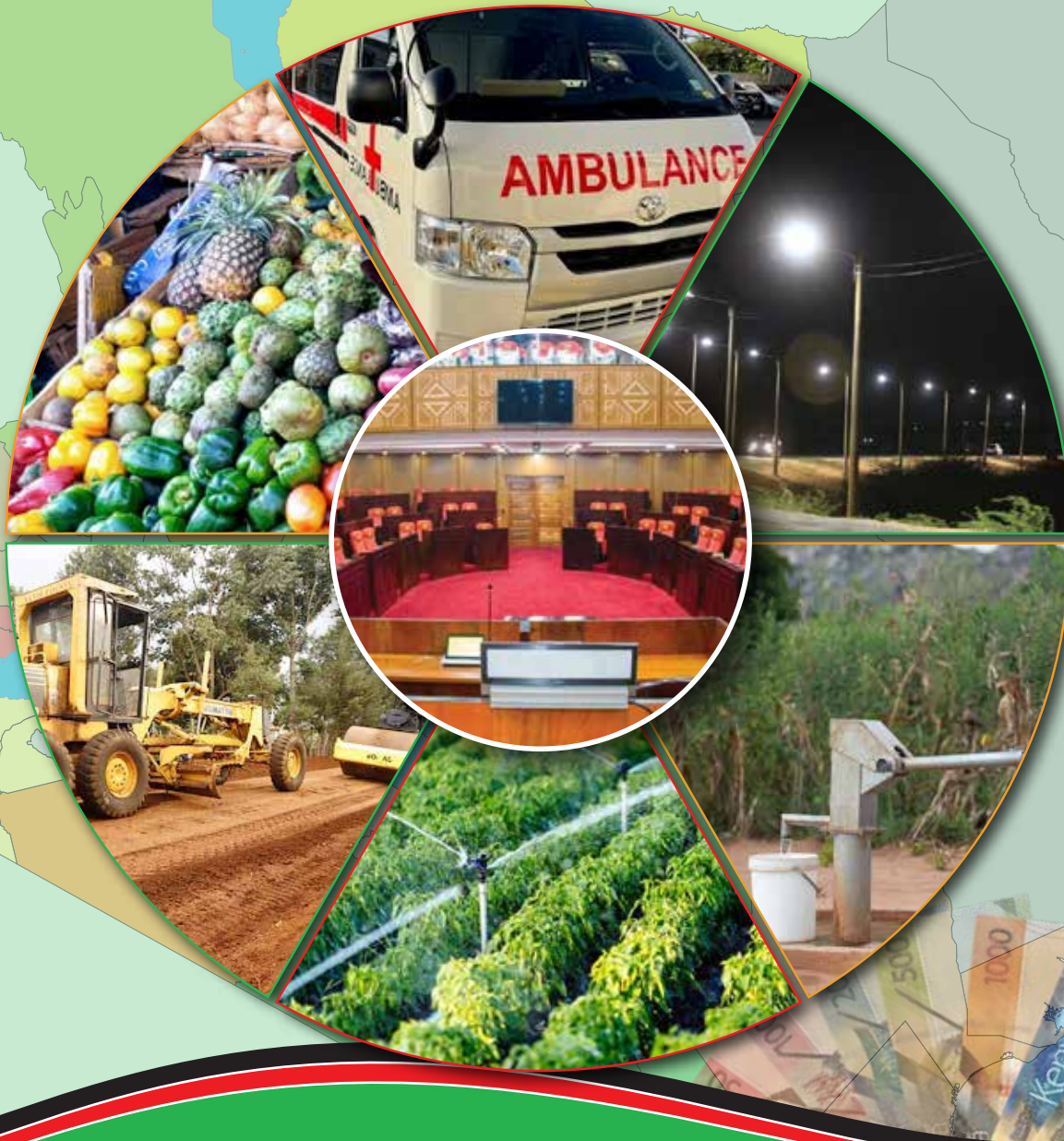


COUNTY EXECUTIVES



AUDITOR-GENERAL'S REPORT ON THE COUNTY GOVERNMENTS COUNTY EXECUTIVES 2022-2023

VOLUME 1



VISION

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REPORT

OF

THE AUDITOR-GENERAL

ON

THE COUNTY GOVERNMENTS

FOR

THE YEAR 2022/2023

VOLUME 1 – COUNTY EXECUTIVES

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Foreword

This Report, commonly known as the Green Book, is a compilation of the audit reports of the County Governments which includes County Executives and County Assemblies for the year ended 30 June, 2023.

The Auditor-General is mandated by the Kenyan Constitution, under Article 229, to audit and report on the use of public resources by all entities funded from public funds. These entities include the National Government, County Governments, the Judiciary, Parliament, Statutory Bodies/State Corporations, Commissions, Independent Offices, Public Debt, Political Parties funded from public funds, other Government Agencies and any other entity funded from public funds. In addition, Article 229(6) requires the Auditor-General to confirm whether or not public resources have been applied lawfully and effectively. The mandate of the Auditor-General is further expounded by the Public Audit Act, 2015.

Article 229 (7) of the Constitution requires the Auditor-General to audit and submit reports to Parliament or the relevant County Assembly within six (6) months after the end of the financial year. However, Section 81(4) of the Public Finance Management Act, 2012, reduces the timeline to three (3) months by giving entities leeway to prepare and submit financial statements for audit at the end of September each year. This reduces the duration of audit and reporting from the six (6) months given by the Constitution to three (3) months. This has adversely affected the timelines for reporting, leading to backlogs and affecting the efficiency and effectiveness of oversight by Parliament, the Senate and the County Assemblies.

Further, as previously reported, an effective mechanism for follow-up on the implementation of audit recommendations is lacking. As a result, most audit queries recur in subsequent audit reports due to a lack of requisite action. As outlined in Section 204(1)(g) of the Public Finance Management Act, 2012, a National Government entity that fails to address issues relating to finance raised by the Auditor-General, to the satisfaction of the Auditor-General, may be sanctioned by the Cabinet Secretary for Finance.

However, despite numerous reports indicating a lack of accountability and adequate documents to support the legality and effectiveness in the use of public resources, failure to apply the requisite sanctions and consequences has resulted in some Accounting Officers not adequately accounting for the management and use of public resources with impunity. Lack of action and sanctions has also led to fiscal indiscipline including misallocations, wastage of resources, lack of value for money in the implementation of projects and loss of public funds, thereby impacting negatively on development programmes. This in turn threatens economic growth and service delivery sustainability. There are also instances where some Accounting Officers are in breach of Section 62 of the Public Audit Act, 2015 by failing to adequately prepare for audit which is exhibited by numerous inaccuracies in financial statements presented for audit, lack of requisite

supporting documents, several revisions of financial statements and, in some cases, reluctance to cooperate with the auditors during the audit process.

The Office of the Auditor-General has, however, continuously improved the effectiveness and quality of the audit process to ensure that the audit results and the recommendations thereof are credible, relevant, reliable and value-adding. This is geared towards influencing an improved decision-making process and making a difference in the lives and livelihoods of the Kenyan people through a positive impact on the lives and livelihoods of citizens and other stakeholders. The provision of quality and effective audit services and confirmation of the lawfulness and effectiveness in programme implementation requires comprehensive scrutiny and evaluation of supporting documents. Most critical is the physical confirmation of the existence and utilization of projects or programmes implemented throughout the country. Achieving this requires an independent and well-resourced audit office with guaranteed adequate funding to enable efficient, effective and timely execution of the audit cycle as well as retention of optimal professional staffing levels to ensure continuous, quality and sustainable audit operations.

The Office continues to seek financial independence and support from Parliament and The Executive through The National Treasury for the enhancement of resources. This will enable it to build technical capacity, expand its presence in the counties, and widen the scope and comprehensiveness of audits. In addition, it will motivate staff. We continue to devolve our services closer to the people through the establishment of regional offices and the construction of office premises to accommodate our staff. This is to address the audit needs at the grassroots level. Currently, we have fifteen (15) regional offices following the establishment of two (2) additional regional offices in Kilifi and Kericho during the year under review. We have constructed our own offices in Garissa, Kakamega and Eldoret. Construction works in Embu are almost complete, and the procurement process for the Mombasa offices has commenced. Due to a lack of funding, plans for the construction of our Headquarters in Nairobi, currently at the design stage, have been delayed. However, the Office continues to appeal to Parliament and The National Treasury to provide adequate funds to enable us to perform our functions and achieve our mandate in enhancing accountability across Government, both at the national and county levels and in all other entities funded from public funds.

Over the years, the audit scope has been expanding due to the expansion of Government programs to ensure sustainable development and delivery of continuous and quality services to the citizens. This has led to the growth in the national budget and the formation of additional entities that I am required to audit and report on. Over nine thousand (9,000) Public Secondary Schools were directed by the Principal Secretary for the State Department for Basic Education, to prepare and submit financial statements to the Auditor-General for audit from 30 June, 2021. Several schools have complied with this directive. My Office has undertaken a pilot study and sampled one hundred and sixteen (116) public secondary schools, conducted audits and issued reports for the two years (2020/2021 and 2021/2022). My office is currently evaluating the outcome of the audits and is expected to roll out the audit to all public secondary schools.

Further, I am required to separately audit and report on financial statements for all three hundred and fifty-eight (358) Level 4 hospitals and fourteen (14) Level 5 hospitals. I am also required to audit a total of two hundred and eighteen (218) Technical and Vocational Education and Training (TVET) Institutions. This number continues to increase as we are currently undertaking an evaluation exercise with the State Department for Technical, Vocational Education and Training to identify all institutions funded through the Exchequer which will include Community Vocational Training Institutions that are estimated to be over one thousand two hundred (1,200). In addition, new projects and funds have been created and all require timely oversight.

During the period under review, the Office of the Auditor-General made significant strides in enhancing audit services delivery to Kenyans. The Office has entered into partnerships with other Supreme Audit Institutions (SAIs) regionally and globally and with local oversight institutions such as the Ethics and Anti-Corruption Commission (EACC), the State Corporations Advisory Committee (SCAC) and the Salaries and Remuneration Commission (SRC) among other organizations, to enhance the impact of audit through learning, knowledge sharing, innovation and collaboration.

Specific reports together with my opinion for each entity are contained in the respective County Executive's audited financial statements for the year ended 30 June, 2023, which I have already submitted to the Senate, County Assemblies and each Accounting Officer.

I wish to sincerely thank the entire staff of the Office of the Auditor-General for their commitment, passion and professionalism in carrying out their duties despite the challenges posed by the lack of proper accommodation and adequate funding. Special appreciation goes to the team that tirelessly prepared this Book.

I wish also to appreciate my clients or auditees for the cooperation they accorded my staff during the audit.


FCPA Nancy Gathungu, CBS
AUDITOR-GENERAL

Nairobi

15 March, 2024

REPORT OF THE AUDITOR-GENERAL ON COUNTY GOVERNMENTS FOR THE YEAR 2022/2023

VOLUME I – COUNTY EXECUTIVES

1.0 Introduction

1.1 Legal Mandate of the Office of the Auditor-General

The Auditor-General is mandated under Article 229, of the Constitution of Kenya, to audit and report on the use of public resources by all entities funded from public funds. These entities include; the National Government, County Governments, the Judiciary, Parliament, Statutory bodies/state corporations, Commissions, Political Parties funded from public funds, other Government agencies and any other entity funded from public funds. The mandate of the Auditor-General is further expounded by the Public Audit Act, 2015.

The Constitution requires the Auditor-General to submit the audit reports of the public entities to Parliament and the relevant County Assemblies by 31 December, every year. In carrying out the mandate, the Auditor-General is also required, under Article 229 (6) to assess and confirm whether the public resources have been applied lawfully and in an efficient way by the public E

Further, the objects and authority of the Auditor-General, as outlined in Article 249 of the Constitution, are: to protect the sovereignty of the people; to secure the observance by all State Organs of democratic values and principles; and to promote constitutionalism. The Auditor-General has also been given powers by the Constitution, under Article 252(1), to conduct investigations, conciliations, mediations and negotiations and to issue summons to witnesses for the purpose of investigations.

1.2 Responsibilities of Management and those Charged with Governance

Management is responsible for the preparation and fair presentation of the financial statements in accordance with the International Public Sector Accounting Standards (IPSAS)-Cash Basis, as prescribed by the Public Sector Accounting Standards Board (PSASB), and 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.

Management is also responsible for maintaining effective internal control environment necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error, and for the assessment of the effectiveness of internal control, risk management and governance.

Further, Management is required to ensure that the activities, financial transactions and information reflected in the financial statements are in compliance with the law and other relevant or applicable authorities, and that public resources are applied in an effective way.

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

1.3 Auditor-General's Responsibility

My responsibility is to conduct audits of the financial statements in accordance with the International Standards of Supreme Audit Institutions (ISSAIs) and to issue an auditor's report. The audit report includes my opinion as provided by Section 48 of the Public Audit Act, 2015, and the report submitted to Parliament or relevant County Assembly in compliance with Article 229(7) of the Constitution.

In addition, Article 229(6) of the Constitution requires me to express a conclusion on whether or not, in all material respects, the activities, financial transactions and information reflected in the financial statements are in compliance with the law and other authorities that govern them, and that public resources are applied in an effective way. I also consider the entities' control environment 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.

I am independent in accordance with Article 249(2) of the Constitution of Kenya, 2010 and ISSAI 130 on the 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 public entities in the Republic of Kenya.

1.4 Reporting Structure

The structure of my report is in fulfilment of the reporting requirements of Article 229(6) of the Constitution of Kenya, 2010, which provides that an audit report shall confirm whether or not public money has been applied lawfully and in an effective way. Section 7(1)(a) of the Public Audit Act, 2015 also requires that I provide assurance on the effectiveness of internal controls, risk management and governance in National and County Governments entities.

In addition, the International Standards of Supreme Audit Institutions (ISSAIs), now require the incorporation of Key Audit Matters in the report on the financial statements, which are those matters that I determine in my professional judgment, are of most significance in the audit of the financial statements as a whole, for the year under review. In order to address these requirements, my audit reports contain the following:

- i. Report on Financial Statements, in which I give an audit opinion on whether the financial statements present a true and fair view of the financial position and performance of the entity.

- ii. Report on Lawfulness and Effectiveness in Use of Public Resources, in which I give a conclusion on whether or not Public Resources have been applied lawfully and in effective way.
- iii. Report on Effectiveness of Internal Controls, Risk Management and Governance, in which I give a conclusion on whether internal controls, risk management and overall governance were effective.
- iv. Report on Other Legal and Regulatory Requirements is included where applicable, especially for the entities that are registered under the Companies Act and any other enabling legislation and authorities that require such disclosure.

1.5 Audit Opinions

I have expressed the different types of audit opinions based on the following criteria: -

a) Unmodified/ Unqualified Opinion

The books of accounts and underlying records agree with the financial statements and no material misstatements were found. The financial statements give a true and fair view of the operations of the entity.

b) Qualified Opinion

Financial transactions were recorded and are to a large extent in agreement with the underlying records, except for cases where I noted material misstatements or omissions in the financial statements. The issues though material, are not widespread or persistent.

c) Adverse Opinion

The financial statements exhibit significant misstatement with the underlying accounting records. There are significant disagreements between the financial statements and the underlying books of accounts and/or standards. The problems are widespread, persistent and require considerable interventions by the Management to rectify.

d) Disclaimer of Opinion

The financial statements exhibit serious and significant misstatements that may arise from inadequate information, limitation of scope, inadequacy or lack of proper records such that I was not able to form an informed opinion on the financial operations.

1.6 Audit Findings

A list of the County Executives and the types of opinion given against their financial statements are contained in the **Appendix**. The key audit findings noted during the audit of the County Executives' financial statements for the year ended 30 June, 2023 are presented in the following section.

COUNTY EXECUTIVE OF MOMBASA - NO.1
REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1. Inaccuracies of Other Grants and Transfers

The statement of receipts and payments reflects other grants and transfers expenditure of Kshs.767,860,005 as disclosed in Note 7 to the financial statements which includes scholarships and other educational benefits – Elimu Scheme amount of Kshs.72,192,500. However, the payment details, bank statements and Elimu Scheme financial statements reflect payments totalling Kshs.76,525,000 resulting to a variance of Kshs.4,332,500. Although the Management explained the cause of the variance to be misclassification of expenditure under operating costs, the error was not corrected.

In the circumstances, the accuracy and completeness of other grants and transfers amounting to Kshs.72,192,500 could not be confirmed.

2. Variances Between the Statement of Receipts and Payments and Integrated Financial Management Information System (IFMIS) Votebook

The statement of receipts and payments reflects total payments of Kshs.10,063,978,185. However, a comparison of the statement amounts with the Integrated Financial Management Information System (IFMIS) votebook report revealed variances as shown in the table below:

Expenditure	Financial Statements (Kshs.)	IFMIS Votebook (Kshs.)	Variance (Kshs.)
Compensation of Employees	6,460,757,728	6,937,649,208	476,891,480
Use of Goods and Services	908,668,953	863,306,268	45,362,685
Transfers to other Government Entities	17,765,583	0	17,765,583
Other Grants and Transfers	767,860,005	767,994,787	134,782
Acquisition of Assets	835,948,690	745,514,900	90,433,790
Other Payments	1,072,977,226	419,550,520	653,426,706

In the circumstances, the accuracy and completeness of the amounts reflected in the statement of receipts and payments could not be confirmed.

3. Inaccuracies in Bank Balances

The statement of assets and liabilities reflects bank balances of Kshs.113,770,621 as disclosed in Note 13A to the financial statements. Included in this balance is Kshs.1,064,900 relating to Local Authority Service Delivery Action Plan (LASDAP) bank account that was not supported with a bank reconciliation statement.

Further, the KISIP bank account balance of Kshs.92,063,703 was supported with the certificate of bank balances as at 19 July, 2023 instead of 30 June, 2023. In addition, Mombasa County deposit account reconciliation statement reflects balance as per bank statement of Kshs.2,333,195 while the certificate of bank balance reflects a balance of Kshs.1,392,513 resulting to an unreconciled variance of Kshs.940,682.

In the circumstances, the accuracy and completeness of bank balances of Kshs.113,770,661 could not be confirmed.

4. Unsupported Deposits and Retentions

The statement of assets and liabilities reflects deposit and retentions balance of Kshs.78,590,195 as disclosed in Note 15 to the financial statements. Included in the balance are deposits and retention money of Kshs.2,333,195 which was not supported with IFMIS retention report and a schedule. In addition, the balance omits several retentions including that withheld on the construction of Mombasa County Stadium amounting to Kshs.61,978,215.

Further, the deposits and retention balance includes alcoholic drinks balance of Kshs.76,527,000 which was not supported by schedules while the respective financial statements reflects receivables from the County Treasury of Kshs.115,398,250 resulting to an unexplained variance of Kshs.38,871,250.

In the circumstances, the accuracy and completeness of the deposits and retention balance of Kshs.78,590,195 could not be confirmed.

5. Unexplained Voided Transactions

The statements of receipts and payments reflects total payments of Kshs.10,063,978,185. However, review of the financial records revealed that nine hundred and seventy (970) transactions in IFMIS amounting to Kshs.5,237,474,304 were voided. These transactions were not supported by documents including voided payment vouchers, requests to void, The National Treasury approvals and exchequer requisitions from the Controller of Budget. Further, reconciliation of voided payments to pending accounts payables and cancelled payments were not provided for audit.

In the circumstances, the accuracy and completeness of total payments amounting to Kshs.10,063,978,185 could not be confirmed.

Emphasis of Matter

6. Budgetary Control and Performance

The statement of comparison of budget and actual amounts - recurrent and development combined reflects final receipts budget and actual on a comparable basis of Kshs.13,095,216,979 and Kshs.10,153,060,276 respectively, resulting in under-funding of Kshs.2,942,156,703 or 22% of the budget. Similarly, the County Executive spent Kshs.10,063,978,185 against an approved budget of Kshs.13,095,216,979, resulting in an under-expenditure of Kshs.3,031,238,794 or 23% of the budget.

The under-funding and under-expenditure affected the planned activities and may have impacted negatively on service delivery to the public.

7. Pending Bills

Notes 1, 2 and 3 under other important disclosures reflect pending accounts payable balance of Kshs.2,919,627,163, pending staff payables balance of Kshs.1,247,024,548 and other pending payables balance of Kshs.88,498,347 all totalling Kshs.4,255,150,058. However, these pending bills remained high despite the County Executive having unspent funds amounting to Kshs.600,038,042 in the County Revenue Fund.

Further, failure to settle bills during the year to which they relate, adversely affects the implementation of the subsequent year's budgeted programs as the outstanding bills form a first charge on that year's budget provisions.

My opinion is not modified in respect of these matters.

Other Matter

8. Unresolved Prior Year Matters

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

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

9. Unspent Balances not Returned to CRF

Review of bank account records revealed that an amount of Kshs.157,530,724 held in bank accounts as at 30 June, 2022 was not returned to the County Revenue Fund but was re-voted in the financial year 2022/2023. This was contrary to Section 136(2) of the Public Finance Management Act, 2012 which states that if, at the end of a financial year, a county government entity is holding appropriated money that was withdrawn from the County Exchequer Account but has not been spent, it shall repay the unspent money to the County Exchequer Account and prepare a refund statement which shall be forwarded to the Controller of Budget.

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

10. Unauthorised Direct Bank Payments

Review of the recurrent bank account revealed payments amounting to Kshs.255,629,435 which were paid directly to the Kenya Revenue Authority (KRA) on basis of demand letters on non-remittance of statutory deductions. However, the payments were not

supported with payment vouchers and they were not processed through the Integrated Financial Management System Information (IFMIS). This was contrary to Regulation 104. (1) of the Republic Finance Management (County Governments) Regulations, 2015 which states that all receipts and payments vouchers of public moneys shall be properly supported by pre-numbered receipt and payment vouchers and shall be supported by the appropriate authority and documentation.

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

11. Delayed Completion of Mombasa Sports Complex Project

The contract for the proposed development of Mombasa County Stadium at a contract sum of Kshs.1,768,183,999 was signed on 21 December, 2018 and was to end on 06 January, 2022 which was extended by sixty-five (65) weeks to 06 May, 2022. On 15 April, 2022, the accounting officer suspended the contract indefinitely with completed works estimated at Kshs.619,782,153 or approximately 35%. However, this suspension was not proposed by the contract implementation team since it had not been appointed and was done before the end of extended completion date.

This was contrary to Section 151(1) of the Public Procurement and Asset Disposal Act, 2015 which requires that for every complex and specialized procurement contract, the accounting officer of a procuring entity shall appoint a contract implementation team.

Further, project verification in the month of August, 2023 revealed that the project had stalled and the contractor was not on site.

In the circumstances, value for money on the expenditure incurred on the proposed development of Mombasa County Stadium could not be confirmed and the project is exposed to risks of cost escalation and project termination.

12. Unauthorized Payments

The statement of comparison of budget and actual amounts -recurrent and development combined, reflects other payments final budget amount of Kshs.991,901,757 and actual on comparable basis amount of Kshs.1,072,977,226 resulting to unauthorized payments of Kshs.81,075,469. This was contrary to Regulation 53(1) of the Public Finance Management (County Governments) Regulations, 2015 which requires that except as provided for in the Act and these Regulations, an Accounting Officer of an entity may not authorize payment to be made out of funds earmarked for specific activities for purposes other than those activities.

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

13. Stalled Projects on Early Childhood Development (ECD) Schools

As reported in the previous years, the Department of Education entered into a contract in the financial year 2014/2015 for construction of eight (8) ECD schools in eight locations at a total cost of Kshs.214,173,840. The contract duration was thirty-two (32) weeks commencing May, 2014 and ending in December, 2015. However, as at the time of the

audit inspection in the month of July, 2022, only six (6) ECD schools had been completed while the remaining two had stalled with no doors, windows, roof and the contractor was not on site.

