022 
and the approved departmental staff establishments, revealed that the officers were paid 
a total of Kshs.25,024,040 in the month of June, 2022.

In the circumstances, the regularity of the expenditure of Kshs.300,000,000 could not be 
confirmed.

5.0 Expenditure on Excess Drivers

The statement of receipts and payments reflects compensation of employees balance of 
Kshs.5,129,147,123. Out of this balance, approximately an amount of Kshs.31,209,456 
was incurred on sixty-nine (69) excess drivers who were paid, on average, total gross 
monthly salaries of Kshs.2,600,788 per month. This was revealed through analysis of the 
IPPD payroll for June, 2022 that the County had one hundred and seventy (170) drivers 
against one hundred and one (101) serviceable motor vehicles.

In the circumstances, value for money on the expenditure of Kshs.31,209,456 could not 
be confirmed.

6.0 Non-Compliance with Law on Ethnic Composition in Recruitment of Staff

Review of personnel records revealed that during the year under review, the County 
Executive recruited ninety-four (94) members of staff out of which, ninety-three (93) or 
99% were from the dominant community. This was contrary to Section 65(1)(e) of the 
County Governments Act, 2012 which stipulates that in 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 circumstances, Management was in breach of the law.

7.0 Delay in Confirmation of Officers

Review of the payroll for the month of June, 2022 revealed seventy nine (79) officers had been on probation for more than six (6) months, contrary to the provision of Section B.13(1) of the County Public Service Human Resource Manual which requires that an officer be put on probation for a period of six (6) months. Management did not explain the reasons for non-compliance with the Human Resource Manual.

In the circumstances, Management was in breach of the Human Resource Manual.

8.0 Failure to Observe One Third of Basic Salary Payment Rule

Audit review of the payroll for the month of June 2022 revealed that thirty six (36) officers earned salaries which were less than a third of their respective basic salaries contrary to Section 19(3) of the Employment Act, 2007 which states that without prejudice to any right of recovery of any debt due, and notwithstanding any written law, the total amount of all deductions which under the provisions of Section (1), may be made by an employer from the wages of his employee at any time shall not exceed two thirds of such wages or such additional or other amount as maybe prescribed by the Minister either generally or in relation to a specified employer or employee of class of employers or employees or any trade or industry.

In the circumstances, Management was in breach of Section 19(3) of the Employment Act, 2007.

9.0 Irregular Payments

The statement of receipts and payments reflects expenditure on use of goods and services totalling to Kshs.1,630,997,716 which included an amount of Kshs.325,240,442 in respect of travel and subsistence expenses. Out this balance, an amount of Kshs.2,254,000 was paid to Members of Kisii County Assembly (MCAs) for attending a retreat in Kisumu to discuss and finalize the budget for the financial year 2021/2022. This was despite the fact that the County Assembly had its own operational budget.

Further, the balance includes other operating expenses of Kshs.164,825,299 out of which Kshs.3,500,000 was paid to the Council of Governors for the purpose of meeting its operation expenses. This was contrary to Section 37(b) of the Intergovernmental Relations Act, 2012 which requires operational expenses of the Council of Governors to be funded by the National Government.

In the circumstances, the regularity of expenditure of Kshs.5,754,000 could not be confirmed.
10.0 Unexplained Delay in Remittance of Taxes

The statement of receipts and payments and Note 6 to the financial statements reflects other grants and transfers of Kshs.644,275,870 and which included an amount of Kshs.108,785,893 in respect of payables to Kenya Revenue Authority. Review of financial records revealed an amount of Kshs.21,191,655 in respect to penalties and interest due to delay in remittance of taxes. Management did not explain the reason for the delay in remittance of taxes.

In the circumstances, the value for money on the nugatory expenditure of Kshs.21,191,655 could not be confirmed.