In the circumstances, value for money on the expenditure incurred in construction of the ECD schools could not be confirmed.

14. Non-Compliance with Law on Fiscal Responsibility on Wage Bill

The statement of receipts and payments reflects compensation of employees amount of Kshs.6,460,757,728, representing 63% of the total revenue received of Kshs.10,153,060,276. This was contrary to Regulation 25(1)(a) and (b) of the Public Finance Management (County Governments) Regulations, 2015 which states that the County Government expenditure on wages and benefits for public officers should not exceed thirty-five (35%) of the total County revenue.

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

15. Un-remitted Payroll Deductions and Taxes

Note 3 under other important disclosures reflects other pending payables balance of Kshs.88,498,347 in respect to unremitted payroll deductions and other withheld taxes. This was contrary to Section 19(4) of the Employment Act, 2007 which provides that, an employer who deducts an amount from an employee's remuneration shall pay the amount so deducted in accordance with the time period and other requirements specified in the law, agreement, court order or arbitration as the case may be.

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

16. Long Outstanding Imprests

The statement of assets and liabilities reflects outstanding imprests and advances balance of Kshs.42,970,012 as disclosed in Note 14 to the financial statements. However, these amounts were long overdue and there was no evidence of recoveries from payroll. This was contrary to Regulation 93(5) and (6) of the Public Finance Management (County Governments) Regulations, 2015 which requires that the holder of a temporary imprest shall account or surrender the imprest within seven (7) working days after returning to the duty station and that in the event of the imprest holder failing to account for or surrender the imprest on the due date, the Accounting Officer shall take immediate action to recover the full amount from the salary of the defaulting officer with an interest at the prevailing Central Bank Rate.

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

17. Incomplete Roads Projects

Note 9 to the financial statements reflects acquisition of assets amount of Kshs.835,948,691, which includes construction of roads amount of Kshs.399,455,744. However, physical inspection of seventeen (17) road projects carried out in the month of August, 2023 with a combined contract sum of Kshs.115,657,180 revealed that they did

not have sign boards, the roads were not marked, and some tarmac roads had potholes an indication of poor workmanship.

Further, retention money of Kshs.13,053,056 on completed projects was withheld but there was no evidence that it was remitted to the retention bank account.

In the circumstances, value for money on the expenditure of Kshs.115,667,180 incurred on the construction and repair of tarmac and cabro roads could not be confirmed.

REPORT ON THE EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

18. Lack of Internal Audit Committee

Review of the governance structure revealed that the County Executive did not have an internal audit committee. This was contrary to Section 155(5) of the Public Finance Management Act, 2012 which states that, a county government entity shall establish an internal auditing committee whose composition and functions are to be prescribed by the regulations.

In the circumstances, the oversight on effectiveness of internal controls, risk management and overall governance could not be confirmed.

19. Failure to Provide Project Status Report

During the year under review, Management did not provide for audit the County Consolidated Project Status Report as at 30 June, 2023.

In the circumstances, the effectiveness on internal controls on project status reporting could not be confirmed.

COUNTY EXECUTIVE OF KWALE - NO.2

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

20. Misclassification of Expenditure

The statement of receipts and payments reflects acquisition of assets expenditure of Kshs.2,246,291,022 as disclosed in Note 9 to the financial statements which includes expenditure on construction of roads amounting to Kshs.124,970,584. Review of the supporting schedules revealed that expenditure relating to construction of a workshop and supply and delivery of two (2) trucks amounting to Kshs.30,214,600 were irregularly charged to construction of roads instead of construction of buildings and purchase of vehicles and other transport equipment respectively.

In the circumstances, the accuracy and completeness of expenditure on construction of roads of Kshs.124,970,584 could not be confirmed.

21. Unexplained Voided Transactions

The statement of receipts and payments reflects total payments amounting to Kshs.8,782,253,632. Review of the financial records revealed that one thousand four hundred and ninety-five (1,495) transactions in IFMIS amounting to Kshs.1,605,022,405 were voided. However, supporting documents including voided payment vouchers, requests to void payments, the National Treasury approval and Exchequer requisitions from the Controller of Budget were not provided for audit. Further, the voided payments were not disclosed as pending accounts payable and the utilization of funds meant for the voided transactions could also not be confirmed.

In the circumstances, the propriety of the total voided transactions amounting to Kshs.1,605,022,405 and utilization of funds meant for the voided transactions in the financial statements could not be confirmed.

Emphasis of Matter

22. Budgetary Control and Performance

The statement of comparison of budget and actual amounts recurrent and development combined reflects final receipts budget and actual amounts on a comparable basis of Kshs.10,760,268,834 and Kshs.8,654,341,690 respectively, resulting in revenue shortfall of Kshs.2,105,927,144 or 20% of the budget. Similarly, the County Executive spent Kshs.8,782,253,632 against an approved budget of Kshs.10,760,268,834, resulting in an under-expenditure of Kshs.1,978,015,202 or 18% of the budget.

The under-funding and under-expenditure affected the planned activities and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

23. Irregular Payment to Council of Governors

The statement of receipts and payments reflects use of goods and services expenditure of Kshs.2,308,790,565 as disclosed in Note 4 to the financial statements which includes expenditure on hospitality supplies and services of Kshs.163,078,795. The expenditure on hospitality supplies and services includes a payment of Kshs.3,000,000 paid to the Council of Governors. However, Management did not provide an explanation for the payment to the Council which is an independent entity. The operational expenses for the structures and institutions established under Intergovernmental Relations Act, 2012 are however supposed to be provided from the annual estimates of the revenue and expenditure of The National Government.

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

24. Anomalies in Projects Implementation

Review of project files and physical inspection of projects in the month of August, 2023 revealed the following anomalies in project implementation:

24.1 Stalled Rehabilitation of County Access Road

Review of construction of records documents revealed that rehabilitation of County access road, Jimbo road, awarded at a contract sum of Kshs.9,254,162 had stalled. The Management explained that the project passes through a mangrove plantation but the request to clear the mangrove trees on the edges of the road was yet to be approved by the Kenya Forest Services resulting to the stalling of the project.

In the circumstances, value for money spent on the project could not be confirmed.

24.2 Anomalies in the Construction of a Fruit Processing Plant Phase III

The Department of Trade entered into a contract with a local contractor for the construction of fruit processing plant in Shimba Hills on 8 February, 2021 at a contract sum of Kshs.84,891,737 and for a contract period of twelve (12) months. Review of the project implementation revealed the following anomalies:

- i. The contract was terminated on 24 January, 2022 after breach of contract by the contractor who had been paid Kshs.27,868,014. The remaining works were re-tendered and a new contract entered into on 16 May, 2022 with another contractor at a contract sum of Kshs.52,786,053 and for a contract period of twelve (12) months.
- ii. The project was implemented in phases but the master plan and the implementation plans were not provided for audit. Although phase one of the project was completed in 2021, the buildings were idle and had started deteriorating. In addition, monthly progress reports were not prepared by the

Project Implementation Committee and the terminated project phase was not appraised before making the final payment.

- iii. Comparison of the Bills of Quantities issued to the second contractor for the completion of the said phase and the original Bills of Quantities indicated that the bulk store wall surface was increased from 48 m² to 487.6 m², or a 1,016% increase in wall surface size. However, Management did not provide an explanation for the structural variation.
- iv. Physical inspection carried out on 22 August, 2023 revealed that the second contractor invoiced and was paid for items worth Kshs.3,735,310 which were not delivered or executed. In addition, the second contractor invoiced and was paid Kshs.4,200,000 in the year under review for cabro paving materials on site yet the contract entered into was for construction and the contract only allowed for payment after delivery and installation. It was further noted that construction was not in progress despite the contractor being on site, three (3) months after the lapse of the contract period and without a valid contract extension.

In the circumstances, value for money spent on the project could not be confirmed.

24.3 Construction of Wholesale Market at Kombani

The Department of Trade entered into a contract for the construction of a wholesale market at Kombani on 7 March, 2021 at a contract sum of Kshs.105,911,142 and a contract period ending on 2 May, 2022. The contract sum was later varied to Kshs.118,061,980. However, the contract was terminated on 2 November, 2021 with total payments to the contractor amounting to Kshs.95,308,265 including Kshs.9,530,826 paid as retention money for the works executed before termination of the contract. However, the payments were not supported with the final acceptance of goods, works or services delivered by the contractor before termination of the contract and final project appraisal.

In the circumstances, value for money spent on the project could not be confirmed.

24.4 Unconfirmed Extension of Care Centre at Kwale Hospital

Note 9 to the financial statements reflects construction and civil works amount of Kshs.45,461,968 which includes payment of Kshs.3,465,500 under a contract for the extension of connectivity at Kwale Hospital's care centre, oncology centre, and pediatric area, at a contract sum of Kshs.3,465,500. However, physical inspection carried out on 18 August, 2023, revealed that the Hospital did not have a Care Centre, and therefore, the works executed could not be confirmed. In addition, the connectivity at the Oncology and Pediatric area worth Kshs.765,000 was not done as per the Bills of Quantities.

In the circumstances, value for money spent on the project could not be confirmed.

24.5 Unconfirmed Extension of Isolation Ward at Msambweni Hospital

The statement of receipts and payments reflects acquisition of assets amount of Kshs.2,246,291,012 as disclosed in Note 9 to the financial statements. The balance includes construction and civil works of Kshs.45,461,968, out of which payments totalling Kshs.6,791,510 was in respect of extension of connectivity at various sections of Msambweni Hospital, including the infectious disease block, isolation block, CT scan unit,

store building, blood bank building, pediatric ward, and new maternity ward area. However, physical inspection carried out on 22 August, 2023, revealed that, while part II of the Bills of Quantities indicated works valued at Kshs.1,376,750 were to be executed on the isolation block, CT scan unit, and store building, Msambweni Hospital did not have an isolation block. The existence of the works executed could therefore not be confirmed.

Further, part IV of the itemized Bills of Quantities included works for the pediatric and maternity ward, costing Kshs.1,484,250. However, the connectivity to the pediatric section was not done.

In the circumstances, value for money spent on the project could not be confirmed.

24.6 Proposed Construction of Maji Moto Eco Resort Phase III

The statement of receipts and payments and Note 9 to the financial statements reflects acquisition of assets of Kshs.2,246,291,022 which includes expenditure of Kshs.22,457,225 on proposed construction of Maji Moto Eco Resort. The Department of ICT and Tourism entered into a contract for the project with a local contractor on 30 March, 2021 for a contract period of one hundred and twenty (120) days. However, the contract sum was varied from Kshs.22,457,225 to Kshs.27,643,827 on 23 June, 2021, representing an increase of Kshs.5,186,602 or 23% of the contract sum before the lapse of one year as allowed by law. No evidence was provided to confirm that the variation was reviewed by the evaluation committee. This was contrary to Section 139(3) of the Public Procurement and Asset Disposal Act, 2015, which provides that, no contract price shall be varied upwards within twelve months from the date of the signing of the contract. This is also contrary to Regulation 132(2) of the Public Procurement and Asset Disposal Regulations, 2020 which provides that any variation request shall be reviewed by; (a) the contract implementation team for complex and specialized contracts; or (b) an evaluation committee for other contracts.

Further, during the year under review, a payment of Kshs.3,233,328 was made under Certificate No. 6 on 16 December, 2022, which was not supported by an itemized measured works. The contract period ended on 7 August, 2021 yet as at the time of the audit in the month of August, 2023, the contractor was still on site, without an approved extension of contract period and the project was incomplete.

In the circumstances, value for money spent on the project could not be confirmed. In addition, Management was in breach of the law.

25. Failure to Prepare Memorandum for Supplementary Budget by Accounting Officers

The statement of comparison of budget and actual amounts - recurrent and development combined reflects an approved original receipts budget of Kshs.7,806,654,643 which was subsequently adjusted by Kshs.2,953,614,191 through a supplementary budget to a final budget of Kshs.10,760,268,834. However, the supplementary budget adjustments were not supported with memoranda from Accounting Officers to confirm that the changes had been requested and explanations given for either scaling down or ceasing of planned development programmes. This was contrary to Regulations 39(7) of the Public Finance Management (County Governments) Regulations, 2015 which provides that, the county government entity requesting additional funds through a supplementary budget process

shall submit a memorandum to the County Treasury, on a date determined by County Treasury.

In the circumstances, Management was in breach of law.

26. Lack of a County Integrated Development Plan

During the year under review, the County Executive did not have in place a County Integrated Development Plan as the previous one had lapsed in June, 2022. This was contrary to Section 125(1)(a) of the Public Finance Management Act, 2012 which provides that, the budget process for county governments in any financial year shall consist of integrated development planning process which shall include both long term and medium-term planning.

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

REPORT ON THE EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

27. There were no material issues raised on internal controls, risk management and governance.

COUNTY EXECUTIVE OF KILIFI - NO.3

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

28. Inaccuracies in the Financial Statements

The statement of receipts and payments and as disclosed in Note 1 to the financial statements reflects receipts in respect of transfers from County Revenue Fund (CRF) of Kshs.12,116,136,115. However, the statement of comparison of budget and actual amounts for recurrent and development combined reflects total receipts of Kshs.12,182,480,254 resulting to a variance of Kshs.66,344,139 which is in relation to the opening balance. Further, Note 10A to the financial statements reflects an opening cash and cash equivalents balance of Kshs.332,534,947 instead of an amount of Kshs.266,190,808 resulting to an unexplained variance of Kshs.66,344,139.

In the circumstances, the accuracy of the financial statements balances could not be confirmed.

29. Unsupported Payments on Emergency Relief and Refugee Assistance

The statement of receipts and payments and as disclosed in Note 6 to the financial statements reflects payments in respect of other grants and transfers totalling Kshs.3,069,643,299. which includes an amount of Kshs.214,052,360 in respect of emergency relief and refugee assistance used in the supply and delivery of dry maize and beans by local firms. However, details on receipt of the cereals in the County main stores, delivery vehicles to the stores, vetting of beneficiaries, distribution of the cereals to the beneficiaries, work tickets for distribution vehicles from the stores to the beneficiaries and other critical information were not provided for audit.

In the circumstances, the accuracy and completeness of the expenditure of Kshs.214,052,360 on emergency relief and refugee assistance could not be confirmed.

30. Unsupported Payments on Cash Transfer Programme

The statement of receipts and payments and as disclosed in Note 6 to the financial statements reflects payments in respect of other grants and transfers totalling Kshs.3,069,643,299. which included an amount of Kshs.858,575,743 in respect of other transfers, grants and subsidies. During the year under review, an amount of Kshs.12,403,875 was paid by the Department of Devolution and Disaster Management through the Uzima Cash Transfer Programme (CTP) to one thousand two hundred and three (1,203) beneficiaries at a rate of Kshs.12,000 per beneficiary. However, the information on the criteria used in identification of the beneficiaries, the legal framework upon which the programme is premised, the integration of the programme with other similar programmes by other agencies including Nutrition Improvement through Cash and Health Education (NICHE) programmes and the National Government's Inua Jamii Cash Transfer Programme among other critical information were not provided for audit.

In the circumstances, the accuracy and completeness of the payments on other grants and transfers amount of Kshs.12,403,875 could not be confirmed.

31. Unsupported Purchase of Boats

The statement of receipts and payments and as disclosed in Note 8 to the financial statements reflects acquisition of assets amounting to Kshs.2,165,903,942 out of which an amount of Kshs.17,391,791 was in respect of purchase of boats for distribution to youth groups. However, the payment vouchers, procurement records, the legal framework upon which this procurement and distribution of boats was based, the process of vetting and identification of beneficiary youth groups, ownership documents and evidence of issuance of certificate of seaworthiness were not provided for audit.

In the circumstances, the accuracy and completeness of the amount of Kshs.17,391,791 incurred on the purchase of boats could not be confirmed.

32. Un-Confirmed of Deposit and Retentions Balances

The statement of assets and liabilities and as disclosed in Note 12 to the financial statements reflects deposit and retentions balance of Kshs.305,994,526, which includes an amount of Kshs.305,821,330 in respect of contractors' retention comprised Kshs.262,278,499 held in the Central Bank of Kenya and a balance of Kshs.43,542,831 held at a commercial bank. However, Note 10A to the financial statements reflects a corresponding balance held at the commercial bank of Kshs.22,218,182 resulting to an unexplained variance of Kshs.21,324,649. Further, Management maintained and operated the retention monies in a commercial bank against the provisions of Regulation 82(1) (b) of the Public Finance Management (County Governments) Regulations, 2015, which require all County Government bank accounts to be opened at the Central Bank of Kenya except for imprest bank accounts for petty cash.

In the circumstances, the accuracy and completeness of the deposit and retentions balance of Kshs.305,994,526 could not be confirmed.

33. Inaccuracies in Acquisition of Assets

The statement of receipts and payments reflects acquisition of assets amounting to Kshs.2,165,903,942 as disclosed in Note 8 to the financial statements. However, the summary of fixed asset reflects additions during the year amount of Kshs.433,162,604 resulting to an unexplained and unreconciled variance of Kshs.1,732,741,338. Further, the fixed asset register was not updated.

In the circumstances, the accuracy and completeness of the acquisition of assets amount of Kshs.43,542,831 could not be confirmed.

34. Long Outstanding Other Accounts Receivables

The statement of assets and liabilities and as disclosed in Note 11 to the financial statements reflects outstanding imprests and advances balance of Kshs.104,419,988 which includes other accounts receivables-Kenya Revenue Authority and loss of cash balances of Kshs.41,496,123 and of Kshs.43,240,740 respectively. Management has not however disclosed the efforts being made to recover these debts.

In the circumstances, the recoverability of the imprest and advances balance of Kshs.104,419,988 could not be confirmed.

Emphasis of Matter

35. Budgetary Control and Performance

The statement of comparison of budget and actual amounts - recurrent and development combined reflects final receipts budget and actual on a comparable basis of Kshs.14,715,880,712 and Kshs.12,182,480,254 respectively, resulting to an under-funding of Kshs.2,533,400,458 or 17% of the budget. Similarly, the County Executive spent Kshs.12,165,288,466 against an approved budget of Kshs.14,715,744,920, resulting to an under-expenditure of Kshs.2,550,456,455 or 17% of the budget.

The under-funding and under-expenditure affected the planned activities and may have impacted negatively on service delivery to the public.

36. Pending Bills

Note 17 - other important disclosures reflects pending bills balance of Kshs.3,450,355,778 comprising of pending accounts payables of Kshs.3,284,162,862, pending staff payables of Kshs.165,919,072 and other pending payables of Kshs.273,844. However, pending bills amounting to Kshs.976,434,285 did not have details of date invoiced/contracted hence, it was not possible to establish the period the bills have remained outstanding. In addition, the pending bills included long outstanding bills amounting to Kshs.154,139,650 which were invoiced or contracted between the period 2011 and 2018. No explanation was provided for the failure to pay the debts in the year they occurred.

Further, failure to settle bills during the year to which they relate distorts the financial statements and adversely affects the budgetary provisions for the subsequent years as they form a first charge.

My opinion is not modified in respect of these matters.

Other Matter

37. Prior Year Unresolved Issues

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

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

38. Payment of Salaries Outside the Integrated Personnel and Payroll Database (IPPD)

Review of the payroll records during the year under review revealed that Management processed and paid salaries to staff outside the IPPD payroll system. The salaries payable to these staff were calculated using Microsoft Excel contrary to the requirements of the Public Finance Management (County Governments) Regulations, 2015 Regulation 120(2) which states that each employee shall be linked to a program in the budget of a County Government entity's Vote.

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

39. Non-Compliance with Two Third Basic Salary Rule

Review of the payroll records provided revealed that various employees had deductions that were more than two thirds of their basic pay on various months of the period under review. This was contrary to the provisions of Section 19(3) of the Employment Act, 2007 which states that the total amount of all deductions that may be made by an employer from the wages of his employee at any one time shall not exceed two thirds of such wages.

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

40. Non-Compliance with Law on Ethnic Diversity

Review of payroll records revealed that out of the total four thousand five hundred and eight (4,508) employees, three thousand five hundred and sixty-four (3,564) or 79% were from the dominant community in the County. In addition, the recruitment during the year failed to remedy the ethnic disparity contrary to Section 7(2) of the National Cohesion and Integration Act, 2008, which stipulates that no public establishment should employ more than one-third of its staff from the same ethnic community.

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

41. Irregular Procurement of Certified Seeds, Breeding Stock and Live Animals

Review of records revealed that an amount of Kshs.14,992,177 was incurred in the purchase of certified seeds, breeding stock and live animals. However, evidence of market survey having been undertaken, the criteria for identification of beneficiaries, report on need assessment and sustainability of the projects before they were procured were not provided for audit. In addition, the legal framework under which certified seeds, breeding stock and live animals were bought using County funds and distributed at no cost was not provided while evidence of receipt and distribution of all the tree seedlings and certified seeds was also not provided for audit. This was contrary to Section 104 of the County Government Act, 2012 which provides that a County Government shall plan

for the County and no public funds shall be appropriated outside a planning framework developed by the County Executive Committee and approved by the County Assembly and that to promote public participation, non-state actors shall be incorporated in the planning processes by all authorities.

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

42. Delay in Construction of Kilifi County Hospital Phase 2

Review of construction records revealed that an amount of Kshs.72,750,473 was paid during the year in respect of construction of Kilifi County Hospital Phase II. Review of the contract documents revealed that the contract commenced in the financial year 2019/2020 and was awarded to a local construction company for a duration of seventy-eight (78) weeks at a contract sum of Kshs.389,235,735. However, as at 30 June, 2023, the works remained incomplete without evidence of extension of contract period. Further, there was no evidence that retention money was transferred to the deposits account to be paid to the contractor after the expiry of the contract liability period. In addition, works costing Kshs.81,180,000 were omitted from the original bill of quantities.

In the circumstances, value for money on the funds used in the construction of the County Hospital could not be confirmed.

43. Delayed Payment of Certificates

Review of construction records of payment records amounting to Kshs.918,685,015 revealed that there were delays in payment of certificates as tabulated below:

PV No	Details	Amount	Date of Certificate	Date of Payment	Delay Period (Days)
30697	Proposed rehabilitation of Bora Bora Midodoni Road	4,928,150	29 June, 2021	15 June, 2023	716
30355	Proposed and Grading of Katolani – Jongooni Road	2,186,600	02 June, 2022	23 May, 2023	355
30227	Proposed grading Murraming of kwa radhi – hollways	2,983,961	14 July, 2021	30 Jan, 2023	565
30251	Grading and Gravelling of Mferejini – Msumarini Sch-Village Road	4,963,500	24 Nov, 2022	31 Mar, 2023	127
29830	Proposed and Grading and Spot Murraming of Kinangoni to Gotani Road	3,978,916	21 May, 2021	30 Jan, 2023	619

This was contrary to Regulation 139 of the Public Procurement and Asset Disposal Regulations, 2020 which provides that a contractor shall satisfactorily perform its contractual obligations prior to any payment by a procuring entity and that a procuring entity shall make prompt and timely payments to a contractor that meets its contractual obligations.

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

44. Unserviceable Motor Vehicles and Equipment

Review of status of the fleet of motor vehicles and equipment revealed that the County Executive had a total of seven hundred and fifty-two (752) motor vehicles, out of which one hundred and sixty-four (164) were grounded and unserviceable. However, Management did not have an annual disposal plan contrary to Regulation 176(1) of the Public Procurement and Asset Disposal Regulations, 2020 requires an accounting officer of a procuring entity to ensure that an annual assets disposal plan is prepared of items declared as unserviceable, surplus or obsolete, obsolescence stores, asset or equipment.