11.0 Delay in Completion of Rangi Mbili-Elimu-Umoja Road and Augmentation of Huduma Centre-Kisii Hotel Drainage and Associated Works

The statement of receipts and payments and Note 6 to the financial statements reflects other grants and transfers expenditure of Kshs.644,275,870 out of which an amount of Kshs.89,979,516 was in respect of Kenya Urban Support program. The balance included an expenditure of Kshs.14,251,270 in respect of a contract for the construction of Rangi Mbili-Elimu-Umoja Road and Augmentation of Huduma Centre-Kisii Hotel Drainage and Associated Works. The tender had been awarded to a construction company at a contract sum of Kshs.50,594,198 for a contract period of forty eight (48) weeks commencing on 28 July, 2021 to 28 July, 2022. An additional payment was made in July, 2022, bringing the total payments to Kshs.23,843,310 (or 47% of the contract sum). Audit inspection of the project in the month of July, 2022 revealed that the project was 56% complete.

Review of records indicated that, the contractor requested for extension of time on the contract citing various reasons for the delay in completion of works, including obstruction of electrical poles, leaking water pipes, lack of design both geometric and pavement as well as lack of engineering drawings, delay in issuing instructions, the fuel crisis, changes in sequence and timing of works and excessive rainfall. The extension was granted for 85 days to 21 October, 2022.

In the circumstances, there was no value for money obtained on the expenditure of Kshs.23,843,310 on the project.

12.0 Failure by Contractor to Deliver Physical Development Plans

The statement of receipts and payments and Note 7 to the financial statements, reflects expenditure on acquisition of assets totalling Kshs.1,384,988,744. The expenditure included research, studies, project preparation, design and supervision costs amounting to Kshs.14,470,000 out of which a payment of Kshs.9,500,000 was made in respect of a contract to prepare physical development plans for Marani, Masimba, Nyamarambe and Mosocho Towns. The consultancy had been awarded to a firm at a contract sum of Kshs.46,959,700 for a contract period of thirty six (36) months commencing on
12 May, 2016 and ending of 11 May, 2019. The first 30% of the contract sum (Kshs.14,087,910) was payable on submission of inception Report, second 30% on submission of situational analysis report, third 30% on submission of acceptable draft plan and the final 10% on submission and acceptance of the final Physical Development Plans for the four town centers. However, as at 30 June, 2022, the firm had not submitted the final physical development plans, despite a total of Kshs.40,147,430 (or 86%) of the contract sum having been paid. Further, although the contract had lapsed over three years ago, no evidence of contract extension was provided for audit review.

In the circumstances, value for money on the expenditure of Kshs.40,147,430 could not be confirmed.

13.0 Delay in Completion of Construction of Buildings

The statement of receipts and payments and Note 7 to the financial statements, reflects expenditure on acquisition of assets totalling Kshs.1,384,988,744 which includes an amount of Kshs.115,873,218 on construction of buildings. Review of financial records revealed six (6) projects had either been abandoned or their completion date delayed. The details are provided below;

i. An amount of Kshs.4,074,440 was paid to a contractor for the construction of Sameta Library. The tender was awarded at a contract sum of Kshs.9,820,000 in the financial year 2015/2016. However, audit inspection of the project revealed that the project was abandoned, and contractor was not on site. Management had attributed the delay in completion of the project on failure to pay the contractor.

ii. Further, an amount of Kshs.2,000,000 was incurred on construction of a cultural hall at Nyanturago in Ibeno Ward. The works had been awarded to a contractor at a contract sum of Kshs.9,911,010 in the financial year 2015/2016. Review of payment records revealed that the contractor had been paid a total of Kshs.4,929,221 as at 30 June, 2022. Physical verification of the project on 06 July, 2022 revealed that the project had not been completed and no contract extension approval was provided for audit.

iii. In addition, an amount of Kshs.1,060,920 was incurred on construction of a cultural hall at Tabaka. The contract was awarded to a construction company in the year 2013/2014 at a contract sum of Kshs.10,633,037. As at 30 June, 2022 a total of Kshs.7,443,967 had been paid to the contractor. However, physical verification on 06 July, 2022 revealed that the project had not been completed and no contract extension approval was provided for audit review.