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

45. Failure to Account for Long Outstanding Imprests

Review of the imprest ledgers revealed that a balance of Kshs.4,067,803 related to the previous financial years with some dating back to 2016/2017 financial year. This was contrary to Regulation 93 of the Public Finance Management (County Governments) Regulations, 2015 which states that a holder of a temporary imprest shall account or surrender the imprest within seven (7) working days after returning to duty station. In the event of the imprest holder failing to account for or surrender the imprest on the due date, the Accounting Officer shall take immediate action to recover the full amount from the salary of the defaulting officer with an interest at the prevailing Central Bank Rate.

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

46. Irregular Payments to the Council of Governors

During the year under review, the County Executive made payments of Kshs.5,000,000 to the Council of Governors. However, this was contrary to Section 37 of the Intergovernmental Relations Act, 2012 which provides that the operational expenses in respect of the structures and institutions established in the Act shall be provided for in the annual estimates of the revenue and expenditure of the National Government to cater for the summit, the Council of County Governors, the Technical Committee, Secretariat and the sectoral working group established by the Technical Committee and the sectoral working groups established by the Council.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

47. Lack of Risk Management Policy

Review of the internal control environment revealed that Management had not put in place a Risk Management Policy, fraud prevention mechanism and operational and Disaster Recovery Plan. This was contrary to Regulation 158 of the Public Finance Management (County Governments) Regulations, 2015 which states that the Accounting Officer shall ensure that the County Government entity develops risk management strategies, which include fraud prevention mechanism a system of risk management and internal controls that builds robust business operations.

In the circumstances, the security and reliability of the County Executive's data including the management information system could not be confirmed.

48. Failure to have a County Public Service Board

Review of records and governance structure revealed that the County Executive did not have a County Public Service Board in place. This was as a result of the revocation of appointment of the former members by the Governor due to violations of the Constitution and various laws. This was contrary to Section 56 (1) of the County Government Act, 2012 which provides that each County shall, in accordance with Article 235 of the Constitution, have its own public service to be known as County Public Service. The County Public Service shall be headed by a County Secretary appointed under Section 44.

In the circumstances, the effectiveness of the overall governance of the County Executive could not be confirmed.

COUNTY EXECUTIVE OF TANA RIVER - NO.4

REPORT ON THE FINANCIAL STATEMENTS

Basis for Adverse Opinion

49. Inaccuracies in the Financial Statements

The statement of assets and liabilities and as disclosed in Note 13 to the financial statements reflects prior year adjustments balance of Kshs.240,827,855. However, the adjustments were not explained or supported. Further, total credit adjustments of Kshs.309,435,377 were not specified as to what they related to, while re-computation of the adjustments amounted to a credit balance of Kshs.255,579,383 resulting to an unexplained variance of Kshs.53,855,994.

The statement of assets and liabilities and Note 11 to the financial statements reflects deposits and retentions balance of Kshs.29,602,572 while the deposit bank account reflects a balance of Kshs.27,016,277 resulting to an unexplained variance of Kshs.2,586,295, and the ageing analysis was not provided for audit. In addition, the budget execution by programs and sub-programs for land survey and mapping and land administration under land policy and planning reflects a final budget of Kshs.36,077,817 and Kshs.6,574,500 respectively instead of the re-computed amounts of Kshs.6,077,817 and Kshs.36,574,500, respectively while the actual on comparable basis reflects a grand total of Kshs.5,610,352,000 instead of the re-computed amount of Kshs.5,579,006,400.

The schedules provided to support various expenditure components in the financial statements revealed that expenditure amounting to Kshs.157,435,100 was wrongly classified contrary to Regulation 40(1) of the Public Management (County Governments) Regulations, 2015. In addition, the supporting ledgers for compensation of employees were not provided for audit and the summary of non-current asset register was not disclosed in the financial statements.

In the circumstances, the accuracy and completeness of the financial statements could not be confirmed.

50. Cash and Cash Equivalents

50.1 Undisclosed and Unsupported Bank Balances

The statement of assets and liabilities reflects a bank balance of Kshs.35,410,789 as disclosed in Note 9A to the financial statements. However, three (3) bank accounts held in various commercial banks were not disclosed in the financial statements.

Further, the Central Bank of Kenya certificates of bank balances reflects balances totalling Kshs.31,004,630 relating to thirteen (13) bank accounts whose supporting cash books and bank reconciliation statements were not provided for audit.

50.2 Stale Cheque in the Cashbook

Included in the bank balance is Tana River County recurrent account with a balance of Kshs.10,268. However, the reconciliation statement reflected unrepresented cheques amounting to Kshs.421,226,111 out of which stale cheques amounted to Kshs.1,130,546 which had not been reversed in the cash book.

In the circumstances, the accuracy and completeness of cash and cash equivalents balance of Kshs.35,410,789 could not be confirmed.

51. Unsupported Legal Costs

Other important disclosures reflects pending accounts payables balance of Kshs.4,128,424,305. Included in this balance is an amount of Kshs.1,625,366,309 out of which an amount of Kshs.474,934,515 is owed to law firms which had represented the County in various court cases. However, a catalogue of the cases, case files and their status in court was not provided for audit.

In the circumstances, the accuracy, completeness and regularity of the legal costs of Kshs.474,934,515 could not be confirmed.

52. Unsupported Use of Goods and Services

The statement of receipts and payments and Note 3 to the financial statements reflects payments amounting to Kshs.1,424,131,990 in respect of use of goods and services. Review of the payments and other records revealed the following anomalies;

52.1 Unsupported and Irregular Payments on Domestic Travel and Subsistence

Included in the payments on use of goods and services is an amount of Kshs.297,139,541 in respect of domestic travel and subsistence. Review of sampled payments revealed that payments amounting to Kshs.100,521,198 were not supported with imprest warrants application, authority to travel, receipts, motor vehicle work tickets or bus tickets or boarding pass, signed payment schedules, attendance registers, reports of the meetings and the purpose of the travel.

52.2 Unsupported and Irregular Payments on Foreign Travel and Subsistence

Included in the payments on use of goods and services is an amount of Kshs.57,714,353 in respect of foreign travel and subsistence out of which payments amounting to Kshs.7,978,037 were not supported with back to office reports. Further, an amount of Kshs.8,540,000 was transferred to Tana River County Executive standing imprest account but was included in the ledgers for foreign travel and subsistence. In addition, payments amounting to Kshs.8,186,400 were made to a firm for the provision of air ticket services. However, the services were procured through framework agreement which was not provided for audit.

52.3 Unsupported Payments on Training

Included in the payments on use of goods and services is an amount of Kshs.22,039,484 incurred on training expenses. However, training needs assessment, training plans and reports were not been provided for audit.

52.4 Unsupported Payments on Fuel and Lubricants

Included in the payments on use of goods and services is an amount of Kshs.72,349,563 in respect of fuel, oil and lubricants out of which an amount of Kshs.54,863,113 was paid to a firm for supply of fuel. However, the work tickets for the vehicles which were fueled, contracts or agreement for supply of fuel and detailed orders for Kshs.12,520,620 worth of fuel were not provided for audit. In addition, an amount of Kshs.1,800,000 was paid to a supplier for supply of charcoal. However, records indicating the number of bags bought and the distribution list were not provided for audit.

52.5 Unsupported Payments on Printing, Advertising and Information Supplies and Services

Included in the payments on use of goods and services is an amount of Kshs.27,404,969 which relates to printing, advertising and information supplies and services. However, payments amounting to Kshs.12,066,589 were not supported with payment vouchers.

52.6 Unsupported Payments on Rentals of Produced Assets

Included in the payments on use of goods and services is an amount of Kshs.23,936,745 which relates to rentals of produced assets out of which payments amounting to Kshs.2,300,000 were made to a firm for provision of catering services for new year celebration. However, the contract together with the tender documents such as the appointment letters of tender opening and evaluation committees, floated quotations, minutes of the tender opening, evaluation reports, notification of award, acceptance letter, notification to unsuccessful bidders and signed professional opinion were not provided for audit.

Further, an amount of Kshs.2,400,000 was paid to a firm for provision of car hire services for three (3) months. However, the tender opening minutes were not signed while the evaluation reports were signed by one (1) member only. In addition, the signed contract did not indicate the expected start and end dates and no documentary evidence was provided to show that the accounting officer reported the contracts awarded to Public Procurement Regulatory Authority.

52.7 Unsupported Payments on Specialized Materials and Services

Included in the payments on use of goods and services is an amount of Kshs.177,094,193 which was paid in respect of specialized materials and services. Included in these payments is an amount of Kshs.27,777,000 paid out in respect of seeds, fertilizers, farm implements, chemicals and fungicides. However, the expenditure was not supported with proof of how the beneficiaries were identified, confirmation of ownership of land by the beneficiaries, evidence that the Department of Agriculture conducted tests to ascertain viability, quality and suitability of the fertilizer and pesticides for the soils and crops before procurement was done, duly signed needs assessment report, mandatory compliance documents such as valid tax compliance certificate, certificate of incorporation and signed

business questionnaire as set out in the evaluation criteria and evidence of public participation.

In addition, an amount of Kshs.62,000,000 was paid to Kenya Medical Supplies Authority (KEMSA) for medical supplies. However, review of payment vouchers and other supporting documents revealed that the items purchased were not taken on charge vide counter receipt voucher (S13) contrary to Section 162(1) of the Public Procurement and Asset Disposal Act, 2015.

52.8 Unsupported Payments on Office and General Supplies and Services

Included in the payments on use of goods and services is an amount of Kshs.127,459,251 in respect of office and general supplies and services. However, stores records including S13 (counter receipt voucher), S11 (counter requisition and issue voucher) and S3 (bin card) detailing receipts and issuance of the items in the store and stock take reports were not provided for audit. In addition, payments amounting to Kshs.39,608,820 were not supported with payment vouchers, requisitions, delivery notes, invoices and inspection and acceptance reports.

In the circumstances, the accuracy, regularity and completeness of payments in respect of use of goods and services amounting to Kshs.1,424,131,990 could not be confirmed.

53. Unsupported Acquisition of Assets

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflects payments amounting to Kshs.677,813,872 in respect of acquisition of assets. Review of the payments and other records revealed the following issues;

53.1 Unsupported Payments on Construction of Buildings

Included in the payments on acquisition of assets is an amount of Kshs.30,828,118 in respect of construction of buildings out of which payments amounting to Kshs.19,403,880 were not supported with payment vouchers and other relevant supporting documents.

53.2 Unsupported Payments on Purchase of Certified Seeds, Breeding Stock and Live Animals

Included in the payments on acquisition of assets is an amount of Kshs.55,525,000 in respect of purchase of certified seeds, breeding stock and live animals which includes an amount of Kshs.15,600,000 paid out in respect of purchase of three hundred (300) Orma and Borane cows. However, the payments were not supported with evidence that the Department of Agriculture conducted tests to ascertain viability, quality and suitability of the cows before procurement. Further, no evidence of existence of vibrant extension services to support the farmers were provided for audit.

In addition, payments amounting to Kshs.39,925,000 in respect of purchase of certified seeds and tree seedlings were not supported with details of the beneficiaries, evidence of tests conducted to confirm viability, quality and suitability of the seedlings and seeds before procurement, evidence of ownership of land for beneficiaries and existence of vibrant extension services to support the farmers.

53.3 Unsupported Payments on Research, Studies and Project Preparation, Design and Supervision

Included in the payments on acquisition of assets is an amount of Kshs.27,013,000 in respect of research, studies, project preparation, design and supervision paid to eight (8) companies to undertake research on land use related studies. However, the expenditure exceeded the budgeted amount of Kshs.15,000,000 by Kshs.12,013,000 or 80%. In addition, seven (7) companies contracted by the County Executive were not in the list of the registered suppliers. Further, departmental work-plans, contracts, minutes of needs assessment, and actions taken in relation to observations made by those studies were not provided for audit.

In the circumstances, the accuracy, completeness and regularity of the acquisition of assets amounting to Kshs.677,813,872 could not be confirmed.

54. Unsupported and Doubtful Expenditure on Other Payments

The statement of receipts and payments and as disclosed in Note 8 to the financial statements reflects other payments amounting to Kshs.748,451,949. However, project files for contracts worth Kshs.660,343,806 containing payment vouchers, tender documents such as advertisements of the projects, tender opening minutes, evaluation and awarding minutes, contract agreements, bills of quantities, company profiles for the bidders, inspection and acceptance reports, certificates of partial and completion were not provided for audit.

Further, the account code No: 0706013160-4130299-31600001 which was used to pay an amount of Kshs.748,451,949 was not in the approved budget for the year under review. In addition, review of the ledger in respect of other payments revealed that several transactions including construction of building, roads, goods and services were incorrectly charged under other payments.

In the circumstances, the regularity, completeness and accuracy of the other payments amounting to Kshs.748,451,949 could not be confirmed.

55. Unsupported Deposits and Retentions Balance

The statement of assets and liabilities and as disclosed in Note 11 to the financial statements reflects deposits and retentions balance of Kshs.29,602,572. However, the ageing analysis of the balance, the movement schedule showing the retentions opening balance, additions and payments during the year were not provided for audit. Re-computation of balances reflected in the ledgers for construction of buildings, construction of roads, and construction and civil works revealed that approximately an amount of Kshs.48,366,999 ought to have been retained during the year under review.

In the circumstances the accuracy and completeness of the deposits and retentions balance of Kshs.29,602,572 could not be confirmed.

Emphasis of Matter

56. Budgetary Control and Performance

The statement of comparison of budget and actual amounts for recurrent and development combined reflects final receipts budget and actual on comparable basis of

Kshs.6,866,620,454 and Kshs.5,828,406,567 respectively, resulting in under-funding of Kshs.1,038,213,887 or 15% of the budget. Similarly, the County Executive spent Kshs.5,610,351,999 against an approved budget of Kshs.6,866,620,454, resulting in under-expenditure of Kshs.1,256,268,454 or 18% of the budget.

The under-funding and under-performance affected the planned activities and may have impacted negatively on service delivery to the public.

57. Pending Bills

Other important disclosures number 1 reflects pending accounts payable balance of Kshs.4,128,424,305. This amount includes Kshs.3,700,915,104 in respect of balance brought forward. However, this balance did not form a first charge on the County Revenue Fund. This was contrary to Regulation 41(2) of the Public Finance Management (County Governments) Regulations, 2015 which requires debt service payments to be a first charge on the County Revenue Fund and that the Accounting Officer shall ensure this is done to the extent possible that the county government does not default on debt obligations.

My opinion is not modified in respect of these matters.

Other Matter

58. Late Exchequer Releases

The statement of receipts and payments reflects exchequer releases (transfers from CRF) amounting to Kshs.5,828,406,567 which includes an amount of Kshs.1,007,557,303 received by the County Executive in the month of June, 2023.

As a result of the delay, service delivery to the public may have been adversely affected.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

59. Stalled Projects

Review of projects implementation status report provided for audit revealed that there were fifty-eight (58) projects awarded between to 2015/2016 to 2021/2022 financial years at contract sums of Kshs.825,851,908, had stalled at various stages of completion and thereafter abandoned. However, the reasons for failure to complete these projects were not provided for audit. This was contrary to Section 22(2)(g) of the Public Finance Management Act, 2012 which requires an Accounting Officer not to commit County Government entity to any liability for which money has not been appropriated provided that expenditure for projects or programs implemented beyond one financial year is provided for in the subsequent financial years.

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

60. Non-Compliance with Approved County Assembly Expenditure Threshold

The County Assembly final budget for the year under review was Kshs.1,113,396,752 while the personnel emoluments budget amounted to Kshs.281,497,887. Regulation 25(1)(f) of the Public Finance Management (County Governments) Regulations, 2015 provides that the approved expenditures of a County Assembly shall not exceed seven (7) per cent of the total revenues of the County Government or twice the personnel emoluments of that County Assembly, whichever is lower. However, the County Assembly budget was 14% of the total County revenue or seven (7%) percentage points above the required threshold and Kshs.550,400,977 in excess of the allowable threshold of two times the personnel emoluments budget.

In addition, Regulation 25(1)(h) requires that if the County Government does not achieve the requirement of this regulation at the end of the financial year, the County Executive Committee Member(CECM) for finance shall submit a responsibility statement to County Assembly explaining the reasons for the deviation and provide a plan on how to ensure annual actual expenditure outturns as well as medium term allocation comply with the provisions of Section 107 (2)(a) of the Act and these regulations in the subsequent years; and the compliance plan shall be binding and the CECM - Finance shall ensure implementation. However, there was no evidence showing that this requirement was complied with.

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

61. Non-Compliance to the One Third Gender Rule

Review of the Payroll for the month of June, 2023 revealed that out of two thousand and four (2,004) employees of the County Executive, only six hundred and one (601) were female, which translates to 29% of the total work force contrary to Part B.22 (2) of the Human Resource Policies and Procedures Manual for the Public Service, 2016 which states that the Government will endeavor to have a gender balanced civil service by ensuring that not more than 2/3 of positions in its establishment are filled by either gender.

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

62. Non-Compliance with One Third of Basic Salary Rule

Review of the Integrated Personnel and Payroll Database (IPPD) by-products revealed that various employees had deductions which were more than two thirds of their basic pay contrary to Section 19(3) of the Employment Act, 2007 on deduction of wages which states that the total amount of all deductions which may be made by an employer from the wages of his employee at any one time shall not exceed two thirds of such wages.

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

63. Irregular Award of Tenders for Supply of Pharmaceutical Drugs

The statement of receipts and payments and as disclosed in Note 3 to the financial statements reflects payments on use of goods and services amounting to Kshs.1,424,131,990 out of which, an amount of Kshs.177,094,193 was in respect of specialized materials and services. Included in the expenditure is an amount Kshs.35,237,878 paid to five (5) suppliers for supply and delivery of pharmaceutical drugs. However, review of the tender files and other accompanying documents revealed that supplies of the same nature were split and awarded to the same suppliers. Further, proof of delivery to the stores and subsequent distribution was not provided for audit. In addition, mandatory compliance documents such as valid tax compliance certificate, certificate of incorporation and signed business questionnaires as set out in the evaluation criteria were not provided contrary to Section 79(1) of Public Procurement and Assets Disposal Act, 2015.

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

64. Irregular Payments of Legal Expenses

The statement of receipts and payments and as disclosed in Note 3 to the financial statements reflects payments on use of goods and services amounting to Kshs.1,424,131,990 out of which an amount of Kshs.197,682,691 was in respect of other operating expenses. Included in the expenditure is an amount of Kshs.54,337,037 paid to legal firms representing the County Executive in various legal cases and providing legal consultancy. However, the expenditure was not supported with signed framework contracts together with documents showing how the legal firms were identified, evidence showing that the Accounting Officer reported the contracts awarded to Public Procurement Regulatory Authority, approval by the County Executive Committee and payment vouchers contrary to Section 68(1) of the Public Procurement and Asset Disposal Act, 2015.

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

65. Irregular Procurement of Works on Construction of Roads

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflects payments on acquisition of assets amounting to Kshs.677,813,872 which includes an amount of Kshs.298,029,333 is in respect of construction of roads. Review of the procurement records revealed the following unsatisfactory matters;

65.1 Internal Access Road, Parking and Walkways at County Executive Headquarters Office in Hola

Included in the expenditure of Kshs.298,029,333 is an amount of Kshs.49,366,700 paid for the construction of internal access road, parking and walkways at the County Executive Headquarters Office in Hola. However, only one (1) bidder was evaluated and awarded the tender. Further, there was no certificate of practical completion of work and Inspection and Acceptance Committee certificate to support the payments made.

In addition, physical inspection of the project carried out in August, 2023 revealed that although full payment was made to the contractor less VAT and retention, items in the Bills of Quantities amounting to Kshs.18,000,500 were not done. In addition, the cabro works were not fully completed.

65.2 Rehabilitation of Bura Township Road to Bitumen Standard

Included in the construction of roads expenditure of Kshs.298,029,333 is an amount of Kshs.41,057,620 paid for rehabilitation of Bura township road to bitumen standards. However, evaluation report indicates that only one (1) bidder who responded was evaluated and awarded the contract and no certificate of completion which was provided as prove of work done. Further, the summary of statement of payment indicated that the value of work certified amounted to Kshs.39,532,220. However, the entire contract sum was paid less VAT and retention money instead of the certified amount. Further, physical inspection of the project carried out in the month of August, 2023 revealed that only 0.85km of the road was done instead of the 1km expected while culvert and drainage works worth Kshs.3,747,500 were not done.

65.3 Rehabilitation of Madogo Market Access Road to Cabro Standard

Included in the construction of roads expenditure of Kshs.298,029,333 is an amount of Kshs.79,982,000 paid for rehabilitation of Madogo market access road to cabro standards. However, as per the evaluation report, the only bidder who responded was evaluated and awarded the contract contrary to the procurement regulations. Further, the summary of statement of payments indicated that the value of work certified was worth Kshs.78,149,200. However, the entire contract sum of Kshs.79,982,000 was paid less VAT and retention instead of amount certified amount. In addition, the project file provided for audit did not contain a valid tax compliance certificate, certificate of incorporation, NCA certificate and a signed business questionnaire as set out in the evaluation criteria.

Physical inspection of the project in August, 2023 also revealed that only 0.9km of road was done instead of 1 km reflected in the bills of quantities and the shallow drainage was on one side of the road while the culvert and drainage were blocked thus hindering free passage of water.

65.4 Irregular Award of Contract for Road works

During the year under review, the County Executive expenditure of Kshs.30,907,943 paid to various contractors for construction of major roads, gravelling, grading, bush clearing and opening access roads within the County whose project files did not have tax compliance certificate, certificate of incorporation, NCA certificate, bid bond, experience of previous work of similar magnitude and signed business questionnaire as set out in the evaluation criteria. Further, the requisition from the user department was not supported with survey report and the project implementation status for the year under review.

In addition, the budget and procurement plan did not specify the road works which were to be done but instead indicated aggregated amount in respect of access roads and construction of roads.

In the circumstances, value for money on the expenditure of Kshs.298,029,333 on construction of roads could not be confirmed.

66. Irregular Procurement of Construction and Civil Works

The statement of receipts and payments reflects payments on acquisition of assets amounting to Kshs.677,813,872 and as disclosed in Note 7 to the financial statements which includes an amount of Kshs.125,064,526 in respect of construction and civil works. Review of the procurement process and contracts for the works revealed the following unsatisfactory matters:

66.1 Unconfirmed Procurement of Water Supplies and Sewerage Expenditure

Included in this expenditure is an amount of Kshs.68,209,450 incurred on water supplies and sewerage paid to four (4) contractors. However, the notification to the unsuccessful bidders, did not state the reasons for success of the awarded bidders. Further, there was no documentary evidence provided showing that the accounting officer reported the contracts awarded to the Public Procurement Regulatory Authority.

66.2 Unsupported Kelokelo Borehole

An amount of Kshs.7,966,250 was paid for this project. However, completion and inspection and acceptance certificates were not provided for audit. Further, an amount Kshs.906,250 paid for preliminaries and general items were not supported with site inspection registers, signed daily reports, insurance receipts, testing reports and signed security payment details.

66.3 Water Supply to New County Headquarters at Dayate

An amount of Kshs.42,006,770 was paid for this project during the year under review. However, no project implementation status report, evidence of the Accounting Officer reporting the contracts to Public Procurement Regulatory Authority, payment certificate and statement on account detailing specific work done as per specification in the bill of quantities were provided for audit. Further, Management deducted withholding tax of 3% and Value Added Tax (VAT) of 2% totalling Kshs.2,100,338. However, no evidence was provided to show that the withheld amount was remitted to Kenya Revenue Authority. In addition, an amount of Kshs.4,200,677 withheld as retention for work certified was held in a development bank account. However, no reason or justification was provided why the retention was not transferred to a deposit bank account.

Further, physical inspection of the project in the month of August, 2023 revealed that the project was about 60% complete, piping works was at 70% and the tank was at 90% completion level. However, the borehole, site office and masonry control room had not been done as required in the bills of quantities.

66.4 Unsupported New Distribution Pipelines at the Bura Water Supply Project

An amount of Kshs.9,959,080 was paid for the project during the year under review. Included in the amount is Kshs.705,900 for preliminaries and general items which were

not supported with site inspection registers, signed daily reports, insurance receipts, testing reports and signed security payment details. In addition, there was no status reports and evidence that it was submitted to the Accounting Officer provided for audit review. This was contrary to Regulation 140 of the Public Procurement and Asset Disposal Regulations, 2020 which states that the Head of Procurement function shall prepare a monthly progress report of all procurement contracts and submit the same to the Accounting Officer in accordance with Section 152 of the Act and that the report referred to in paragraph (1) shall include contract description, contract number, value of contract, commencement date, current status, the amount of money paid and the expected completion date.

66.5 Construction of Pipeline Extension to Vocational Training College

An amount of Kshs.8,277,350 was paid for the project during the year under review. Included in this amount is Kshs.483,750 for preliminaries and general items which were not supported with a site inspection register, signed daily reports, insurance receipts, testing reports and signed security payment details. In addition, there was no status report and evidence that it was submitted to the Accounting Officer. This was contrary to Regulation 140 of the Public Procurement and Asset Disposal Regulations, 2020 which states that the Head of Procurement function shall prepare a monthly progress report of all procurement contracts and submit the same to the Accounting Officer in accordance with Section 152 of the Act and that the report referred to in paragraph (1) shall include contract description, contract number, value of contract, commencement date, current status, the amount of money paid and the expected completion date.

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

67. Payment for Undelivered Motor Vehicles

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflects payments on acquisition of assets amounting to Kshs.677,813,872 which includes an amount of Kshs.38,340,000 in respect of purchase of motor vehicles and other transport equipment. However, this amount was paid to the suppliers prior to delivery of the motor vehicles. This was contrary to Section 146 of the Public Procurement and Asset Disposal Act, 2015 which states that no works, goods or services contract shall be paid for before they are executed or delivered and accepted by the Accounting Officer of a procuring entity or an officer authorized by him or her in writing except where so specified in the tender documents and contract agreement. Such an advance payment shall not be paid before the contract is signed.

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

68. Unconfirmed Purchase of Office Furniture and General Equipment

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflects payments on acquisition of assets amounting to Kshs.677,813,872 which includes an amount of Kshs.47,457,328 in respect of purchase of office furniture and general equipment. Included in the expenditure is an amount of Kshs.2,441,379 paid for acquisition of furniture during the year under review. However, the list of furniture purchased and the distribution list were not provided for audit review.

In the circumstances, the regularity and existence of Kshs.2,441,379 spent on acquisition of furniture could not be confirmed.

69. Unsupported Procurement of Tractors

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflects payments on acquisition of assets amounting to Kshs.677,813,872 which includes an amount of Kshs.44,929,502 paid in respect of purchase of specialized plant and equipment. Included in this amount is Kshs.27,000,000 paid to a supplier for the supply of six (6) tractors. However, the tractors were neither received via S13 nor recorded in the fixed assets register. In addition, no logbooks were provided to confirm ownership of the tractors and there was no evidence showing that due process was followed in awarding the contract. This was contrary to Section 83(1) of the Public Procurement and Asset Disposal Act, 2015.

Physical verification revealed that four (4) tractors out of the six (6) procured were at the Ministry of Lands yard. However, one (1) of the tractors had an engine capacity of 50 kw instead of between 58.8kw and 65kw specified in the tender documents. Further, the four tractors have not been used since they were delivered in May, 2023.

In the circumstances, the regularity, ownership and value for money on the purchase of tractors amounting to Kshs.27,000,000 could not be confirmed.

70. Irregular Purchase of Honey Packaging Equipment

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflects payments on acquisition of assets amounting to Kshs.677,813,872 out of which an amount of Kshs.44,929,502 relates to purchase of specialized plant and equipment. Included in this amount is Kshs.17,929,502 paid for supply and delivery of honey packaging equipment. However, the expenditure was not supported with counter requisition, needs assessment to determine the viability of the project within the County and market survey price to ascertain whether the packaging equipment were supplied at fair prices. Audit inspection of honey packaging equipment revealed that the equipment for Garsen and Mandogo were delivered at Hola Department of Agriculture and Livestock store due to what was explained as lack of secure space in those sites. In addition, the store items supplied were not properly arranged which made it difficult to verify.

In the circumstances, the regularity and value for money spent on honey packaging equipment amounting to Kshs.17,929,502 could not be confirmed.

71. Irregular Issuance of Imprest

The statement of assets and liabilities reflects outstanding Government imprests balance of Kshs.25,274,490 as disclosed in Note 10 to the financial statements. However, imprests amounting to Kshs.3,752,260 were not supported with formal application and subsequent approvals. Further, imprests amounting to Kshs.17,836,950 were long overdue. In addition, evidence that the Management had acted to recover the full amount from the salary of the defaulting officers was not provided for audit. This was in

contravention of Regulation 91 and 93 of the Public Financial Management (County Governments) Regulations, 2015.

In the circumstances, recoverability of the outstanding imprest balance of Kshs.25,274,490 could not be confirmed and Management was in breach of the law.

72. Avoidable Payment of Penalties and Interest

Other important disclosures number 1 reflects pending accounts payable balance of Kshs.4,128,424,305. Included in this balance is an amount of Kshs.176,312,278 in respect of outstanding arrears to Kenya Revenue Authority. However, the tax arrears resulted in penalties amounting to Kshs.83,060,721 and interest on these penalties amounting to Kshs.92,713,992 which could be avoided.

In the circumstances, the value for money on the interest and penalties payments could not be confirmed.

73. Late Submission of Annual Report and Financial Statements for Tana River County Climate Change Fund

The annual report and financial statements for Tana River County Climate Change Fund were submitted for audit on 30 November, 2023 five months after end of financial year contrary to Regulation 35(2) of the Public Finance Management (Tana River County Climate Change Fund) Regulations, 2023 which states that within three months after the end of each financial year, the Fund Administrator shall submit to the Auditor-General the accounts of the Fund in respect of that year.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

74. Dysfunctional Audit Committee

The County Executive established an Audit Committee whose members were gazetted on 3 July, 2020. However, four (4) out of the five (5) members of the Committee, including the Chairman, resigned rendering the Committee dysfunctional. In the absence of an Audit Committee during the year under review, no reports were discussed by the Audit Committee on review and evaluation of budgetary performance, financial management, transparency, accountability mechanisms and the effectiveness of the financial and non-financial performance management systems of the County.

In the circumstances, the existence of a strong and effective internal controls system in the management of the County Executive's resources could not be confirmed.

75. Payment of Salaries Outside the Integrated Personnel and Payroll Database

The statement of receipts and payments and as disclosed in Note 2 to the financial statements reflects payments in respect of compensation of employees amount of Kshs.1,767,844,891. However, supporting IPPD schedules submitted for audit revealed that only Kshs.1,641,139,920 was paid through the IPPD system resulting to an unexplained variance of Kshs.126,704,971.

In the circumstances, the existence of an effective control in management of compensation of employees could not be confirmed.

COUNTY EXECUTIVE OF LAMU – NO.5

REPORT ON THE FINANCIAL STATEMENT

Basis for Qualified Opinion

76. Inaccuracies in the Financial Statements

Review of the financial statements revealed the following:

- i. The Integrated Financial Management Information System (IFMIS) payment reports reflected two thousand and twenty-three (2,023) transactions of Kshs.822,940,840 which were paid but not captured in payment details as at 30 June, 2023.
- ii. The Integrated Financial Management Information System (IFMIS) payment details report indicated that there were eight (8) transactions amounting to Kshs.59,578,898 which were paid in cash as per the item description. However, they were not explained or supported.
- iii. The actual payments on transfers to other Government units has been reported in the statement of comparison of budget and actual amounts for recurrent and development combined as Kshs.259,682,345 which vary with the reported corresponding payments of Kshs.275,814,479 in the statement of receipts and payments resulting to an unexplained variance of Kshs.16,132,134.
- iv. The statement of receipts and payments and Note 9 to the financial statements reflect payments in respect of acquisition of assets totalling Kshs.560,798,092 which includes payments in respect of other domestic account receivables of Kshs.43,265,359 and relates to pending bills settled during the year. However, annex 2 to the financial statements reflects pending bills paid in the year of Kshs.50,018,657 resulting in an unreconciled difference of Kshs.6,753,298. In addition, the title of other domestic account receivable is not in line with the reporting template.
- v. The statement of assets and liabilities reflects deposits and retention balance of Kshs.92,320,522. As disclosed in Note 15 to the financial statements, the balance includes deposits of Kshs.83,202,806 which is not in agreement with the ledger balance of Kshs.105,953,552 resulting to an unexplained variance of Kshs.22,750,746.
- vi. The statement of receipts and payments and Note 3 to the financial statements reflect payments totalling Kshs.1,455,759,111 in respect of compensation of employees which includes Kshs.63,802,665 in respect of basic salary for temporary employees. However, review of the payroll revealed total payments of Kshs.64,502,552 resulting to an unexplained variance of Kshs.699,887.

In the circumstances, the accuracy and completeness of the respective financial statements balances could not be confirmed.

77. Un-Authorized Re-Allocation on Office Furniture and General Equipment

The statement of receipts and payments reflects acquisition of assets amount of Kshs.560,798,092 as disclosed in Note 9 to the financial statements. Included in the amount is Kshs.23,669,876 in respect to purchase of office furniture and general equipment out of which Kshs.3,939,137 relate to furniture and general equipment acquired by the Municipality of Lamu which prepares separate annual financial statements. The inclusion of the payments in the County Executive's statement of receipts and payments has not been explained.

In the circumstances, the accuracy of payments in respect of purchase of office furniture and general equipment of Kshs.23,669,876 could not be confirmed.

78. Un-Authorized Re-allocation on Other Payments

The statement of receipts and payments and Note 12 to the financial statements reflect payments in respect to other payments totalling Kshs.31,000,000 which includes Kshs.21,000,000 in respect of capital transfer to non-financial public enterprises. This amount in turn includes Kshs.11,000,000 transferred to Lamu County Water and Sanitation Company Limited while Kshs.10,000,000 relates to civil contingency reserves transferred to emergency fund which are separate reporting entities. These payments are classified as other payments instead of other grants and transfers.

In the circumstances, the accuracy of payments in respect of other payments amounting to Kshs.31,000,000 could not be confirmed.

79. Un-Authorized Reallocation on Domestic Travel and Subsistence

The statement of receipts and payments and Note 4 to the financial statements reflect payments in respect of use of goods and services of Kshs.689,563,357. The payments include Kshs.91,719,188 on domestic travel and subsistence out of which, payments totalling Kshs.5,485,450 were in respect of items not related to domestic travel and subsistence.

In the circumstances, the accuracy of payments in respect of domestic travel and subsistence of Kshs.91,719,188 could not be confirmed.

80. Inaccurate Cash and Cash Equivalents Balance

The statement of assets and liabilities and Note 13 to the financial statements reflect cash and cash equivalents balances of Kshs.168,392,692 which were held in various bank accounts. However, the balance includes Kshs.5,548,476 in respect of two (2) bank accounts maintained by the Municipality of Lamu which is a separate reporting entity. In addition, the balance excludes three (3) bank accounts operated by the County Government to implement programmes within the County funded by Kenya Marine Fisheries and Socio-Economic Development Project, Kenya Expanded Programme on Immunization (KEPI) and UNICEF. However, Management did not make a disclosure in the financial statements regarding the external assistance received through the three

bank accounts. Further, Kshs.98,017,833 was paid out of the Kenya Marine Fisheries and Socio-Economic Development Project bank account held at a commercial bank on 30 June, 2023. However, Management did not provide documentation to support these payments.

In the circumstances, the accuracy of the cash and cash equivalents balance of Kshs.168,392,692 could not be confirmed.

81. Unsupported Voided Payments

The statement of receipts and payments reflect total payments amounting to Kshs.3,191,972,821 which includes payments in respect to use of goods and services of Kshs.689,563,357, acquisition of assets of Kshs.560,798,092 and transfers to other Government entities of Kshs.275,814,479. However, review of the Integrated Financial Management Information System (IFMIS) ledger records revealed transactions amounting to Kshs.78,305,396 which were initiated but later voided without any justification.

In the circumstances, the propriety and accuracy of the voided payments of Kshs.78,305,396 could not be confirmed.

Emphasis of Matter

82. Budgetary Control and Performance

The statement of comparative budget and actual amounts recurrent and development combined reflects final receipts budget and actual on a comparable basis of Kshs.3,803,384,672 and Kshs.3,252,498,399 respectively resulting to an under-funding of Kshs.550,886,273 or 14% of the budget. Similarly, the County made payments totalling Kshs.3,175,840,686 against an approved budget of Kshs.3,803,384,672 resulting to an under-expenditure of Kshs.627,543,986 or 16% of the budget.

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

83. Late Exchequer Releases

The statement of receipts and payments reflects total receipts of Kshs.3,023,748,938 in respect of transfers from the County Revenue Fund (CRF) and as disclosed in Note 1 to the financial statements. Review of the CRF bank statement for the month of June, 2023 revealed that receipts totalling Kshs.543,488,688 were received near the closure of the financial year. This means that 18% of all the County Executive's receipts were received near the closure of the year and this may have negatively impacted on service delivery. There is need for National Treasury to release the exchequers in good time for effective implementation of budgeted activities and programs.

84. Pending Bills

Note 20 to the financial statements on other important disclosures reflects a balance of Kshs.69,200,027 in respect of pending accounts payable. The County Executive risks incurring additional losses in form of interest and penalties arising from continued delay in the settlement of the bills. In addition, failure to settle bills during the year in which they

relate to distorts the financial statements and adversely affects the budgetary provisions to the subsequent year as they form a first charge.

My opinion is not modified in respect of these matters.

Other Matter

85. Delayed Projects Implementation

Review of records revealed that during the year under review, Management paid Kshs.796,387,920 towards implementing various projects against a budget allocation of Kshs.1,292,431,043 representing a budget absorption of 62%.

However, seventy-five (75) projects with a budgetary allocation of Kshs.421,974,387 had not started, seventy-five (75) others were ongoing at various levels of completion while forty-eight (48) projects were completed.

Delay in project implementation may be an indication of ineffectiveness in management of public resources causing delay in service provision to the public. In addition, the prolonged completion of projects may lead to unnecessary additional costs due to inflation.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

86. Failure to Submit Financial Statements

Management did not submit to the Auditor-General financial statements for all the level four (4) hospitals within the County including Lamu County Hospital, King Fahad, Mpeketoni Sub County Hospital and Faza Sub County Hospital. This was contrary to Section164(4)(a) of the Public Finance Management Act, 2012 which states that within three months after the end of each financial year, the Accounting Officer for an entity shall submit the entity's financial statements to the Auditor-General.

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

87. Compensation of Employees

The statement of receipts and payments and Note 3 to the financial statements reflects payments in respect of compensation of employees of Kshs.1,455,759,111. Review of records revealed the following:

87.1 Irregular Increment in Staff Salaries

Review of the Integrated Personnel and Payroll Database System revealed that salary scales of fifteen (15) employees were adjusted upwards resulting in an irregular increment in their monthly basic salaries by Kshs.131,150 translating to an annual increment in the wage bill by Kshs.1,573,800. This increment was not justified or explained.

In the circumstances, the propriety of the annual increment in basic salaries of Kshs.1,573,800 could not be confirmed.

87.2 Payment of Salaries Outside Integrated Personnel Payroll Database (IPPD) System

Review of records revealed that forty-three (43) permanent employees were paid a monthly salary of Kshs.6,366,387 through the manual payroll contrary to the provisions of The National Treasury Circular No.13/2019 dated 28 August, 2019 which states that the allocation of personnel emoluments must be supported by Integrated Personnel Payroll Data (IPPD) and each MDA will be required to provide this information to support personnel requirements.

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

87.3 Irregular Payment of Staff Salary Arrears

A review of human resource records indicate that the County structural engineer was served with a show cause letter dated 6 October, 2017 for gross misconduct and there after the officer was seconded to the Ministry of Lands, Housing and Urban Development vide letter dated 31 October, 2017. The officer was reinstated back to the County employment vide letter dated 23 September, 2022. However, there was no release letter from the Ministry back to the County. In addition, Management paid the officer salary arrears amounting to Kshs.4,277,280 for four (4) years from October, 2018 to September, 2022, the period which the officer was at the Ministry of Lands, Housing and Urban Development. This payment has not been justified.

In the circumstances, the regularity of payment of salary arrears amounting to Kshs.4,277,280 could not be confirmed.

87.4 Non-Compliance with Fiscal Responsibility on Wage Bill

The statement of receipts and payments reflects payments totalling Kshs.1,455,759,111 in respect of compensation of employees representing 48% of the total receipts of Kshs.3,028,748,938. This was contrary to Regulation 25(1)(a) and (b) of the Public Finance Management (County Governments) Regulations, 2015 which requires that the County Government's expenditure on wages and benefits for its public officers shall not exceed 35% of the County Government's total revenue.

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

88. Non-Compliance with the Law on Settlement of Pending Bills

Review of audited financial statements indicate that the County owed suppliers of goods and services a balance of Kshs.69,200,027. However, the pending bills register reflects that, the County did not settle bills amounting to Kshs.23,209,239 as a first charge on the County Revenue Fund contrary to the provisions of Regulation 41(2) of the Public Finance Management (County Governments) Regulations, 2015 which provides 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.

89. Non-Compliance with the Law on the Establishment of the Office of County Attorney

Management had not appointed the County Attorney and other officers. The legal department does not have the capacity to offer legal advice and the County is likely to incur avoidable and exorbitant legal charges. This was contrary to Section 4 of the Office of the County Attorney Act, 2020 which requires each County to establish the Office of the County Attorney, which is an office in the County Public Service

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

90. Irregular Procurement of Pharmaceutical and Non-Pharmaceutical Items

Management made payments for various pharmaceutical and non-pharmaceuticals items amounting to Kshs.64,456,545 from various suppliers on diverse dates. However, review of records revealed that the LPOs used were expired contrary to Regulation 52 of the Public Finance Management (County Governments) Regulations, 2015 which states that a local purchase order or local service order shall be valid for a period of thirty days from the date of issue and that any public officer who receives goods or services beyond the stipulated period commits an offence under the Act. In addition, Management paid two (2) suppliers Kshs.50,812,448 in respect of supply of lab reagents, pharmaceutical and non-pharmaceutical items. However, review of procurement files indicated that the two suppliers were identified through direct procurement despite the County having twenty-nine (29) registered suppliers under the category of medical drugs and equipment. Although the items were ordered by the County in bulk, the suppliers made partial deliveries as evidenced by the numerous delivery notes which did not match with the purchase orders or reconciled with store records to confirm that all the items paid for were received and accounted for.

In the circumstances, the propriety of the payments could not be confirmed and Management was in breach of the law.

91. Irregular Payments to Council of Governors and Frontier Counties Development Council

During the year under review, Management paid Kshs.3,000,000 to the Council of Governors and Kshs.2,000,000 to the Frontier Counties Development Council Limited which was contrary to Section 37 of the Intergovernmental Relations Act, 2012 which provides that the operational expenses in respect of the structures and institutions established in the Act shall be provided for in the annual estimates of the revenue and expenditure of the National Government.

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

92. Delay in the Construction of the Governor's Residence

The County allocated Kshs.45,000,000 for the construction of the Governor's residence but only Kshs.5,589,920 was spent on the project. Review of the project file revealed that a memorandum of understanding between County Government of Lamu and National Government had been signed on 31 March, 2021 allocating two (2) acres of land for the

construction of the residence and the contract for the construction of the residence was signed on 16 February, 2023. However, physical verification of the project carried out in the month of November, 2023 revealed that the contractor had completed the foundation and substructure works worth Kshs.10,889,979 while items in the bill of quantities relating to walling, roofing, windows, doors, electrical works and drainage and fittings amounting to Kshs.33,200,395 were still outstanding.

Delay in project implementation may be an indication of ineffectiveness in management of public resources and prolonged completion of the project may lead to unnecessary additional costs due to inflation.

93. Lack of Ownership Documents

Management paid a contractor Kshs.1,765,972 in respect to the construction of two (2) ECDE classrooms and two (2) door toilet at Lake Amu Primary School which translates to a total of Kshs.2,950,000 spent on this project. The project was constructed on a parcel of land adjacent to the school was completed on 31 August, 2023. However, the project had not been handed over to the school and the ownership documents for the parcel of land on which the project stands was not provided for audit verification.

In the circumstances, the value for money on Kshs.2,950,000 spent on this project could not be confirmed.

94. Failure to Fully Fund the Construction of Mtangawanda Open Air Market

Management engaged a contractor to construct to completion the Mtangawanda open air market in Faza Ward at a contract sum of Kshs.19,727,556. Review of records revealed that the contractor had been paid Kshs.9,495,985 in the previous financial year, 2021/2022 and an additional Kshs.1,651,303 during the year under review which translates to a total payment of Kshs.11,147,288 or 57% of the contract sum. However, Management did not allocate adequate resources in the budget to ensure completion of this project. In addition, the contract period expired on 16 June, 2023 and there was no evidence of project period extension which is likely to stall the project.

In the circumstances, the value for money on Kshs.11,147,288 spent on this project could not be confirmed.

95. Irregular Award of Contract for Extension of Hongwe Market

Management engaged a contractor to carry out extension of Hongwe market at a contract sum of Kshs.5,638,593 and paid Kshs.3,895,473 during the year under review. However, the contractor submitted the performance bond on 2 June, 2023 after the contract had been signed on 30 May, 2023 contrary to Section 142(1) of the Public Procurement and Asset Disposal Act, 2015 which states that subject to the regulations, a successful tenderer shall submit a performance security equivalent to not more than ten per cent of the contract amount before signing of the contract. In addition, Management did not provide a progress report to confirm the level of project implementation.

In the circumstances, the value for money on Kshs.3,895,473 spent on this project could not be confirmed and Management was in breach of the law.

96. Irregular Payment for Construction of Mpeketoni Open Air Market

Management engaged a contractor to construct the Mpeketoni open air market in Bahari ward at a contract sum of Kshs.30,516,317. Review of the records revealed that the contractor had been paid amounts of Kshs.26,131,200 in the 2021/2022 financial year and an additional Kshs.3,425,218 during the year under review which translates to total payments of Kshs.29,556,418. However, the following issues were noted:

- i The contractor submitted the performance bond on 16 November, 2021 after the contract had already been signed on 15 November, 2021.
- ii The performance guarantee dated 16 November, 2021 was valid until 15 November, 2022. However, there was no evidence that it was renewed by the contractor.
- iii The completion certificate was raised on 30 May, 2023 and the final certificate of Kshs.3,425,218 was paid in June, 2023. However, there was no evidence of extension of contract period which had expired on 14 November, 2022.
- iv Included in the payment to the contractor during the year under review was Kshs.1,416,620 which was over and above the quoted amount in the bill of quantities. This extra amount paid has not been supported or explained. The payment also included Kshs.1,680,000 in respect of a provisional sum for contingencies, electrical works and project management expenses which was not supported by relevant documents.

In the circumstances, the value for money on this expenditure could not be confirmed and Management was in breach of the law.

97. Stalled Construction of Lamu County Headquarters

Management entered into contract to construct the County Headquarters at Mokowe on 24 June, 2019 at a contract sum of Kshs.126,823,550 and was to run for two (2) years up to 24 June, 2021. In the Memorandum of Understanding (MOU) entered into with the State Department for Public Works in January, 2021, the County was to fund 30% of the cost of the project and National Government was to fund the balance of 70%. According to payment records, the County had made payments of Kshs.31,987,330 while the National Government had paid Kshs.11,079,962 which translates to total payments of Kshs.43,067,292 or 34% of the contract sum. However, physical verification of the project carried out in August, 2023 revealed that the contractor requested and obtained an extension of project contract period to 2 November, 2023. However, no additional works had been done during the extension period. Management did not also set aside funds in its budget estimates for implementation of the project, and no additional funding to the project was received from the National Government during the year under review.