iv. Moreover, an amount of Kshs.2,056,580 was spent on construction of a public toilet at Keroka Market at a contract sum of Kshs.2,056,580. However, physical verification of the project on 29 June, 2022 revealed that the project was approximately 50% complete as the water tower had not been done, while the toilets fittings were falling apart. It was also noted that the project was done in a garbage collection site, behind the market and which poses risk to the residents.

v. According to the financial records, an amount of Kshs.7,000,000 was paid to a contractor constructing a perimeter fence at Nyatieko Waste Management. The
tender had been awarded to construction company at a sum of Kshs.22,573,195 and the works commenced on 04 October, 2020 and was expected to be completed on 04 August, 2021. As at 30 June 2022, a total of Kshs.17,000,000 had been paid. However, physical verification of the project on 08 July, 2022 revealed that the walls had not been completed and the contractor was not on site. In addition, approval from National Environmental Management Authority and ownership documents for the waste management site were not provided for audit review.

vi. An amount of Kshs.5,000,000 was incurred on construction of the Kisii Governor’s Official Residence in the year under review. The tender had been awarded to construction company at a contract sum of Kshs.19,402,298 for a contract period of 6 months. In the first phase, a total of Kshs.9,000,000 was paid, bringing the total expenditure for the project as at 30 June, 2022 to Kshs.14,000,000. However, physical verification on 14 July, 2022 revealed that the project had not been completed despite the contract period having elapsed on 28 May, 2022. Management indicated that the contract was terminated on 11 October, 2022 due to failure by the contractor to strictly adhere to specifications and instructions.

In the circumstances, the value for money on the expenditure of Kshs.49,504,208 on six (6) projects could not be confirmed.

14.0 Payment for Non-existent Project

The statement of receipts and payments and Note 7 to the financial statements, reflects expenditure on acquisition of assets totalling Kshs.1,384,988,744 which includes an amount of Kshs.115,873,218 on construction of buildings. Included in this balance is an amount of Kshs.1,866,128 spent on the proposed construction of Nyamache market shade and workshop which had been awarded at a contract sum of Kshs.4,143,578. The contract was to commence on 30 April, 2015 and end on 30 July, 2015 for a period of three (3) months. As at 30 June, 2022 the contractor had been paid the full contract amount. However, physical verification of the project on 29 June, 2022 revealed that the project did not exist on the ground and the site where the market shed was allegedly built was occupied by Nyamache Banana Market.

In the circumstances, the regularity and value for money on the expenditure of Kshs.4,143,578 could not be confirmed.

15.0 Unutilized Youth Polytechnic

The statement of receipts and payments and Note 7 to the financial statements, reflects expenditure on acquisition of assets totalling Kshs.1,384,988,744 which includes an amount of Kshs.3,998,000 spent on construction of Rioma Youth Polytechnic which had been awarded at a contract sum of Kshs.3,998,000. However, audit inspection revealed that the project was done to completion but was not being utilized. Further, ownership
documents for the land on which the Polytechnic is built were not provided for audit review.

In the circumstances, the value for money on the expenditure of Kshs.3,998,000 could not be confirmed.

16.0 Incomplete Construction Works

The statement of receipts and payments and Note 7 to the financial statements, reflects expenditure on acquisition of assets totalling Kshs.1,384,988,744 which includes an amount of Kshs.115,873,218 on construction of buildings. Included in the balance is an amount of Kshs.12,820,425 paid to a contractor for the refurbishment of Suneka Market. The works had been awarded at a contract sum of Kshs.20,461,390 for a contract period of 6 months starting from 20 February, 2020 and ending on 30 July, 2020. Physical verification revealed that the project was not complete, more than two years after the expected completion date, and the contractor was not on site. Management had explained that the contract was terminated due to non-performance by the contractor.

Further, available Information indicated that a company was awarded a contract for the Proposed Civil Works at Gesieka Market at a contract sum of Kshs.2,534,370. The contract period was agreed at three months, from 28 June, 2019 to 30 September, 2019. As at 30 June, 2022, the contractor had been paid the full contract sum of Kshs.2,534,370. However, audit inspection on 29 June, 2022 revealed that the project was never implemented.

In the circumstances, the value for money on the expenditure of Kshs.15,354,795 on the two (2) could not be confirmed.

17.0 Non- Publication of Procurement Contracts

Review of the procurement records for the County Executive revealed that procurement contracts with contract sums totalling to Kshs.158,569,014 were not published on County Executive’s notice boards and websites as required by Regulation 131 of the Public Procurement and Asset Disposal Regulations, 2020. In addition, no evidence was provided to indicate that the contracts were reported to the Public Procurement and Review Authority.

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

18.0 Stalled and Incomplete Projects

Review of the projects under the Department of County Administration, Corporate Services and Stakeholder Management revealed that fifteen (15) projects in respect of the construction of Ward offices and sub-county headquarters on which the County Executive had spent Kshs.70,809,162 as at 30 June 2022, were incomplete had stalled as shown below:
<table>
<thead>
<tr>
<th>Project Name</th>
<th>Year of awarded</th>
<th>Cum. Amount Paid (Kshs.)</th>
<th>% of Completion</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>Construction of Bogeka Ward Office</td>
<td>2013/14</td>
<td>3,447,578</td>
<td>60%</td>
<td>Stalled</td>
</tr>
<tr>
<td>Construction of Masige West Ward Office</td>
<td>2013/14</td>
<td>2,350,000</td>
<td>70%</td>
<td>Stalled</td>
</tr>
<tr>
<td>Construction of Senger Bosoti Ward Office</td>
<td>2014/15</td>
<td>4,329,614</td>
<td>70%</td>
<td>Stalled</td>
</tr>
<tr>
<td>Construction of Ibeno Ward Office</td>
<td>2014/15</td>
<td>2,124,842</td>
<td>50%</td>
<td>Stalled</td>
</tr>
<tr>
<td>Construction of Kegogi Ward Office</td>
<td>2015/16</td>
<td>3,903,299</td>
<td>50%</td>
<td>Stalled</td>
</tr>
<tr>
<td>Construction of Nyamasibi Ward Office</td>
<td>2015/16</td>
<td>4,128,953</td>
<td>85%</td>
<td>Stalled</td>
</tr>
<tr>
<td>Construction of Birongo Ward Office</td>
<td>2015/16</td>
<td>3,503,880</td>
<td>65%</td>
<td>Stalled</td>
</tr>
<tr>
<td>Construction of Kiamokama Ward Office</td>
<td>2015/16</td>
<td>3,045,000</td>
<td>80%</td>
<td>Stalled</td>
</tr>
<tr>
<td>Construction of Keumbu Ward Office</td>
<td>2015/16</td>
<td>4,805,333</td>
<td>98%</td>
<td>Stalled</td>
</tr>
<tr>
<td>Construction of Moticho Ward Office</td>
<td>2014/15</td>
<td>4,007,240</td>
<td>70%</td>
<td>Stalled</td>
</tr>
<tr>
<td>Construction of Boochi Borabu Ward Office</td>
<td>2014/15</td>
<td>3,384,349</td>
<td>70%</td>
<td>Stalled</td>
</tr>
<tr>
<td>Construction of Riana Ward Office</td>
<td>2019/20</td>
<td>3,830,737</td>
<td>90%</td>
<td>Stalled</td>
</tr>
<tr>
<td>Construction of Machoge Bassi Ward Office</td>
<td>2015/16</td>
<td>4,507,347</td>
<td>80%</td>
<td>Stalled</td>
</tr>
<tr>
<td>Construction of Pit Latrine Block at Moticho Ward Office</td>
<td>2019/20</td>
<td>0</td>
<td>80%</td>
<td>Stalled</td>
</tr>
<tr>
<td>Construction of Sub-County Hqs Kitutu Chache South</td>
<td>2013/14</td>
<td>23,440,990</td>
<td>95%</td>
<td>Stalled</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>70,509,162</strong></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

In the circumstances, value for money on the expenditure of Kshs.70,809,162 could not be confirmed.