In the circumstances, the value for money on Kshs.43,067,292 spent on the project could not be confirmed.

98. Irregular Variation of Renovation Works of County Headquarters Office Block

Management paid a contractor an amount of Kshs.11,015,116 in respect of renovation of County Headquarters office block in two instalments of Kshs.5,279,000 in December, 2022 and Kshs.5,736,115 in February, 2023. Review of the payment certificates revealed that the amount paid to the contractor included works valued at Kshs.3,978,500 which were not in the bill of quantities. In addition, physical verification of the works carried out in November, 2023 revealed that the flat roof had leakages which caused damage to the building's ceiling and the walls.

In the circumstances, value for money on Kshs.11,015,116 spent on the project could not be confirmed.

99. Irregular Payments for Incomplete Upgrading of Mokowe Health Centre

Management engaged a contractor to upgrade maternity wing and staff quarters at the Mokowe Health Centre on 8 May, 2023 at a contract sum of Kshs.4,986,852 was paid Kshs.3,502,608 during the year under review. Included in the payment was Kshs.727,930 in relation to works which were not in the bill of quantities. Further, the engineer's valuation report indicated that the contractor had installed all windows and was paid the entire amount meant for installation of the windows. However, physical verification undertaken in November, 2023 revealed that installation of windows was still incomplete. In addition, the contract period expired on 8 November, 2023 and the contractor who was not on site had not requested for an extension of the contract period.

In the circumstances, it was not possible to confirm whether the public obtained value for money on Kshs.3,502,608 spent on the project and Management was in breach of the law.

100. Non-Operational Water Projects

Management engaged a contractor to construct a 3.4 km water pipeline extension and two water points at Uziwa water project at a cost of Kshs.3,999,875. A completion certificate was issued on 14 June, 2023 and the contractor was fully paid in two instalments. However, audit inspection of the project carried out in November, 2023, revealed that the water points were not operational. In addition, Management engaged a contractor to drill and equip three bore holes at a cost of Kshs.3,785,000. However, an inspection of the projects revealed that one of the boreholes was not operational.

In the circumstances, value for money spent on these projects could not be confirmed.

101. Unaccounted for Irrigation Equipment and Farm Inputs

Management paid a total of Kshs.9,994,950 to four (4) suppliers in respect to supply of equipment and rehabilitation of irrigation infrastructure and agricultural seeds and other farm inputs identified through request for quotations. However, the user requisitions did not disclose the irrigation projects which utilized the irrigation equipment worth Kshs.5,140,950 and how the acquired seedlings were to be utilized. This was contrary to Regulation 35(6) of the Public Procurement and Asset Disposal Regulations, 2020 which states that pursuant to Section 48(4) of the Act, the inspection and acceptance committee

shall prepare and issue a report, interim or completion of inspection and acceptance certificate and submit to the head of procurement function.

In the circumstances, the value for money may not have been realized on the Kshs.9,994,950 amount spent on the projects.

102. Failure to Provide Performance Security

Review of procurement files revealed that Management entered into road construction contracts valued at Kshs.33,138,240 before submission of performance security by the contractors contrary to Section 142(1) of the Public Procurement and Asset Disposal Act, 2015 which requires a successful tenderer to submit a performance security equivalent to not more than ten per cent of the contract amount before signing of the contract.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

103. Lack of Approved Information Communication Technology Policy

As previously reported, review of the County Information Communication Technology (ICT) environment revealed that Management did not have a formal approved ICT policy in place, which includes data security policy and disaster recovery plans. Further, formal documented and approved processes to manage upgrades made to all financial and performance information systems were not provided for audit review.

In the circumstances, the existence of effective Information Communication Technology controls in the County Executive could not be confirmed.

104. Lack of Risk Management Policy Framework

Management did not put in place a Risk Management Policy Framework. This was contrary to Regulation 158(1)(a) of the Public Finance Management (County Governments) Regulations, 2015 which provides that the Accounting Officer shall ensure that the County Government entity develops risk management strategies, which include fraud prevention mechanism.

In the circumstances, it was not possible to confirm existence of effective risk management systems in the County Executive.

105. Lack of an Updated Non-Current Asset Register

Annex 6 to the financial statements on summary of fixed assets register reflects a balance of Kshs.2,432,393,903 in respect of various assets held by the County Executive while the historical cost recorded in the asset register was Kshs.1,367,133,632 resulting to a variance of Kshs.1,065,260,271 which has not been explained or reconciled. Further, the asset register maintained lacked key information including identification or serial number, acquisition date, description of asset, location, class, cost of acquisition, accumulated depreciation, net book value and tagging. In addition, land for several medical facilities

under the Department of Medical Services in various locations had not been surveyed and lacked ownership documents.

In the circumstances, the security and accountability of County assets may not be guaranteed.

106. Grounded Motor Vehicles

As previously reported, audit inspection of the County assets revealed that several motor vehicles under the Department of Medical Services were grounded. Management did not provide measures put in place for ensuring that the grounded vehicles were repaired or disposed of to prevent further loss. In addition, Management did not prepare an annual assets disposal plan contrary to Regulation 176(1) of the Public Procurement and Asset Disposal Regulations, 2020 which states that an Accounting Officer of a procuring entity shall ensure that an annual assets disposal plan is prepared of items declared as unserviceable, surplus or obsolete, obsolescence stores, asset or equipment unserviceable or obsolete stores, asset or equipment as set out under Section 53(4) of the Act.

In the circumstances, the effectiveness of internal controls on management of assets could not be confirmed.

COUNTY EXECUTIVE OF TAITA/TAVETA – NO.6

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

107. Unsupported Cash and Cash Equivalents

The statement of assets and liabilities reflects cash and cash equivalents balance of Kshs.142,878,556 comprising of bank and cash balances of Kshs.142,878,556 held in twenty-eight (28) bank accounts and a Nil balance for cash in hand as disclosed in Notes 13A and 13B to the financial statements respectively. However, the certificate of bank balance for one (1) bank account was not provided for audit. Further, the board of survey reports for twenty-six (26) bank accounts were not provided for audit verification.

In the circumstances, the accuracy and completeness of cash and cash equivalents balance of Kshs.142,878,556 could not be confirmed.

108. Undisclosed Pending Staff Payables

The statement of receipts and payments and Note 3 to the financial statements reflect compensation of employees expenditure of Kshs.2,988,894,233. Further, Note 20.2 to the financial statements reflect a balance of Kshs.315,431,022 in respect of pending staff payables.

Review of the June, 2023 Integrated Payroll and Personnel Database (IPPD) records revealed that out of the two hundred and twenty-three (223) newly recruited one hundred and twenty-five (125) staff or 56% had not been included in the IPPD payroll despite having been issued with appointment letters. Consequently, the staff would be paid their salaries in arrears as and when they received their payroll numbers, thereby resulting to a pending staff payables amount of Kshs.5,704,048 as at 30 June, 2023. However, the amount of Kshs.5,704,048 was not disclosed in the financial statements under staff payables. Management did not provide any explanation for this unsatisfactory situation.

In the circumstances, the accuracy and completeness of compensation of employees amount of Kshs.2,988,894,233 and the pending staff payables balance of Kshs.315,431,022 could not be confirmed.

109. Unexplained Voided Transactions in the IFMIS System

Review of financial records revealed that one thousand and seventy-seven (1,077) transactions in the Integrated Financial Management Information System (IFMIS) amounting to Kshs.1,575,676,547 were voided by the County Executive during the year. However, supporting documents such as voided payment vouchers, requests to void the payments, The National Treasury approval and Exchequer requisitions to the Controller of Budget were not provided for audit review. Further, the voided payments were not disclosed as pending accounts payable and the utilization of the funds meant for the voided transactions was also not confirmed.

In the circumstances, the accuracy and completeness of financial statements and the authenticity of the voided transactions amount of Kshs.1,575,676,547 could not be confirmed.

Emphasis of Matter

110. Budgetary Control and Performance

The statement of comparison of budget and actual amounts (recurrent and development combined) reflects final receipts budget and actual amounts on a comparable basis of Kshs.6,160,537,977 and Kshs.5,240,960,991 respectively, resulting in underfunding of Kshs.919,576,986 or 15% of the budget. Similarly, the County Executive spent Kshs.5,248,051,357 against an approved budget of Kshs.6,160,537,977, resulting in an under-expenditure of Kshs.912,486,620 or 15% of the budget.

The underfunding and under-expenditure constrained the activities of the County Executive and may have affected delivery of services to the public.

111. Unexplained Variances in Pending Bills Payables

Note 20.1 and Annex 2 to the financial statements reflect a balance of Kshs.1,136,416,547 in respect of pending accounts payable for suppliers of works, goods and services which included an opening balance of Kshs.1,200,275,144. However, an Internal Audit report dated 22 May, 2023, on the status of the pending bills for the County Executive of Taita/Taveta for the year ending 30 June, 2022, indicated that the pending accounts payables for works, goods and services was Kshs.359,087,218 thereby resulting to an unexplained variance of Kshs.841,187,926.

My opinion is not modified in respect of these matters.

Other Matter

112. Unresolved Prior Year Issues

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, Management did not provide any evidence to show how the issues were resolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

113. Unremitted Statutory Deductions

Review of human resources records revealed that Kenya Revenue Authority (KRA) wrote to the County Secretary and County Executive in correspondences dated 25 May, 2022 and 26 May, 2023 respectively. The letters indicated that the County Executive had not been remitting Fringe Benefit Tax on its employees on mortgages and loans received at lower interest rates and Pay As You Earn (PAYE) from previous financial years amounting to Kshs.5,426,035 and Kshs.6,196,002 respectively. Further, the amount has not been

included in the list of pending payables as at 30 June, 2023. This was contrary to Section 12(B) of the Income Tax Act, Cap 470 of the Laws of Kenya which provides for the imposition of fringe benefits tax. In addition, Section 37(1) of the Act provides that an employer paying emoluments to an employee shall deduct therefrom, and account for tax thereon, to such extent and in such manner as may be prescribed.

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

114. Non-Compliance with the Law of Fiscal Responsibility on Wage Bill

The statement of receipts and payments reflects an expenditure of Kshs.2,988,894,233 in respect of compensation of employees representing 57% of the total revenue received of Kshs.5,240,960,991. This contravened Regulation 25(1)(b) of the Public Finance Management (County Governments) Regulations, 2015 which requires the County Executive to set a wage and benefits for its public officers limit which should not exceed 35% of the total revenue received.

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

115. Stalled Projects

Review of the project status reports for the Departments of Agriculture, Health and Public Works revealed that there were seven (7) projects with an initial contract sum and certified works totalling Kshs.52,305,089 and Kshs.17,835,535 respectively which had stalled and whose contract periods had expired but had not been renewed.

In the circumstances, value for money may not have been achieved for projects certified works of Kshs.17,835,535.

116. Unconfirmed Legal Costs

The County Executive spent a total of Kshs.3,260,017 on legal services in respect of a Constitutional case between an ore mining company and the County Executive on disputed mining fees of Kshs.19,883,301, as a result of the County charging the rate of Kshs.1,000 instead of Kshs.150 per tonne of ore. The case was ruled against the County Executive whose rates were found to be excessive and was therefore ordered to revert to the previous rate of Kshs.150 per tonne of ore.

However, the status report on legal payments made as required by Public Sector Accounting Standards Board reporting guidelines on asset and liability management in the public sector was not provided for the audit. Therefore, it was not possible to determine the total legal payments made as a result of the dispute in the case since it was filed in court. Further, included in the list of pending bills as at 30 June, 2023, is an amount of Kshs.3,260,018 due on legal costs for the same case. There is a likelihood that the County Executive will make legal payments in excess of the disputed amount.

In the circumstances, value for money on the expenditure relating to the legal dispute on mining fees of Kshs.3,260,017 could not be confirmed.

REPORT ON THE EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

117. Lack of Annual Recruitment Plans

Two hundred and twenty-five (225) staff were hired by the County Executive of Taita/Taveta. However, no annual recruitment plans backed by evidence of budgetary allocation were provided. This was contrary to Section B.2(2) of the County Human Resource Management Policy and Manual, 2020 that requires, County Departments develop annual recruitment plans backed by evidence of budgetary allocation which will be forwarded to the County Public Service Board at the beginning of each financial year to enable it plan to fill the vacancies.

In addition, Management failed to prepare human resource plans to support achievement of goals and objectives in their Strategic Plans as required by Section B.2(1) of the County Human Resource Management Policy and Manual, 2020.

In the circumstances, the effectiveness of internal controls relating human resources management could not be confirmed.

118. Irregular Contract Management

A payment of Kshs.7,118,579 was paid as a deposit to a joint/escrow account as security for a disputed amount of Kshs.9,899,000 owed to a contractor for the provision of street lighting maintenance works.

However, the following anomalies were observed:

- i. The amount demanded by the contractor as at 16 June, 2022 was Kshs.10,360,953 and accrued interest of Kshs.1,243,314, all totalling Kshs.11,604,267 as per the Court ruling of 18 January, 2021. Therefore, the County Executive is likely to pay more than the amount owed of Kshs.9,899,000 as the amount continues to accumulate.
- ii. The legal status report as evidence of the total legal cost paid in support of the legal representation in Court was not provided for audit.
- iii. As at 30 June, 2023 the outstanding pending bills listing provided for audit indicated that the balance owed to the contractor was Kshs.7,628,400 while the supporting certified works indicated an amount of Kshs.9,899,000. Although Management explained that the variance of Kshs.2,270,600 related to works not yet certified and hence not valid for payment, it was not clear why the payments demand for works not certified had not been provided for. Further, the internal audit report on pending bills status did not reflect the amount as payable, thus raising doubts on the authenticity of the pending payment.

- iv. Supporting documentation of tender award, professional opinion, certificates of work done and inspection and acceptance certificate were not provided in support of the outstanding payment of Kshs.9,899,000.

In the circumstances, the effectiveness of internal controls related to project management could not be confirmed.

COUNTY EXECUTIVE OF GARISSA – NO.7

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

119. Unconfirmed Expenditure on Purchase of ICT Equipment

The statement of receipts and payments reflects acquisition of assets amounting to Kshs.1,475,930,588. The amount includes purchase of office furniture and general equipment amounting to Kshs.32,267,363, as disclosed in Note 8 to the financial statements. Review of documents provided for audit revealed that Kshs.2,965,000 was paid to a company for supply of desktops, laptops and printers for Technical and Vocational Training (TVET) institutions. However, four (4) laptops, six (6) desktops and three (3) printers were still in the store seven months after the purchase instead of being issued to the TVET institutions. Further, the acquired assets were not recorded in stores ledgers and were not tagged.

In the circumstances, accuracy and propriety of office furniture and general equipment expenditure amounting to Kshs.2,965,000 could not be confirmed.

120. Use of Goods and Services

The statement of receipts and payments reflects use of goods and services amounting to Kshs.845,318,125 as disclosed in Note 4 to the financial statements. Review of records provided revealed the following anomalies:

120.1 Unsupported Expenditure on Domestic Travel and Subsistence

The use of goods and services expenditure amounting to Kshs.845,318,125 includes domestic travel and subsistence totalling Kshs.85,924,196 as disclosed in Note 4 to the financial statements. Review of payment vouchers and other supporting documents relating to domestic travel and subsistence revealed that Kshs.1,232,000 was paid to officers who were on official duties relating to drought assessment outside the County Headquarters. However, the payments were not supported with pre-travel approval by the Management, programme of activities (drought assessment), meeting attendance registers and back to office report.

120.2 Unsupported Payment on Office and General Supplies

The use of goods and services amount includes office and general supplies and services expenditure amounting to Kshs.33,288,247 as disclosed in Note 4 to the financial statements. However, counter receipts vouchers (S13) and counter receipt and issue voucher (SII) for supplies amounting to Kshs.416,850 were not provided for audit. Further, payment for supplies valued at Kshs.2,760,000 were not supported with inspection and acceptance committee reports. In addition, payments for supplies amounting to Kshs.5,923,460 for low value items were not supported with Electronic Tax Receipts (ETR) from the Kenya Revenue Authority as required by Regulation 93(2) of the Public Procurement and Asset Disposal Regulations, 2020.

120.3 Unsupported Payments on Repair of Motor Vehicles

The use of goods and services amount includes routine maintenance of vehicles and other transport equipment amounting to Kshs.3,811,180 as disclosed in Note 4 to the financial statements. Review of records provided revealed that payments amounting to Kshs.2,828,904 were not recorded in the respective vehicle log books (GP55). Further, motor vehicle work tickets indicating the period when the motor vehicles were under repair were not provided. In addition, pre and post mechanical inspection reports were not provided.

In the circumstances, the accuracy and propriety of use of goods and services amounting to Kshs.13,161,214 could not be confirmed.

121. Unsupported Payment of Casual Wages

The statement of receipts and payments reflects compensation of employees amounting to Kshs.4,284,841,581. The amount includes basic wages of temporary employees' totalling Kshs.410,062,610 as disclosed in Note 3 to the financial statements. Review of records provided revealed that casual wages and salaries amounting to Kshs.352,204,386 were not reflected in the Integrated Personnel and Payroll Database System (IPPD) provided. Further, the amount includes Kshs.104,922,280 which was not supported by payment vouchers and schedules.

In the circumstances, the accuracy and completeness of basic wages of temporary employees amounting to Kshs.410,062,610 could not be confirmed.

122. Unconfirmed Transfer to Other Government Entities

The statement of receipts and payments reflects transfers to other government entities amounting Kshs.154,729,423. The amount includes transfer to Garissa County Referral Hospital and Ministry of Health totalling Kshs.35,000,000 as disclosed in Note 5 to the financial statements. However, the hospital and the ministry did not prepare financial statements to account for the funds transferred.

In the circumstances, the accuracy and propriety of transfer to other Government entities amounting to Kshs.35,000,000 could not be confirmed.

Emphasis of Matter

123. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on a comparable basis amounting to Kshs.8,383,468,720 and Kshs.7,279,605,268 respectively, resulting to an under-funding of Kshs.1,103,863,268 or two (2) percent of the approved budget. Similarly, the statement reflects final expenditure budget and actual on comparable basis amounting to Kshs.8,383,468,720 and Kshs.7,246,276,620 respectively, resulting in under-performance of Kshs.1,137,192,100 or fourteen (14) percent of the budget.

The under-performance affected the planned activities and may have impacted negatively on service delivery to the public.

124. Pending Bills

Annex 2 to the financial statements reflects pending accounts payables totalling Kshs.570,170,549 as at 30 June, 2023. Management has not explained why the bills were not settled during the year when they occurred.

Failure to settle bills during the year to which they relate to distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

My opinion is not modified in respect of these matters.

Other Matter

125. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, the Management has not resolved the issues or given any explanation for failure to adhere to the provisions of the Public Sector Accounting Standards Board templates.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

126. Irregular Payments to Council of Governors and Frontier Counties Development Council

The statement of receipts and payments reflects use of goods and services amounting to Kshs.845,318,125 Which includes other operating expenses amounting to Kshs.118,307,874 as disclosed in Note 4 to the financial statements. The other operating expenses includes Kshs.5,000,000 and Kshs.6,000,000 paid to the Council of Governors and the Frontier Counties Development Council respectively. This was contrary to Section 37 of the Intergovernmental Relations Act, 2012 which requires operational expenses of the institution established under the Act to be provided for in the annual estimates of revenue and expenditure of the National Government.

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

127. Human Resource Management

127.1 Irregular Payment of Special House Allowance

Review of the Payroll and Personnel Database revealed that sixteen (16) employees were earning special house allowance in addition to the normal house allowance. According to

payroll for June, 2023, a total of Kshs.128,668 was paid as special house allowance during the year under review. However, the allowances have not been approved by the Salaries and Remuneration Commission Circular Ref. No SRC/ADM/1/13 Vol. III (126) of 10 December, 2014 on allowances in the Public Service.

127.2 Non-Compliance with Law on Mandatory Retirement

Review of the Integrated Payroll and Personnel Database (IPPD) revealed that one hundred and forty (140) officers who had attained the mandatory retirement age of sixty (60) years were still in service as at 30 June, 2023. This was contrary to Regulation 70(1)(a) of the Public Service Commission Regulations, 2020 which states that the mandatory retirement age in the public sector shall be sixty (60) years. The officers were paid emoluments totalling Kshs.14,361,090 in the year under review.

127.3 Staff Paid Basic Pay Less than Approved Rates

Review of IPPD payroll revealed that twenty-eight (28) staff members earned basic salary which was below the minimum wage limit set by Salaries and Remuneration (SRC) Circular No. SRC/TS/JE/CG/3/33/6 VOL.III (30) of 8 July, 2020 which categorizes job groups and their basic pay bands to be adopted by the County Governments resulting to an underpayment of salaries totalling Kshs.1,813,959.

127.4 Employees Earning Less than a Third (1/3) of Basic Salary

Review of the payrolls for the year revealed that thirty-five (35) employees were receiving net salaries that were less than one third (1/3) of their respective basic salaries. This was contrary to Section 19(3) of the Employment Act, 2007 which states that the total amount of all deductions which may be made by an employer from the wages of the employee at any one given time shall not exceed two thirds of such wages.

127.5 Lack of Comprehensive Staff Medical Cover

During the year under review, the County Executive had two payroll systems in operation, a manual payroll and Integrated Personnel and Payroll Database (IPPD) system. Review of the payrolls reflected two thousand six hundred and seventy-one (2,671) employees in the Integrated Personnel and Payroll Database system while five hundred and eight (508) employees were in the manual payroll. However, the Management failed to procure and implement group medical cover for the staff for the year under review. This was contrary to Salaries and Remuneration Commission Circular Ref No: SRC/TS/CGOVT/3/61 of 19 December, 2014 which provides that all County Governments should adopt and implement group medical scheme for all public officers serving in the County Governments.

127.6 Non-adherence to Law on Staff Ethnic Balance

Review of the payroll revealed that 77.5% of the employees were from the dominant ethnic community. This was contrary to Section 7(2) of the National Cohesion and Integration Act, 2008 which states that no public establishment shall have more than thirty (30) percent of its staff from the same ethnic community.

127.7 Wage Bill Above Threshold of 35%

During the year under review, the County Executive spent an amount of Kshs.4,284,841,581 on compensation of employees, which is approximately 58.9% of the total revenue of Kshs.7,279,605,452. This was contrary to Regulation 25(1) of the Public Finance Management (County Governments) Regulations, 2015 which states that the limit on the County Government's expenditure on wages and benefits shall not exceed thirty-five (35) percent of the County Government's total revenue.

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

128. Non-Compliance with General Procurement Guidelines

128.1 Access to Government Procurement Opportunities Regulations

During the financial year under review, the County Executive procured goods and services amounting to Kshs.2,312,817,292. Included in this amount is Kshs.455,514,320 or nineteen (19) percent which was allocated to women, youth and persons with disability. This was contrary to Regulation 149 of Public Procurement and Asset Disposal Regulations, 2020 which requires the Accounting Officer to allocate at least thirty (30) per cent of its annual procurement budget for the purposes of procuring goods, works and services from enterprises owned by youth, women and persons with disability.

128.2 Guidelines on Preparation of Procurement Plan

Review of the County Executive procurement plan for the financial year 2022/2023 revealed that a total of Kshs.933,241,383 was allocated for the procurement of various works and goods by various departments. However, the allocation was not supported by a detailed breakdown of the specific goods or works required, a schedule of the planned delivery, implementation or completion dates for all the goods or works required. In addition, the procurement plan did not indicate an estimate of the value of each package of goods or works required, budget availability and sources of funding as stipulated in the Third Schedule of the Public Procurement and Asset Disposal Regulations, 2020.