**19.0 Pending Legal Cases**

Review of legal documents from the County Attorney’s Office revealed that two hundred and sixty-six (266) court cases were pending against the Kisii County Executive some of which were inherited from the defunct local authorities. Out of these cases, nine (9) were ruled against the County Executive and the plaintiffs or claimants awarded a total of Kshs.1,696,135 in two (2) of the nine cases, while amounts awarded in the remaining seven (7) cases had not been provided for audit. However, the County Executive had so
far not settled the Court awards of Kshs.1,696,135 which had also not been included in the reported list of pending bills. Further, no evidence was adduced on any appeals on the matters. In addition, the status of the two hundred and fifty-seven (257) unconcluded Court cases was not provided for audit.

In the circumstances, failure to abide to the Court rulings may results to incurrence of further avoidable costs in form of penalties and interests.

20.0 Irregular Conferment of Municipality Status to Ogembo Urban Centre

According to the Urban Areas and Cities (Amendment) Act, 2019, a town is eligible for conferment of municipality status if it has a population of at least fifty thousand (50,000) residents according to the final gazetted results of the last population census carried out. However, information available indicates that on 29 July, 2021, the Governor, Kisii County conferred the status of a municipality to Ogembo Urban Area through Gazette Notice No.8634, despite it having a population of only 3,901, according to the 2019 Kenya Population and Housing Census. Therefore, Ogembo Urban Area did not satisfy the criteria for conferment to a municipality. No explanation was given for the anomaly.

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 procedures performed, except for the matters described in the Basis for Conclusion of Effectiveness of Internal controls, Risk Management and Governance section of my report, I confirm that, nothing else has come to my attention to cause me to believe that internal controls, risk management and overall governance were not effective.

Basis for Conclusion

1.0 Grounded Motor Vehicles and Machineries

Annex 3 – summary of non-current assets register to the financial statements reflects total non-current assets with a historical cost of Kshs.15,822,083,275 which included transport equipment of Kshs.715,917,441. However, review of the status of the Executive’s fleet of motor vehicles and machineries revealed that sixty-eight (68) motor vehicles and heavy machinery out of an inventory list of one hundred and eighty-two (182) representing 37% of the entire fleet, were grounded and unserviceable. Although Management had
preparing a consolidated annual disposal plan for the financial year 2020/2021, none of the grounded vehicles had been disposed of as at 31 December, 2022.

In the circumstances, Management did not institute effective internal controls to ensure proper management of the fleet of motor-vehicles.

**2.0 Uncollected Revenue - Property Rates**

The statement of comparison of budget and actual amounts reflects other receipts budget amount of Kshs.1,595,176,552 which includes Kshs.30,000,000 expected from land rates. Similarly, the statement reflects other receipts actual amount of Kshs.800,654,373 which, as disclosed in Note 2 to the financial statements, includes County own generated receipts of Kshs.404,554,619 out of which Kshs.12,845,291 relates to land rates. Therefore, the County Executive had a shortfall of Kshs.17,154,709 from land rates or 57% of the budgeted revenue.

Further, review of the County Executive’s electronic records indicated that the Management had not collected long outstanding property rates, inclusive of interest and penalties, totalling Kshs.435,999,218, which were owed by plot owners within Kisii Municipality and other areas in the County. In addition, no records were provided for audit to show efforts made by the Management to recover the outstanding monies. Moreover, the valuation rolls used in the collection of land rates were those used by the defunct local authorities.

In the circumstances, Management did not institute effective internal controls to ensure collection of property rates.

The audit was conducted in accordance with ISSAI 2315 and ISSAI 2330. The standards require that I plan and perform the audit so as to obtain assurance as to whether effective processes and systems of internal controls, risk management and overall governance was maintained 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 such 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 County Executive’s ability 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.

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

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 controls 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 controls would not necessarily disclose all matters in the internal controls 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 controls 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 policies and procedures may deteriorate.

As part of an audit conducted in accordance with ISSAIs, I exercise professional judgment and maintain professional scepticism 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.

- Obtain an understanding of internal controls relevant to the audit in order to design audit procedures that are appropriate in the circumstances and for the purpose of giving an assurance on the effectiveness of the internal controls.

- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by Management.

- Conclude on the appropriateness of Management’s use of the applicable basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the County Executive’s ability to 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 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 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 April, 2023