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

129. Irregular Issuance of Imprests

Review of the records provided revealed that imprest amounting to Kshs.4,954,500 was not surrendered within seven (7) working days after officers returned to their duty station. This was contrary to Regulation 93 of the Public Finance Management (County Governments) Regulations, 2015. Further, imprests issued were not recorded in an imprest register.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

130. Lack of an Approved Staff Establishment

Review of the payrolls revealed that two thousand six hundred and seventy-one (2,671) employees were in the Integrated Personnel and Payroll Database (IPPD) system while five hundred and eight (508) employees were in the manual payroll. However, the County Executive has no approved staff establishment.

In the absence of an approved staff establishment, it was not possible to determine if the County Executive operated with an optimal number of staff.

131. Failure to Establish an Audit Committee

During the year under review, the County Executive had not established an Audit Committee. The Audit Committee would have performed various roles which include understanding and assessing the overall risks the entity is facing, reviewing the adequacy of internal controls that Management has put in place regarding financial management controls, accounting systems, reporting and reviewing the entity's compliance with all relevant legislation and statutory requirements and conducting a follow up on the implementation of the recommendations of internal and external auditors.

In the circumstances, effectiveness of internal controls in place could not be confirmed.

132. Failure to Update Non-Current Asset Register

The summary of non-current assets as disclosed in Annex 3 to the financial statements includes asset classes such as buildings and structures, intangible assets, transport equipment, office equipment, furniture and fittings, and infrastructure assets (roads). However, review of the non-current asset register provided for audit revealed that the non-current fixed asset register was not updated as required by Regulation 136 of the Public Finance Management (County Governments) Regulations, 2015. Further, some of the assets were not tagged with identification codes.

In the circumstances, completeness, safe custody and ownership of the non-current assets could not be confirmed.

COUNTY EXECUTIVE OF WAJIR – NO.8

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

133. Unconfirmed Expenditure on Casual Wages

The statement of receipts and payments reflects compensation of employees' amount of Kshs.3,966,304,190 as disclosed in Note 2 to the financial statements. Included in this expenditure is Kshs.59,957,380 spent on casual employees' wages. However, review of records revealed that casual employees were engaged continuously for more than 3 months, which was contrary to paragraph B.16 of the County Human Resource Manual, 2013. Further, muster rolls and County Public Service Board (CPSB) approval for the engagement of the casual employees were not provided for audit review.

In the circumstances, the regularity, accuracy and completeness of the casual wages amounting to Kshs.59,957,380 could not be confirmed.

134. Unsupported Training Expenses

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects use of goods and services amounting to Kshs.1,842,834,846 out of which Kshs.37,740,227 was incurred in respect of training. Included in this training expenditure is Kshs.1,409,600 that was not supported by training policy and training needs assessment, departmental skills inventory records and course approval.

In the circumstances, the accuracy and completeness of the training expenditure amounting to Kshs.1,409,600 could not be confirmed.

135. Unsupported Supply and Delivery of Medical Drugs

The statement of receipts and payments reflects use of goods and services expenditure of Kshs.1,842,834,846 which as disclosed under Note 3 to the financial statements, includes Kshs.395,601,523 in respect of specialized materials and services. The later balance includes payment of Kshs.121,928,486 made to the Kenya Medical Supplies Authority (KEMSA) for the supply and delivery of medical drugs to various health facilities within the County. However, stores records such as receipt vouchers (S13), store ledgers and issue notes from the facilities that received the drugs were not provided for audit review.

In the circumstances, the accuracy and completeness of expenditure amounting to Kshs.121,928,486 on supply of medical drugs could not be confirmed.

136. Unsupported Completion of Wajir County Assembly Office

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflects acquisition of assets balance of Kshs.1,242,014,635. This amount includes Kshs.376,545,789 for the construction of buildings, out of which an amount of Kshs.174,693,376 was spent on construction of the Wajir County Assembly offices. The

project was for a contract sum of Kshs.179,209,040. Physical verification conducted on 14 August, 2023, revealed that works had been completed. However, examination of procurement records revealed that the works were completed by a new contractor subsequently awarded to complete the Assembly building. Key documents such as the project file for the initial contract to ascertain the grounds for termination, amount paid at termination, cost estimate for outstanding works and appointment letters for ad-hoc committees were not provided for audit review.

In the circumstances, the accuracy and completeness of the expenditure amounting to Kshs.174,693,376 could not be confirmed.

137. Unsupported Transfers to Other Government Entities

Note 4 to the financial statements reflects transfers to other government entities amounting to Kshs.1,137,987,491, which includes Kshs.1,047,120,099 in respect of other capital grants and transfers. However, amounts of Kshs.14,375,388 and Kshs.12,466,377 all totalling Kshs.26,841,765 was paid to various Health Centers and Dispensaries respectively was expensed at the point of payment. The Management did not provide accounting documents and returns from beneficiary institutions as evidence that funds were applied for the intended purpose.

In the circumstances, the accuracy and completeness of transfers to other government entities amounting to Kshs.26,841,765 could not be confirmed.

138. Unexplained Variances on Transfers to Wajir Water and Sanitation Company Limited

Further, the statement of receipts and payments reflects transfers to other government entities amounting to Kshs.1,137,987,491 which includes Kshs.495,928,250 transfers to Wajir Water and Sanitation Company Limited. However, according to Note 7 to the financial statements of the Wajir Water Company financial statements the County Government provided a total support of Kshs.532,194,211, resulting in an unexplained and unreconciled variance of Kshs.36,265,961.

In the circumstance, the accuracy and completeness of the transfers to Wajir Water and Sanitation Company Limited of Kshs.495,928,250 could not be confirmed.

Emphasis of Matter

139. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final revenue budget and actual on a comparable basis of Kshs.10,808,854,720 and Kshs.9,301,992,414 respectively, resulting to an under-funding of Kshs.1,506,862,306 or 14% of the approved budget. Similarly, County Executive spent Kshs.9,299,557,399 against an approved budget of Kshs.10,381,339,032, resulting in an under-expenditure of Kshs.1,081,781,633 or 10% of the approved budget.

Further, scrutiny of records for exchequer releases during the year under review revealed that Exchequer receipts amounting to Kshs.2,391,731,907 were received in the months

of June and July, 2023, an indication that the County Executive was not able to accomplish its programmes in the annual budget.

Further, the under-funding and under performance affected the planned activities and may have impacted negatively on service delivery to the Public.

My opinion is not modified in respect of this matter.

Other Matter

140. Unresolved Prior Year Matters

During previous years' audits, the Auditor-General has been issuing audit reports. These reports have been discussed by County Public Accounts and Investment Committee of Senate and recommendations made. However, the Management has not provided documentary evidence to show measures taken in implementing the recommendations and resolve the issues as required by Section 31(1)(a) of the Public Audit Act, 2015, which requires that State Organ or a public entity that had been audited shall submit a report on how it has addressed the recommendations and findings of the previous year's audit reports.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

141. Compensation of Employees

141.1 Un-remitted Statutory Deductions

During the year under review, Management failed to remit Pay as You Earn (PAYE) deductions totalling Kshs.8,086,859. This was contrary to Section 37(1) of the Income Tax Act that requires an employer paying emoluments to an employee to deduct therefrom, and account for tax thereon, to such extent and in such manner as may be prescribed. Further, the county had an outstanding balance of Kshs.686,856,026 of unpaid statutory deductions from previous years. The total cumulative amount of unremitted statutory deductions as at 30 June, 2023 was Kshs.694,942,885.

Failure to remit statutory deductions could result in legal actions and penalties from the relevant authorities.

141.2 Payment of Salaries for Wajir Water and Sewerage Company Staff

The statement of receipts and payments and as disclosed in Note 2 to the financial statements reflects compensation of employees' balance of Kshs.3,966,304,190 for the year under review. Included in the balance is an expenditure of Kshs.83,275,295 incurred on behalf of Wajir Water and Sewerage Company as salaries and allowances. However, the company is a distinct legal entity of the county that is supposed to carry out its operations separately and prepare its own financial statements in accordance with the Public Sector Accounting Standards Board requirements. The Management of the County Executive therefore contravened paragraph 9 of IPSAS 1 which states that each

component entity with a distinct and separate legal identity should prepare its own financial statements.

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

141.3 Non-compliance with Law on Wage Bill

The statement of receipts and payments and as disclosed in Note 2 to the financial statements reflects compensation of employees' cost of Kshs.3,966,304,190 for the year under review. This represents 42.6% of the total revenue received of Kshs.9,301,992,414. This was contrary to Regulation 25(1)(a)(b) of the Public Finance Management (County Governments) Regulations, 2015 which requires the County Executive Committee Member with the approval of the County Assembly set a limit on the County Government's expenditure on wages and benefits for its officers and the limit set shall not exceed thirty-five (35) percent of the County Government's total revenue.

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

141.4 Employees Retained in the Payroll Beyond the Retirement Age

Review of Integrated Payroll and Personnel Database (IPPD) revealed that nine (9) officers had attained the mandatory retirement age of sixty (60) years but were still in service as at 30 June, 2023. No records were provided for audit to demonstrate that the officers were entitled to prolonged stay in the service as provided for in Public Service staffing regulations. This was contrary to Regulation 70(1)(a) of the Public Service Commission Regulations, 2020 which states that the mandatory retirement age in the public sector shall be sixty (60) years.

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

141.5 Non-Compliance with a Third of Basic Pay

Review of the Integrated Payroll and Personnel Database (IPPD) payroll for the month of June, 2023 revealed that seven (7) officers received net salaries that were less than a third of their respective basic salaries contrary to Section C.1 (3) of Human Resource Policies and Procedures Manual for the Public Service (2016) which provides that public officers shall not over commit their salaries beyond two thirds (2/3) of basic salary.

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

141.6 Irregular Engagement of Staff on Interim Basis

During the year under review, the County Executive engaged staff in interim positions that do not exist within the public service framework, contrary to paragraph B.8 of the Public Service Human Resource Policies and Procedures Manual, 2016 that recognizes permanent and pensionable and contract as the only two categories of appointment. Further, no document was provided indicating whether these appointments were made through a competitive recruitment process.

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

141.7 Staff Medical Insurance

The statement of receipts and payments reflects use of goods and services amount of Kshs.1,842,834,846 as disclosed in Note 3 to the financial statements. This amount includes Kshs.295,338,154 in respect of insurance costs, which also includes payment of Kshs.282,813,828 paid as premium in respect of staff medical insurance cover. However, reviewed records indicated that the total contractual premium amount of Kshs.362,182,364 was not paid in full and in advance contrary to provision of clause 3.1 of the signed contract. In addition, Section 156(1) of the Insurance Act, 2020 requires that no insurer shall assume a risk unless and until the premium payable thereon is received by the insurer. Further, renewal of the medical cover for the County was agreed on 20 December, 2022 by National Hospital Insurance Fund. However, there was no prior notice in writing seeking for renewal of insurance cover before contract agreement was entered into and signed. Further, the list of employees covered by the scheme was not provided for audit review.

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

141.8 Non-Compliance with Law on Staff Ethnic Diversity

Review of the payroll data revealed that the County Executive had a total staff of three thousand and ninety-four (3,094) as at 30 June, 2023. However, out of this number, one thousand three hundred and thirty-five (1,335), representing approximately 43%, were from one dominant ethnic community. This was contrary to Section 7(2) of the National Cohesion and Integration Act, 2008, which stipulates that no public establishment should employ more than one-third of its staff from the same ethnic community.

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

142. Use of Goods and Services

142.1 Irregular Payments to Council of Governors

The statement of receipts and payments reflect use of goods and services expenditure of Kshs.1,842,834,846 and as disclosed in Note 3 to the financial statements. This expenditure includes Kshs.451,703,801 in respect of other operating expenses, out of which Kshs.5,000,000 was incurred towards contribution to Council of Governors. This was contrary to Section 37 of Intergovernmental Relations Act, 2012 that requires operational expenses in respect of the structures and institutions established under the Act be provided for in the annual estimates of the revenue and expenditure of the national government.

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

142.2 Irregular Payment to Frontier Counties Development Council (FCDC) Limited

During the year under review, the Management contributed Kshs.3,000,000 to Frontier Counties Development Council Limited. However, there was no documentary evidence of its legal establishment.

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

143. Acquisition of Assets

143.1 Failure to Remit Taxes

The statement of receipts and payments reflects acquisition of assets amount of Kshs.1,242,014,635, which includes Kshs.376,545,789 in respect to the construction of buildings. Included in this expenditure is Kshs.144,199,670 paid to contractors, and withheld taxes amount of Kshs.6,521,703. However, the Management failed to remit Kshs.6,521,703 withheld tax to the Commissioner of Taxes contrary to Section 35(5)(a) of the Income Tax Act 2012, Cap 470, which requires a person who deducts tax to remit the deducted amount to the Commissioner. Further, no supporting documents, such as written return submitted to the Commissioner and copies of the certificates issued to the contractors, were provided to confirm the amounts of tax deducted and paid. This was contrary to Section 35(5)(b) of the Income Tax Act 2012, Cap 470, which requires the submission of a return to the Commissioner of Tax and the furnishing of a certificate to the contractor, showing the amount of the payment and the amount of the tax deducted.

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

143.2 Rehabilitation and Repair of High Flood Light Mast

During the year under review, a total of Kshs.3,496,524 was spent on the repair and rehabilitation of Barwaqo high flood light mast. However, physical verification carried out on the night of 15 August, 2023 revealed that the light was non-functional and the guard rails had not been painted green as specified in the bills of quantity at a cost of Kshs.183,276 contrary to the project requirements. In addition, no documentary evidence was provided to support the Kenya Power and Lighting Company Connection fee of Kshs.1,378,902 which was included in the bills of quantity.

In the circumstances, value for money incurred on Kshs.3,496,524 could not be confirmed.

143.3 Irregular Splitting of Contracts

Review of procurement records revealed that Department of Health awarded contracts for renovation works at a cost of Kshs.24,571,455 to six (6) contractors through request for quotations instead of a single open tender, thus splitting the procurement into six contracts for the purposes of avoiding the use of open tender procurement process. This was contrary to Section 54(1) of the Public Procurement and Asset Disposal Act, 2015 which states that no procuring entity may structure procurement as two or more procurements for the purpose of avoiding the use of a procurement procedure except where prescribed.

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

143.4 Expenditure on National Government Function

The statement of receipts and payments reflects the acquisition of assets totalling Kshs.1,242,014,635 as disclosed in Note 7 to the financial statements, which includes Kshs.376,545,789 in respect to the construction of buildings. Included in this expenditure is an amount of Kshs.8,248,860 incurred on construction of anti-stock theft police unit offices, armoury, toilets, bath rooms, and underground water tanks, facilities that fall

within the functions and jurisdiction of the National Government. Management therefore contravened Article 186(1) and the Fourth Schedule of the Constitution of Kenya, 2010.

In the circumstances, the regularity of the expenditure of Kshs.8,248,860 could not be confirmed.

144. Accumulation of Pending Accounts Payables

Annexes 2 and 3 to the financial statements reflect pending accounts payable and other pending payables balance of Kshs.652,690,361 and Kshs.675,704,737 respectively, all totalling Kshs.1,328,395,098. However, out of this, pending bills amounting to Kshs.434,130,431, which should have been a first charge in the financial years 2014/2015 to 2021/2022 were still outstanding as at 30 June, 2023 contrary to Regulation 41(2) of the Public Finance Management (County Governments) Regulations, 2015 which requires debt service payments be a first charge on the County Revenue Fund. In addition, review of the records provided for audit revealed that a supplier had issued a demand notice against the County Executive for non-payment of Kshs.1,941,000 for the supply and delivery of stethoscopes, Fly Knives, and Hoof Trimmers that had already been delivered and issued to sub-counties. Further, a status report for court cases in respect of pending bills was not provided for audit review.

In the circumstances, the propriety, accuracy and regularity of pending bills amount of Kshs.1,328,395,098 could not be confirmed.

145. Budget Process

145.1 Non-compliance with Budget Process Deadlines

Review of the budget process revealed that budget estimates were submitted to the County Assembly on 21 October, 2022, and adopted on 31 October, 2022, dates and period outside the statutory deadline of 30 June, 2022. Similarly, the County Budget Review Outlook paper, submitted by the County Treasury on 30 November, 2022 and tabled in the County Assembly on 1 December, 2022, was against the deadline of 30 September, 2022. The County Fiscal Strategy Paper, was presented to the Assembly on 13 April, 2022 and adopted on 27 October, 2022. However, this paper lacked the necessary accompanying report on the county debt management strategy, as required by law. Further, the County Finance Bill, which outlines revenue-raising measures, was approved by the County Assembly on 13 March, 2023, significantly delayed by five (5) months past the stipulated deadline.

Delayed budget process affects revenue collection and expenditure and may negatively affect service delivery to the public.

145.2 Non-compliance with Fiscal Responsibility Principles

During the year under review, the County Government of Wajir had an approved budget of Kshs.11,234,680,625, with Kshs.8,125,447,503 or 72% allocated for recurrent expenditure and Kshs.3,109,233,122 (28%) for development expenditure. This allocation for development expenditure is 2% below the minimum requirement of 30%. Further, the County Assembly budget was Kshs.853,341,593, which accounted for 7.5% of the total

budget, exceeding the limit set by Section 25(f) of the Public Finance Management (County Governments) Regulations, 2015, by 0.5%.

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

145.3 County Budget and Economic Forum (CBEF)

During the year under review, the County Government did not establish County Budget and Economic Forum (CBEF) contrary to Section 137(1) of the Public Finance Management Act, 2012 that requires a County Government to establish a forum that would provide a means for consultation on preparation of county plans, the County Fiscal Strategy Paper and the Budget Review and Outlook Paper for the county.

In the circumstances, Management was in breach of law.

146. Failure to Submit Municipality Financial Statements

The Municipality of Wajir was granted a charter on 26 July, 2018. However, the Municipality financial statements were not submitted for audit contrary to Section 46(2) of the Urban Areas and Cities Act, 2011, which requires the board or town committee to submit its accounts to the Auditor-General within three (3) months after the end of each financial year.

In the circumstances, Management was in breach of law.

147. Failure to Submit Emergency Fund Financial Statements

The statement of receipts and payments reflects other grants and transfers of Kshs.910,001,010 as disclosed in Note 6 to the financial statements for the year under review. Included in this amount is Kshs.760,001,010 in respect of emergency relief and refugee assistance out of which Kshs.200,000,000 was transferred to Disaster Management Fund. However, Management prepared financial statement for Disaster Management Fund instead of the Emergency Fund, contrary to Section 115(1) of the Public Finance Management Act, 2012 which requires the County Treasury not later than three months after the end of each financial year, to prepare and submit to the Auditor-General financial statements in respect of the Emergency Fund for that year.

In the circumstances, Management was in breach of law.

148. Failure to Submit Wajir County Referral Hospital Financial Statements

The statement of receipts and payments reflects transfer to other government entities of Kshs.1,137,987,491 as disclosed in Note 4 to the financial statements. Included in this amount is Kshs.1,047,120,099 representing other capital grants and transfers out of which Kshs.10,500,000 was transferred to Wajir County Referral Hospital. However, County Referral Hospital financial statements were not submitted for audit contrary to Regulation 101(4) of the Public Finance Management (County Governments) Regulations, 2015 that requires an Accounting Officer to prepare the financial statements in a form that complies with the relevant accounting standards prescribed by the Public Sector Accounting Standards Board, not later than three months after the end of the financial year and submit them to the Auditor-General.

In the circumstances, Management was in breach of law.

149. Failure to Establish Departmental Training Committees

During the year under review, Management did not establish Departmental Training Committees contrary to Paragraph I.2 (1) of the County Public Service Human Resource Manual, 2013 that requires the County to establish Departmental Training Committees to manage the training function. Lack of Departmental Training Committees may have negatively impacted the efficient management of the training function of the County.

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

150. Irregular Payment of Special House Allowances

Analysis of County Executive payroll records revealed that an amount totalling Kshs.38,703,185 was paid to seven hundred and seventy-nine (779) employees as special house allowances in addition to the normal house allowances. However, payment of special house allowance was contrary to Salaries and Remuneration Commission Circular No. SRC/ADM/CIR/I/13. Vol III (126) dated 10 December, 2014, which stipulates the approved rates of house allowances for public officers.

In the circumstances, Management was in breach of the SRC guidelines.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

151. Compensation of Employees

151.1 Payment of Salary Through Manual Payroll

Review of the County Executive payroll records revealed that Management maintained two sets of payrolls, with one set of payrolls maintained within the Integrated Payroll and Personnel Database (IPPD). Analysis of the payroll revealed that nine hundred and fourteen (914) employees were paid Kshs.44,040,725 through manual payroll. No satisfactory explanation was provided why such a big number of employees were paid through manual payroll.

In the circumstances, effectiveness of internal control on payroll management could not be confirmed.

152. Lack of Risk Management Policies

During the year under review, the Management did not establish Information Technology (IT) strategy, IT steering committee, IT policy, and IT continuity plan to ensure smooth running of its operations.

In the circumstances, business recovery and continuity of the operations may not be guaranteed.

153. Weaknesses in Management of Fixed Assets

Audit inspection conducted in the month of November, 2023 revealed that the County Executive of Wajir owned land, buildings and motor vehicles. However, fixed asset register, policies and procedures relating to asset management and guidelines on fixed assets acquisition, use, control, protection, maintenance and disposal of assets were not provided for audit review. In addition, audit inspection of the County vehicles revealed that thirty-four (34) vehicles, whose value could not be confirmed, were grounded as at 30 June, 2023. Management did not prepare an annual assets disposal plan contrary to Regulation 176(1) of the Public Procurement and Asset Disposal Regulations, 2020.

In the circumstances, effectiveness of internal controls on management of assets could not be confirmed.

COUNTY EXECUTIVE OF MANDERA – NO.9

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

154. Unsupported Engagement of National Police Reservists

As disclosed in Note 3 to the financial statements, the statement of receipts and payments, and reflects compensation of employees amount of Kshs.4,191,679,367. Review of the Payroll revealed that three hundred and fifty-three (353) National Police Reservists were engaged on a casual basis earning between Kshs.15,000 and Kshs.45,000 per month all amounting to Kshs.69,322,000. However, the payment vouchers were not supported with a request from the department to which they were attached to. Further, no documentary evidence was provided to confirm that the County Public Service Board (CPSB) approved the engagements as required by Section 79 of the County Governments Act, 2012.

In the circumstances, the accuracy of the expenditure of Kshs.69,322,000 relating to compensation of employees could not be confirmed.

155. Unsupported Expenditure on Use of Goods and Services

The statement of receipts and payments reflects an amount of Kshs.2,024,667,832 in respect of the use of goods and services expenditure which as disclosed in Note 4 to the financial statements includes routine maintenance – vehicles and other transport equipment balance of Kshs.95,095,881. The amount includes an expenditure of Kshs.7,775,000 which had not been supported by records of physical items removed from the vehicles to be disposed. Further, the repairs were not supported with post repair inspection reports to confirm that they had been done.

Further, the balance of Kshs.2,024,667,832 includes hospitality supplies and services amount of Kshs.52,053,634 which further includes an expenditure of Kshs.3,232,400 whose supporting documents such as requisitions from user departments to initiate the procurement process and procurement documents and programs of events, timetables of the seminars in support of the payments, were not provided for audit.

In the circumstances, the accuracy and completeness of the expenditure of Kshs.11,007,400 could not be confirmed.

Emphasis of Matter

156. Late Disbursement of Funds

During the year under review, the County Executive received late disbursements totalling Kshs.2,853,547,563 in the month of June, 2023 or 26% of total receipts thus negatively affecting implementation of budgeted programs and activities to the detriment of the residents.

157. Pending Bills

Annex 2 to the financial statements reflects a balance of Kshs.3,092,687,339 in relation to pending accounts payables. However, the schedule provided for audit review did not show details such as contract number, local purchase order, local service order and dates contracted for the pending bills. Further, payment plans, pending bills status reports and age analysis reports were not provided for audit verification. No justifiable explanation was provided for the failure to settle the pending bills as first charge during the 2022/2023 financial year contrary to Regulation 41(2) of the Public Finance (County Governments) Regulations, 2015 which requires debt service payments be a first charge on the County Revenue Fund. This may affect efficiency in implementation of subsequent year's budgeted programs.

My opinion is not modified in respect of these matters.

Other Matter

158. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, the Management has not resolved the issues as provided in the reporting format prescribed by the Public Sector Accounting Standards Board.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

159. Irregular Payments to Council of Governors and Frontier Counties' Development Council

The statement of receipts and payments reflects a balance of Kshs.2,024,667,832 in respect of use of goods and services which, as disclosed Note 4 to the financial statements, includes an amount of Kshs.455,828,210 incurred on other operating expenses. Included in other operating expenses is an amount of Kshs.3,000,000 paid to the Council of Governors contrary to Section 37(b) of the Intergovernmental Relations Act, 2012 which provides that the operational expenses in respect of the Council of Governors should be provided for in the annual estimates of the revenue and expenditure of the National Government. Further, the operating expenses includes a contribution of Kshs.1,000,000 to Frontier Development Council, a regional block which was not backed by law.

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

160. Irregular Procurement of Medical Supplies

During the year under review, the County Executive made payments amounting to Kshs.192,355,000 to local suppliers for the supply and delivery of pharmaceutical and non-pharmaceutical items contrary to Section 6(3) and (4) of the Health Laws (Amendment) Act, 2019. The section which requires that all drugs and medical supplies be procured from Kenya Medical Supplies Agency (KEMSA).

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

161. Irregular Procurement of Legal Services

Review of procurement files revealed that payments amounting to Kshs.29,663,793 were made in respect of legal fees. However, the evaluation committee report lacked the signatures of each evaluation committee member on every page. Further, only five (5) firms were invited to submit bids instead of the required seven (7) contrary to Regulation 102(1) (b) of the Public Procurement and Asset Disposal Regulations, 2020.

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

162. Failure to Insure the County Buildings

During the year under review, the County Executive incurred an amount of Kshs.381,960,749 on insurance cost. Review of the expenditure revealed that the County buildings did not have an insurance cover to mitigate against losses in case of disaster contrary to Section 79(2)(c) of the Public Finance Management Act, 2012 which requires a public officer within his area of responsibility to ensure that adequate arrangements are made for the proper use, custody, safeguarding and maintenance of public property including application of best practise to prevent any damage from being done to the financial interest of the County Government.

Further, Management paid a total of Kshs.200,966,936 as part payment for the employees' medical scheme. However, review of supporting documents revealed that, the rates applied by the County Executive on medical scheme for its employees differed with the approved rates as prescribed by the Salaries and Remuneration Commission.

In the circumstances, Management was in breach of the law and guidelines issued by the Salaries and Remuneration Commission.

163. Unutilized Deputy Governor's Residence

During the 2020/2021 financial year, the County Executive of Mandera entered into a contract with a local contractor to construct Deputy Governor Residence at Mandera East at a contract sum of Kshs.97,718,133. The works commenced on April, 2019 and the contractor was paid a final payment of Kshs.10,729,264 during the year under review after being issued with a completion certificate. Physical inspection conducted in the month of August, 2023 revealed that the project was complete but not in use, an indication that its acquisition was not for immediate use.

In the circumstances, the value for money on the amount of Kshs.97,718,133 incurred on the project could not be confirmed.

164. Stalled Construction of Two (2) Box Culverts at Hareri

Review of records revealed that the County Executive entered into a contract with a local contractor for construction of two (2) box culvert /celled drifts at Hareri in 2021-2022 financial year at a contract price of Kshs.146,591,520. The commencement and completion dates were 12 April, 2021 and 30 April, 2023, respectively. During the financial year, the County Executive paid a total amount of Kshs.60,000,000 for works done. However, physical inspection of the project in August, 2023 revealed that the project was at 50% complete and the contractor was not on site. Further, the contractor did not erect a signboard to identify the project as indicated in the bill of quantities.

In the circumstances, the value for money for the expenditure of Kshs.60,000,000 could not be confirmed.

165. Lack of Technical Support on Construction of Airstrips

Review of the records revealed that the Management entered into contractual agreement with local contractors for the construction of four (4) airstrips in Banisa, Rhamu, Elwak and Lafey in April, 2022 at a contract sum of Kshs.74,535,197, Kshs.75,420,236, Kshs.22,300,179 and Kshs.75,000,000 respectively. However, although the Ministry of Transport, Infrastructure, Urban Development and Public Works granted approval to the County Executive to undertake maintenance and construction of the airstrips subject to necessary technical support by Kenya Airports Authority, there was no documentary evidence indicating involvement of the Authority in provision of technical support during the initiation and implementation of the projects.

In the circumstances, the value for money on the construction and repairs of airstrips expenditure of Kshs.115,780,196 could not be confirmed.

166. Failure to Operationalize Emergency Fund

The County Executive established Mandera County Emergency Fund in May, 2020 under Section 4 of the Mandera County Emergency Fund Act, 2020. This was in an effort to enable payments to be made when an urgent and unforeseen need for expenditure arises for which there is no specific legislative authority. However, during the year, Management did not set aside funds in the annual budget for the emergency fund as required by Section 10 of the Mandera County Emergency Fund Act, 2020.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

167. Lack of a Fixed Assets Register

Review of records revealed that Management did not maintain a register of records of land and buildings detailing each parcel of land and the terms on which it is held, with reference to the conveyance, address, area, dates of acquisition, disposal or major change in use, capital expenditure, leasehold terms, maintenance contracts and other pertinent management details.

In the circumstances, the effectiveness of the internal controls on non-current assets and their continuous application could not be confirmed.

168. Use of Manual Payroll

Review of the Payroll System revealed that the County Executive runs two (2) payrolls namely the Integrated Payroll and Personnel Database (IPPD) and excel spreadsheets. The IPPD reflected a total of three thousand, three hundred and fifty-one (3,351) employees while the manual payroll had nine hundred and seventy-six (976) employees. As a result, nine hundred and seventy-six (976) employees were paid a total of Kshs.242,571,771 through the manual payroll. The use of the manual payroll requires manual input of data and calculation of deductions which is prone to error and manipulation.

In the circumstances, the effectiveness of the internal controls on the payroll system could not be confirmed.

169. Failure to Establish a Legitimate Audit Committee

The County Government appointed an Audit Committee in the month of March, 2020 through a Kenya Gazette notice for three-year term which ended in the month of March, 2023. However, the County Executive has not appointed or reappointed the members of the Audit Committee contrary to Regulation 170 of Public Finance Management (County Governments) Regulations, 2015.

In the circumstances, the effectiveness of the internal controls could not be confirmed.

COUNTY EXECUTIVE OF MARSABIT - NO.10

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

170. Unsupported Expenditure – Use of Goods and Services

170.1 Insurance Cost

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects use of goods and services amounts of Kshs.878,292,085 which includes Kshs.83,938,389 in respect of insurance cost. During the year under review an amount of Kshs.54,000,000 was paid to an insurance company for provision of comprehensive medical cover for the County staff. However, the medical cover contract and policy document were not provided for audit.

170.2 Printing, Advertising and Information Supplies and Services

The statement of receipts and payments reflects an amount of Kshs.878,292,085 in respect of use of goods and services as disclosed in Note 4 to the financial statements. Included in the amount is Kshs.32,677,100 in respect of printing, advertising and information supplies & services which further includes Kshs.1,500,000 paid to a company for the supply and delivery of office stationaries under framework contract agreement.

However, supporting documents such as tender advertisement, tender bids, tender opening committee minutes, tender evaluation committee minutes, and inspection and acceptance committee minutes were not provided for audit.

170.3 Specialized Materials and Services

Included in the use of goods and services expenditure is an amount of Kshs.97,650,429 in respect of specialized materials and services. This amount further includes Kshs.17,858,220 paid to a company for the supply and delivery of dialysis reagents to Marsabit County Referral Hospital on varying dates during the year. However, user requisition, inspection and acceptance committee report as well as delivery notes were not provided for audit. In addition, one counter receipt voucher was dated 23 December, 2022 while the invoice was dated 22 December, 2022, a day earlier before goods were received.

170.4 Domestic Travel and Subsistence Allowance

Included in the use of goods and services is an amount of Kshs.118,303,379 for domestic travel and subsistence allowance. However, supporting documents for expenditures totalling Kshs.1,434,400, such as invitation letters, work/bus tickets, certificate of attendance, signed attendance lists, check in registers, and back to office reports were not provided for audit.

170.5 Fuel, Oil and Lubricants

Included in the use of goods and services payments is an amount of Kshs.93,169,839 in respect of fuel oil and lubricants which further includes an amount of Kshs.14,234,000 paid to various suppliers. However, contract agreements and procurement records including needs assessment, advertisement, bids, opening and evaluation of tenders, appointment of ad hoc opening and evaluation committees, statement of professional opinion by the accounting officer, fuel registers, motor vehicle work tickets, fuel statements and detail orders were not provided for audit. Further, the method of procurement and identification of the supplier could not be ascertained.

In the circumstances, the accuracy, completeness and occurrence of use of goods and services of Kshs.89,026,620 could not be confirmed.

171. Unsupported Other Grants and Transfers

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflects other grants and transfers totalling Kshs.1,726,383,148. Included in the transfers is an amount of Kshs.697,607,812 in respect of emergency relief and refugee assistance which further includes Kshs.338,843,700 paid to various suppliers for supply and delivery of cereals, pulses and miscellaneous foodstuffs under framework agreement.

However, tender advertisement, tender bids, appointment of tender opening committee, tender opening committee minutes, appointment of tender evaluation committee, tender evaluation committee minutes, statement of professional opinion and regret letters sent to unsuccessful bidders, and the delivery notes, inspection and acceptance committee report, distribution lists and destination of foodstuff were not provided for audit.

Further, other grants and transfers includes payments amounting Kshs.13,000,000 which was not supported with payment vouchers or other documentary evidence explaining the purpose for which the payment was made.

In addition, an amount of Kshs.320,540,449 was transferred to various Non-Government Organizations. However, the County Executive did not make it mandatory for the recipient organizations to acknowledge receipt of the funds through official receipt or acknowledgement letters contrary to Section 104(1) of the Public Finance Management (County Governments) Regulations, 2015 which requires all payment vouchers to be supported with appropriate documentation.

In the circumstances, the accuracy and completeness of Kshs.672,384,149 on other grants and transfers could not be confirmed.

172. Inaccuracies in Acquisition of Assets

The statement of receipts and payments and as disclosed in Note 9 to the financial statements reflects Kshs.1,072,697,161 in respect of acquisition of assets. Included in the amount is Kshs.444,823,639 in respect of domestic payables from the previous financial year. A comparison between these payments with the pending bills brought forward from the 2021/2022 financial year, revealed that although payments totalling

Kshs.229,428,656 were indicated to have been made to settle of pending bills schedule from the previous year, the payees could not be confirmed from the list of pending bills balances in the audited financial statements for 2021/2022.

In the circumstances, the accuracy of acquisition of assets of Kshs.229,428,656 could not be confirmed.

173. Unsupported Cash and Cash Equivalents

The statement of assets and liabilities and as disclosed in Note 13 to the financial statements reflects cash and cash equivalents balance of Kshs.167,319,292. However, the bank reconciliation statements in respect of three (3) bank accounts with total account balances of Kshs.145,038,663 were not provided for audit.

In the circumstances, the accuracy and completeness of cash and cash equivalents balance of Kshs.145,038,663 could not be confirmed.

Emphasis of Matter

174. Budgetary Control and Performance

The statement of comparison of budget and actual amounts (recurrent and development combined) for the year under review reflects final receipts budget and actual on a comparable basis of Kshs.7,602,682,650 and Kshs.6,918,935,047, respectively, resulting to an underfunding of Kshs.683,747,603 or 9% of the budget. Similarly, the County Executive expended Kshs.6,766,829,899 against an approved budget of Kshs.7,602,682,650 resulting to an under-expenditure of Kshs.835,852,751 or 11% of the budget.

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

175. Project Implementation Status Report

The statement of comparison of budget and actual amount (development) reflects budgeted amount of Kshs.3,455,665,633. However, the project implementation status report indicates that there were two hundred and fifty-eight (258) projects with a budget of Kshs.3,320,358,095 resulting to unexplained variance of Kshs.135,307,538.

Further, the project implementation status report reflects that one hundred and ninety-two (192) projects worth Kshs.2,359,363,357 were completed, thirty (30) projects worth Kshs.752,700,000 were ongoing, and thirty-six (36) projects worth Kshs.208,294,738 had not started. This may be an indication of inadequacy in project planning and control mechanisms to ensure efficient absorption of available funds.

The underperformance in project implementation affected the planned activities and may have impacted negatively on service delivery to the citizens.

My opinion is not modified in respect of these matters.

Other Matter

176. Unresolved Prior Year Matters

In the audit reports of the previous year, several issues were raised under the Report on Financial Statement, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, Management has not resolved the issues or given any explanation for failure to adhere to the provisions of the template prescribed by the Public Sector Accounting Standards Board.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

177. Human Resource Management

177.1 Retention of Staff Beyond Retirement Age

Review of the Integrated Payroll and Personnel Database (IPPD) revealed that twenty-seven (27) employees were over sixty (60) years of age, which is beyond the mandatory retirement age contrary to Section L.5(1) of the County Public Service Human Resource Manual and a letter dated 16 February, 2023 by Ministry of Public Service Gender and Affirmative Action which requires the Commission or any other appointing authority not to extend the service of such retired public officers beyond the mandatory retirement age and that all extension cases be suspended and existing cases revoked.

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

177.2 Non-Compliance with the One-Third of Basic Salary Rule

During the year ended 30 June, 2023 Fifty-three (53) employees earned a net salary of less than a third (1/3) of the basic salary contrary to Section 19(3) of the Employment Act, 2007 which requires the total amount of deduction of the wages of an employee not to exceed 2/3 of such wages.

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

177.3 Irregular Payment of Special House Allowance

Review of payroll records revealed that during the year, an amount of Kshs.1,332,000 in respect of special house allowance was paid to nineteen (19) employees who were employed on various dates after 10 December, 2014 when the terms and conditions of service in the Public Service had been determined by the Salaries and Remuneration Commission through Circular Ref. No. SRC/ADM/1/13 Vol. III (126) of 10 December, 2014 which did not permit the payment of the special house allowance.

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

177.4 Non-Remittance of Statutory and Other Deductions

Review of the Integrated Payroll and Personnel Database (IPPD) and manual payroll for the period under review revealed that the County made statutory and other deductions amounting to Kshs.286,977,051. The amounts comprises Pay As You Earn of Kshs.211,242,690, LAP Fund of Kshs.13,683,648, LAP Trust Kshs.41,197,021 and other deduction of Kshs.16,795,970 which were not remitted to the respective organizations. This was contrary to Section 19(4) of Employment Act, 2012 that requires an employer who deducts an amount from an employee's remuneration to pay the amount so deducted in accordance with the time period and other requirements specified in the law, agreement, court order or arbitration as the case may be.

Failure to remit statutory deduction exposes the County Executive to avoidable penalties, fines and surcharges.

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

177.5 Irregular Recruitment of Employees

Review of Integrated Payroll and Personnel Database (IPPD) as well as manual payroll for the year under review, revealed that the County Executive had seventy-five (75) employees who were not recruited by the County Public Service Board. This was contrary to Section 59(1) of the County Governments Act, 2012 which provides that the County Public Service Board shall, on behalf of the County Government, appoint persons to hold or act in offices of the County Public Service including boards of cities and urban areas within the County and to confirm appointments.

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

177.6 Casuals Engaged for More Than Three Months

Review of the casual payroll revealed that the County paid casual employees a total of Kshs.53,665,536 who had worked for more than three (3) months continuously. This was contrary to Section 37(1)(b) of the Employment Act, 2012 which provides that where a casual employee performs work for more than three months, the contract of service of the casual employee shall be deemed to be one where wages are paid monthly and Section 35(1)(c) shall apply to that contract of service. This exposes the County to risk of litigation for the unlawful employment terms.

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

177.7 Failure to Maintain Staff Establishment

The County did not provide an approved staff establishment for audit review contrary to Section B 5(2) of the County Public Service Human Resource Manual, 2013 which provides that for every recruitment it shall be considered whether the vacancy is within the authorized establishment. Further, Section B 6(3) states that in the recruitment process, due consideration will be given to appropriate organizational structure in each department and optimal staffing levels.

In the absence of an approved establishment it is not possible to ascertain whether the County Executive was operating within optimal staffing levels.

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

178. Failure to Publish and Publicize Contracts and Use E-Procurement

During the year under review the County Executive did not prepare, publish, publicize and submit awarded contracts to Public Procurement Regulatory Authority. This was contrary to Section 138(1) and (2) of the Public Procurement and Asset Disposal Act, 2015 which stipulates that the Accounting Officer of a procuring entity shall publish and publicize all contract awards on their notice boards at conspicuous places, and website if available within a period as prescribed and report all contract awards to the Authority as prescribed.

Further, the County Executive processed all the procurement of goods, works and services manually instead of through the e-procurement platform contrary to the Executive Order No.2 of 2018 which required all public entities to undertake procurements through e-procurement module.

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

179. Irregular Receipt of Goods Beyond Thirty (30) Days of LPO Issue

During the year under review the County Executive paid an amount of Kshs.166,737,800 to various suppliers for purchase of miscellaneous food stuff through tender number MBT/T/FA/4/2022-2023/2023-2024.

However, the goods were received after expiry of thirty (30) days from the dates the Local Purchase Orders were issued contrary to Section 52.(1) of the Public Finance Management (County Governments) Regulations, 2015 which provides that a Local Purchase Order or Local Service Order shall be valid for a period of thirty days from the date of issue. Further, Section 52 of the same regulations provides that any public officer who receives goods or services beyond the stipulated period specified in Paragraph (1) commits an offence under the Act.

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

180. Irregular Transfers to Frontier Counties Development Council Limited

During the year under review, the County Executive transferred an amount of Kshs.6,000,000 to Frontier Counties Development Council Limited. However, the entity is a private organization that is not anchored in law and whose mandate and purpose is not expressly stated in any statute and as such payment to the entity is irregular and not a proper charge to public funds. The County, therefore, acted contrary to Section 162 of the Public Finance Management Act, 2012 which require a public officer to ensure that resources within the officers' area of responsibility are used in a way that is lawful and authorized, effective, efficient, economical and transparent.

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

181. Irregular Use of Restricted Tendering

During the year, the County Executive paid an amount of Kshs.9,300,000 for contract to drill Kubi Dibayu borehole in Saku. However, the payment was not supported with statement of professional opinion, inspection and acceptance certificate and no justification was given for use of the restricted tendering method of procurement. This was contrary to Section 102(1) of the of the Public Procurement and Asset Disposal Act, 2015 which provides conditions for an accounting officer to use restricted tendering.

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

182. Irregularities in Procurement of School Bus

During the year under review the County Executive paid an amount of Kshs.13,750,000 to a motor vehicle dealer for supply and delivery of a semi-luxury 62-seater school bus which was procured using restricted tendering. The County Executive invited only one bidder who was not in its list of registered suppliers contrary to Regulation 89(6) of the Public Procurement and Asset Disposal Regulations, 2020 which states that where restricted tendering is used the procuring entity shall invite tenders from all the known suppliers of the goods, works or services. Further, the tender opening, evaluation and notification to the successful tenderer were done on 19 May, 2023, 22 May, 2023 and 24 May, 2023, respectively. The local purchase order was issued on 19 June, 2023.

Further, the County Executive technical specifications of FUSO FJX4 engine capacity 6370 CC for the required bus differed with those of the delivered bus of FUSO FJ1623R of engine capacity of 7500 CC. The bus was not subjected to an inspection and acceptance committee report or post-delivery inspection report from the relevant technical department of either the National or the County Government.

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

183. Unsupported Procurement of Works - Upgrading of Loglogo - Korr Road

During the year under review the County Executive paid Kshs.18,103,917 for the upgrading of Log Logo - Korr road. However, the payment was not supported by tender bids from the contractors contrary to Section 104(1) of the Public Finance Management (County Governments) Regulation, 2015 which requires all payment vouchers to be supported with appropriate documentation. As a result, the competitive process in the procurement of the construction contract could not be confirmed.

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

184. Upgrading of Moyale Town Roads to Bitumen Standard

Review of contract documents revealed that the County awarded a contract for upgrading Moyale town roads to bitumen standard at a contract sum of Kshs.369,253,504. A total of Kshs.61,875,057 was paid to the contractor during the year. However, monthly progress reports on implementation of procurement contract were not provided for audit contrary to Section 152 of the Public Procurement and Asset Disposal Act, 2015 which stipulates that the head of the procurement function shall prepare monthly progress

reports of all procurement contracts of the procuring entity and submit them to the Accounting Officer.

In addition, the contract file containing the measured bill of quantities, engineers estimate interim certificates and the scope of works including the original contract agreement between the County and the contractors were also not provided for audit.

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

185. Supply and Installation of Solar Street Lights in Marsabit Municipality Center

During the year under review the County Executive paid Kshs.4,000,000 for supply and installation of twelve (12) solar street lights in Marsabit Municipality center. However, physical inspection of the project, in September, 2023 revealed that the solar street lights were not fitted with burglar proof feature to prevent instances of theft of solar panels and its accessories. As a result, the solar street light at War Cemetery was completely vandalized while at Baye and Guye Torcha both solar panels were missing. At Manyatta Athi Huka, the dual LED streetlight had been stolen.

In addition, the solar street lights had not been fitted with two (2) 130W solar panels contrary to the contract agreement. The solar street lights were to be installed fifty (50) meters apart. However, some extended to as far as five (5) kilometers. Further, according to local residents at Manyatta Jillo - Tumaini Primary School and Dub Goba Manyatta, the solar panels have not been in operation since their commissioning in 2021.

In the circumstances, the value for money for the expenditure of Kshs.4,000,000 on solar street lights was not achieved.

186. Stalled Project - Proposed Erection and Completion of Tuition Block for Medical Training College

The County Executive awarded a contract for the erection and completion of a tuition block for Medical Training College - Marsabit County for a contract sum of Kshs.200,920,462. The commencement date was 09 July, 2018, while the original completion date was projected to be 10 January, 2020. According to the project status report, payments amounting to Kshs.210,442,360 had been paid to the contractor by the date of audit in September, 2023. However, review of the project file revealed the following anomalies: -

- a. The project completion period had elapsed and the project was behind schedule by three (3) years and two (2) months. The contractor had left the site and there was no progress report or revised work programs indicating how the remaining works will be carried out.
- b. The County Executive had engaged three new contractors who had taken over the site after termination of the first contract on 19 July, 2023 in pursuit of Clause 33.1(a) of conditions of contract. The initial contractor sued the Marsabit County Government vide court order civil suit E001 of 2023 of 01 September, 2023

and the high court in Marsabit has since issued a temporary injunction to bar the County Government from awarding the tender to another contractor.

- c. Payment certificates No.9 and No.10 dated 26 June, 2023 for Kshs.21,000,000 and Kshs.20,976,465.58 respectively revealed that statement for payment on account did not show how the certificate total was arrived at on the valuation of work done by the contractor.
- d. Prime cost amounting to Kshs.19,500,000 had been made in the bills of quantities for electrical work installation, mechanical work installation and structural cabling. On these provisions, Kshs.6,240,000 had been paid to the contractor. However, the payments were not supported with schedules of payments or certificate from the merchants to justify payments for the prime cost.
- e. No environmental Impact assessment study was undertaken before commencement of the Project on the waste management as required by Section 58 of the Environmental Management and Coordination Act, 1999 (Amended, 2015) and Regulation 10 of the Environmental (Impact Assessment and Audit) Regulations, 2003.
- f. Provisional sum amounting to Kshs.27,000,000 was made in the Bills of Quantities. However, utilization of the same was not supported with detailed schedules of works, payment and other supporting documents.
- g. There was no documentary evidence to show how the variation sum of Kshs.21,360,884 was arrived at without approval in writing by the respective tender awarding authority. The tender sum was increased to Kshs.222,920,462.
- h. The building was not insured by the contractor as required by the contract agreement No.30.1 which states that from the start date until the defect's correction certificate has been issued the building should be insured. In case of damage to the property the County Executive would not be able to receive liquidated damages.

Further, physical inspection done in September, 2023 revealed that fitting of plumbing and drainage works, electrical works and fitting of bulbs for first floor and ground floor, powder coated aluminum doors, external and internal painting and decorating works, floor finishes, fixing of doors, ceramic and granite tiles and fitting, terrazzo finish for staircase and ramp and structural cabling had all not been done. The walls have major and minor cracks and it was not clear how payment certificates were issued prematurely despite the above works remaining undone.

In the circumstances, the value for money for the expenditure of Kshs.210,442,360 on construction of tuition block for medical training college could not be confirmed.

187. Construction of Level Four Hospital at Sololo - Makutano

The County Executive awarded a contract for construction of Level Four Hospital at Sololo Makutano at a contract sum of Kshs.483,369,790. The commencement date was 01 July, 2019 and the initial completion date was projected to be 25 February, 2021. The project status report shows that an amount of Kshs.362,102,391 had already been paid to the contractors. However, review of the project file revealed the following anomalies: -

- i. The project had a revised completion date of 03 November, 2023 but the contractor was not on site despite the project being behind schedule for two (2) years and seven (7) months.
- ii. There was no documentary evidence to confirm that the utilization of prime cost was requested and approved by tender evaluation committee as required by Section 139(2) of Public Procurement and Assets Disposal Act, 2015.
- iii. The insurance cover expired on 09 June, 2020 and the contractor did not seek for renewal as required by the contract agreement No.30.1. In case of damage to the property the County Executive would not be able to receive liquidated damages.
- iv. Payment certificates No.10 and No.11 dated 30 March, 2023 totalling Kshs.37,074,9231.58 did not show how the amounts/values were arrived at on the valuation of work done by the contractor.
- v. An environmental impact assessment was not done before commencement of the project on the waste management as required by Section 58 of the Environmental Management and Coordination Act, 1999 (Amended 2015) and Regulations 10 of the Environmental (Impact Assessment and Audit) Regulations, 2003.
- vi. Payments totalling Kshs.17,117,600 was made despite the works being incomplete.
- vii. The bill of quantities provided for putting up of disabled toilets, plumbing and drainage works, electrical works and fitting of bulbs and granite tiles for kitchen which were omitted by the contractor.

Further, physical verification of the project done in September, 2023 revealed that the nursing station at a cost of Kshs.2,917,600, lift installation at a cost of Kshs.8,500,000, low level water tanks and water reticulation works at a cost of Kshs.5,500,000 and signboard at a cost of Kshs.200,000 were not carried out in accordance with the Bill of Quantities.

In addition, the terrazzo works had cracks and not polished to the required standard, while the walls had major cracks, ceiling board had fallen from the roof, internal painting and decorating works had not been done, external master wall finishes was partially done, urinal bowl, grab rail and mirror were not installed.

In the circumstances, the value for money on the project amounting to Kshs.362,102,391 could not be confirmed.

188. Lack of Pre-inspection Assessment for Gada Korma Borehole

During the year under review, the County Executive paid an amount of Kshs.3,500,754 for equipping of pumping equipment and construction of a pump house at Gada Korma borehole water supply. However, the audit revealed that Management of Water Department did not carry out pre-inspection assessment before equipping of borehole to ascertain water level of borehole.

Further, there were no PVC pipes installed as per the requirements of the Bill of Quantities and as such Kshs.92,000 meant for PVC could have been lost. In addition, the 5000-litre water tank available was vandalized and cannot serve any useful purpose.

An interview with the residents of the Gada Korma regarding the borehole revealed that the borehole never benefited the locals as it remained dry since installation of the pumping equipment and therefore, the project was never put to use since completion.

In the circumstances, the value for money on the project could not be confirmed.

189. Rehabilitation of Water Pipeline

189.1 Ibrahim Hassan to Aila to Onsor and Omar Afatu to Abdihafid Pipeline

Review of documents revealed that a total of Kshs.3,999,991 was paid for rehabilitation of pipeline from Ibrahim Hassan to Aila to Onsor and Omar Afatu to Abdihafid. However, physical inspection carried out in September, 2023 revealed that although the installation of pipes was carried out, there has been no water supply for the last two years due to malfunctioning of the pump at the main water supply point, and as such, the project has never benefited the local people. It was not possible to establish how the Department made requisition of the rehabilitation works since the main water source was not working.

In the circumstances, the value for money from the expenditure of Kshs.3,999,991 could not be confirmed.

189.2 Matul to Barako, Judiciary to Kenya Wildlife Service and Ibrahim Dalal to Abdi Shakur Pipeline

Review of documents revealed that a total amount of Kshs.3,000,000 was paid for rehabilitation of pipeline from Matul to Barako, Judiciary to Kenya Wildlife Service and Ibrahim Dalal to Abdi Shakur vide quotation number MBT/COU/WATER/53/ 2022-2023. However, physical inspection carried out in 12 September, 2023 revealed that the installation of pipes was carried out, however, there had been no water supply for the last two years due to malfunctioning of the pump at the main water supply point, and as such, the project has never benefited the local people.

In the circumstances, the value for money from the project amounting to Kshs.3,000,000 could not be confirmed.

190. Non-Preparation of Financial Statements

Note 7 to the financial statements on other important disclosures in the financial statements on establishment of other County Government entities shows that the County Executive of Marsabit established the Social Protection Fund in 2014. However, the Management has not prepared and submitted for audit the Fund's financial statements. This was contrary to Section 167(1 to 3) of the Public Finance Management Act, 2012, which provides that the administrator of a County Public Fund established by the Constitution, an Act of Parliament or County legislation shall prepare financial statements for the fund for each financial year in a form prescribed by the Accounting Standards Board which shall contain information on the financial and non-financial performance of the fund and not later than three months after the end of each financial year, the

administrator of a County Public Fund shall submit the financial statements prepared under this section to the Auditor-General.

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

191. Irregular Payments of Fuel from the Development Account

Review of documents revealed that the County had an expenditure of Kshs.8,052,000 in respect of fuel oil and lubricants acquired through the development vote and not from the recurrent vote. This was contrary to Regulation 50(2) of the Public Finance Management (County Government) Regulations, 2015 which provides that expenditure commitments for goods and services shall be controlled against spending and procurement plans approved by the responsible Accounting Officer, based on allocations and allotments from approved budgets.

In the circumstances, Management was in breach of law.

192. Non-Acknowledgement of Funds Transferred to Other Government Agencies

Notes 6 and 7 to the financial statements reflects Kshs.157,000,000 and Kshs.1,726,383,148 transfer to Other Government Entities and Other Grants and Transfers, respectively, all of which includes transfers totalling Kshs.320,540,449 made by the County Executive to various Non-Government Organizations. However, the County Executive did not make it mandatory for the recipient organizations to acknowledge receipt of the funds through official receipt or acknowledgement letters contrary to Regulation 104(1) of the Public Finance Management (County Governments) Regulations, 2015 which requires all payment vouchers to be supported with appropriate documentation.

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

193. Irregular Expenditure

During the year under review, an amount of Kshs.5,280,000 was paid to a company for provision of transport services for County Executive employees to and from their work stations effective from 1 August, 2020 for a period of two (2) years. However, the payment through voucher number 10022870 dated 20 March, 2023 and through LPO Number 1979752 was for transport services for 330 days between April, 2022 to February, 2023, a period which was not within the stipulated contract period. Further, the framework contract, tender evaluation reports and recommendation for awards were not provided for audit.

In addition, the County provided free transport (a remunerable benefit) to members of staff without reference to Salaries and Remuneration Commission contrary to Article 230(4) of the Constitution of Kenya 2010, which provides that the powers and functions of the Salaries and Remuneration Commission shall be to set and regularly review the remuneration and benefits of all State Officers.

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

REPORT ON THE EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

194. Lack of Approved Information Communication Technology (ICT) Security Policy

The County Executive did not have an approved IT policy for governance and management of its ICT resources. In addition, there is no ICT steering committee in place to assist in the development of ICT policy framework to enable the county to realize long-term ICT strategic goals. Lack of an approved IT policy may result in an unclear direction regarding maintenance of information security across the county and safeguarding of its ICT assets. Further, without a sound and approved framework, users do not have any rules and procedures to follow in order to minimize risk of errors, fraud and the loss of data confidentiality, integrity and availability.

In the circumstances, existence of effective ICT controls could not be confirmed.

195. Lack of Risk Management Policy and Strategy

The County Executive had not put in place risk management policy, strategies, and risk register to mitigate against risk. It was, therefore, not clear how Management manages risk exposures. This is in contravention of Regulation 158(1)(a) and (b) of the Public Finance Management (County Governments) Regulations, 2015 which requires the Accounting Officer to ensure that the County Government entity develops 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 circumstances, existence of effective risk management measures could not be confirmed.

196. Lack of an Audit Committee

During the year under review, the County Executive had not established an Audit Committee to monitor the entities' governance, accountability, and control systems, offer objective advice on issues concerning risk control and follow-up on the implementation of the recommendations of internal and external auditors in accordance with Section 155(5) of the Public Finance Management Act, 2012 which provides for the establishment of an Audit Committee. As such the County Executive did not benefit from advisory services from the oversight role of an Audit Committee.

In the circumstances, the effectiveness of internal controls and governance could not be confirmed.

197. Management of County Motor Vehicles

The County Executive had one hundred and fifty-six (156) motor vehicles out of which fifty-three (53) are serviceable, fifty-six (56) are unserviceable and forty-seven (47) are grounded. Review of the fleet management records however revealed the following:

- i. The Management has not taken steps to dispose of grounded vehicles to prevent further loss arising from wear and tear and repairing of un serviceable vehicles.
- ii. The motor vehicles are not managed centrally by the transport officer and as such internal controls for the management of motor vehicles could not be confirmed.
- iii. The county vehicles do not have tracking system devices and are not installed with speed limit governors for monitoring, controlling and management of the vehicles for effective, efficient, economical and transparent use of motor vehicle assets contrary to Regulation 132(2) of Public Finance Management (County Governments) Regulations, 2015 which provides that the Accounting Officer shall ensure that processes and procedures both electronic and manual are in place for the effective, efficient, economical and transparent use of the County Government entity's assets.
- iv. Motor Vehicle registration records for all the County vehicles were not provided for audit and therefore ownership of the same could not be confirmed.

In the circumstances, effectiveness of internal controls on management of motor vehicles could not be confirmed.

198. Inadequate Procurement and Payment Internal Controls

During the year under review the County Executive spent a total of Kshs.2,096,352 to equip Qalaliwe water supply. However, the payment voucher dated 03 July, 2023 did not have important internal control features such as voucher numbers, account numbers, proper stamping of 'PAID' as required and Vote Book Control Certificate. The payment vouchers were also not examined and authorized.

In addition, the contract agreement between the contractor and the County Executive of Marsabit was not provided for audit review. Further, although the various procurement committees had been appointed, the evaluation committee report dated 30 May, 2023 had only been signed by two members instead of all members contrary to Section 80(7) of the Public Procurement and Asset Disposal Act, 2015 which requires the evaluation report to be signed by all committee members. Further, the statement of professional opinion dated 02 June, 2023 had not been signed by the head of procurement function as required of Section 84(1) of Public Procurement and Asset Disposal Act, 2015.

In the circumstances, effectiveness of internal controls on payment and procurement process could not be confirmed.

199. Use of Manual Payroll

Examination of the manual payroll revealed that the County Executive had five hundred and seventy-two (572) staff members whose salaries were computed manually using Excel spreadsheet. No satisfactory reason was provided for processing salaries and wages of employees in the manual payroll instead of the Integrated Payroll and Personnel Database (IPPD).

In the circumstances, the effectiveness of internal controls on payroll management could not be confirmed.

200. Failure to Maintain a Fixed Asset Register

Annex 6 to the financial statements reflects Kshs.2,151,768,104 in respect to the total historical cost of non-current assets. However, the County Executive did not maintain a fixed asset register. Further, the County did not have in place an assets policy to govern, procurement, control, and disposal of its assets. This was contrary to Section 149.(2)(o) of the Public Finance Management Act, 2012 which states that the Accounting Officer shall ensure that the respective County Government entity has adequate systems and processes in place to plan to procure, account for, maintain, store and dispose of assets, including an asset register that is current, accurate and available to the relevant County Treasury or the Auditor-General;

In the circumstances, the effectiveness of internal controls on asset management could not be confirmed.

COUNTY EXECUTIVE OF ISIOLO - NO.11

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

201. Inaccuracies in the Financial Statements

201.1 The Statement of Comparison of Budget and Actual Amounts – Recurrent and Development Combined

The statement of comparison of budget and actual amounts – Recurrent and Development combined reflects budgeted revenue of Kshs.5,223,402,709 and actual receipts of Kshs.5,223,402,709. However, Paragraph (b) under the forwarding statement by the County Executive Committee Member (CECM) finance and economic planning states that in the financial year 2022/2023, the County realized 97.75 % of the revenue projections being Kshs.6,316,282,100 against the approved revenue targets of Kshs.6,461,031,197, resulting to unexplained variances of Kshs.1,092,879,391 and Kshs.1,237,628,488 respectively.

Further, the statement reflects total receipts of Kshs.5,223,402,709 and total payments of Kshs.4,849,600,633 while the statement of receipts and payments reflects the same as Kshs.5,848,704,848 and Kshs.5,446,853,315, resulting to unexplained variances of Kshs.625,302,139 and Kshs.597,252,682 respectively.

In addition, Isiolo County Appropriation Act, 2023 indicates that the County had an approved budget of Kshs.6,460,705,128. However, the statement of comparison of budget and actual amounts reflects a final receipts budget of Kshs.5,223,402,709 and an expenditure budget of Kshs.5,863,652,447 resulting to unexplained variances of Kshs.1,237,302,419 and Kshs.597,052,681, respectively.

201.2 The Statement of Receipts and Payments

The statement of receipts and payments and as disclosed in Note 6 to the financial statements reflects Kshs.1,501,486,520 in respect to transfers to other Government entities while the statement of cash flows reflects Kshs.904,233,838 as transfers to other Government entities resulting to an unreconciled variance of Kshs.597,252,682.

Further, the statement of receipts and payments and as disclosed in Note 3 to the financial statements reflects Kshs.1,807,543,161 in respect to compensation of employees which includes Kshs.90,275,000 in respect to basic wages of temporary employees. However, expenditure ledgers provided reflects an expenditure of Kshs.83,520,000 resulting to an unreconciled variance of Kshs.6,755,000.

Similarly, the statement of receipts and payments and as disclosed in Note 9 to the financial statements reflects a balance of Kshs.762,526,928 in respect to acquisition of assets. However, recast of the Note confirms an amount of Kshs.326,927,428 resulting to an unexplained variance of Kshs.435,599,499. Further, the County budgeted Kshs.1,567,020,813 for development. However, Management did not provide project

implementation status report for review. It was, therefore, not possible to confirm whether budgeted projects were started and completed in the year under review. It was also noted that the financial statements did not include balances in respect to analysis of pending accounts payable, other pending payables, related party transactions and contingent liabilities register in annexes 2, 4, 6 and 8 to the financial statements respectively.

201.3 The Statement of Cash Flows

The statement of cash flows reflects Kshs.999,104,215 in respect to net increase in cash and cash equivalents arising from cash flows from operating, investing, and financing activities. However, the net difference between the cash and cash equivalents at the beginning and end of the year was Kshs.764,615,509, resulting to an unexplained variance of Kshs.234,488,706.

In the circumstances, the accuracy and completeness of the financial statements could not be confirmed.

201.4 Unsupported Pending Accounts Payable

The Other Important Disclosures under Note 20.1 to the financial statements reflects pending accounts payable balance carried forward for the year 2022/2023 of Kshs.415,895,241. However, the supporting documents including purchase, and service orders, contract agreements and procurement documents were not provided for audit review.

Further, some pending bills date back to the financial years 2013/2014, 2016/2017, 2017/2018, 2019/2020, 2020/2021 and 2021/2022. There was no explanation given as to why the long outstanding pending bills have not been paid or removed from the books of account. Updated creditors movement ledgers/schedules were also not maintained in the year under review.

In the circumstance, the accuracy and completeness of Kshs.415,895,241 in respect to pending accounts payable balance carried forward could not be confirmed.

Emphasis of Matter

202. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects both final receipts budget and actual amounts on a comparable basis of Kshs.5,223,402,709 or 100% budget performance. Similarly, the County Executive spent Kshs.4,849,600,633 against an approved budget of Kshs.5,863,652,447 resulting in an under-expenditure of Kshs.1,014,051,814 or 17% of the budget. The under-expenditure affected the planned activities and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

Other Matter

203. Unresolved Prior Year Matters

The prior year audit issues remained unresolved as at 30 June, 2023. Management has not provided reasons for the delay in resolving the prior year audit issues. Further, the unresolved prior year issues are not disclosed under the progress on follow up of auditor's recommendations section of the financial statements as required by the Public Sector Accounting Standards Board.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

204. Irregular Payments Made from Emergency Fund

The statements of receipts and payments reflects revenue of Kshs.5,848,704,848 in respect to the County revenue for the year. However, the County Management made payments of Kshs.168,128,800 in respect to emergency funds which translates to 3.45% of the County revenue for the previous audited financial statements. The Management, therefore, exceeded the maximum of emergency payment ceiling of two percent (2%) of Kshs.4,873,314,649. This was contrary to Section 113 of the Public Finance Management Act, 2012 which states that the County Executive Committee member for finance may not, during a financial year, make a payment from the Emergency Fund under Section 112 exceeding two per cent of the total County Government revenue as shown in that County Government's audited financial statements for the previous financial year.

Further, the requests for the emergency assistance, emergency needs assessment stating the nature and extent of emergency, and the assistance needed were not provided for audit review.

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

205. Revenue Management

205.1 Unapproved County Finance Bill 2022

The statement of receipts and payments and as disclosed in Note 2 to the financial statements reflects Kshs.1,138,316,583 in respect of miscellaneous receipts which includes Kshs.152,700,178 as own source revenue. However, the approved pronouncement of the revenue-raising measure made by the County Executive Committee (CEC) Member for finance was not provided for audit review. This was contrary to Section 132(1) of the Public Finance Management Act, 2012 which requires that each financial year, the County Executive member for finance makes a pronouncement of the revenue-raising measures for the County Government with the approval of the County Executive Committee.

Further, there was no evidence that the CEC-Member for finance submitted to the County Assembly the County Finance Act as per Section 132(2) of the Public Finance Management Act, 2012 which states that the CEC-Member for finance shall, on the same date that the revenue-raising measures are pronounced, submit to the County Assembly

the County Finance Bill setting out the revenue-raising measures for the County Government together with a policy statement expounding on those measures.

In addition, no evidence was provided for audit review to confirm that the County Assembly approved the Finance Bill contrary to Section 133 of the Public Finance Management Act, 2012 which requires that not later than ninety days after passing the Appropriation Bill, the County Assembly to consider and approve the Finance Bill with or without amendments.

In the circumstances, the regularity of the amount of Kshs.152,700,178 collected as revenue could not be ascertained.

205.2 Unexplained Delay in Transferring Revenue to County Revenue Fund

The statement of receipts and payments and as disclosed in Note 2 to the financial statements reflects Kshs.1,138,316,583 in respect to miscellaneous receipts which includes Kshs.152,700,178 as own source revenue. The County operated five (5) revenue collection bank accounts held in various commercial banks which includes a revenue collection account with a balance of Kshs.44,064,615. Review of the bank statement for the account revealed that Kshs.30,000,000 had been swiped into the County Revenue Fund (CRF) Account as of 1 July, 2023 but the balance of Kshs.14,064,615 had not, despite revenue being banked into the revenue collection account on daily basis. No explanation was provided for the delayed non-swapping of the revenue. This was contrary to Regulation 81 of the Public Finance Management (County Governments) Regulations, 2015 which requires the receivers of revenue to promptly pay the revenue received into the County Revenue Fund as soon as possible and in any case not later than five (5) working days after receipt thereof.

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

205.3 Failure to Enact Liquor Licencing Bill

The County Executive of Isiolo had budgeted to generate own source revenue amount of Kshs.180,797,768. Which included Kshs.3,800,000 as collection from liquor licencing fee. However, review of Isiolo County Finance Act, 2020 revealed that liquor license fees had not been included as fees payable to the County Executive and the liquor licencing bill had not been passed.

In the circumstances, the County Executive missed out on Liquor Licencing fees by failing to enact the law.

205.4 Failure to Fully Automate Revenue Collection System

During the year under review, the County Executive budgeted to collect own generated revenue amounting to Kshs.180,797,768 from various revenue sources. However, records available shows that the County Executive managed to collect and account for only Kshs.152,700,178 or 84% of the budgeted revenue leading to under-collection of Kshs.28,097,590.

Further, as reported in the previous year, the County Executive used a revenue collection system namely Local Authority Integrated Financial Operations Management System

(LAIFORMS). The revenue collection system was largely manual and required the revenue collectors to manually collect the revenue, issue manual receipts, post to LAIFORMS, bank the cash collected and do reconciliations afterwards. The system therefore, is prone to human manipulation and error which could have contributed to the under collection of Kshs.28,097,590.

In the circumstances, it was not possible to determine if the County Executive properly accounted for all the revenues collected in the year under review using LAIFORMS.

206. Irregular Procurements

206.1 Cleansing and Sanitary Materials

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects Kshs.822,314,089 in respect to use of goods and services which includes Kshs.238,200,918 on specialized materials and services. Included in the specialized materials and services expenditure is a payment of Kshs.3,900,000 under the Department of Health Services for the supply and delivery of cleansing and sanitary materials as per a contract agreement procured through request for quotations method of procurement. This was contrary to Regulation 91(1) of the Public Procurement and Asset Disposal Regulations, 2020 in the Second Schedule which puts the maximum level of expenditure under request for quotations method of procurement to Kshs.3,000,000 for goods and services.

In addition, the payment was not supported with counter receipt voucher (S13) to confirm receipts to the store, and inspection and acceptance committee report casting doubt whether the materials were received in the right quantities and quality as ordered.

206.2 Supply and Delivery of Medical Records and Stationeries

The Department of Health Services engaged a supplier to supply and deliver medical records and stationeries at a cost of Kshs.3,500,000 through request for quotation as the preferred method of procurement. This was contrary to the provisions of the Second Schedule prescribed in Regulation 91(1) of the Public Procurement and Asset Disposal Regulations, 2020 which puts the maximum threshold for expenditure under the method to Kshs.3,000,000 for goods and services.

In addition, counter receipt voucher (S13) to confirm receipt of goods to the store, and inspection and acceptance committee report for the procurement were not provided for audit review casting doubt as to whether the procured items were received in the quantities and quality ordered.

In the circumstances, propriety of expenditure of Kshs.3,900,000 and Kshs.3,500,000 incurred on cleansing and sanitary materials, and on medical records and stationeries respectively could not be confirmed.

207. Non-Compliance with Service Level Agreement

The statement of receipts and payments and as disclosed in Note 2 to the financial statements reflects Kshs.1,138,316,583 in respect to miscellaneous receipts which includes Kshs.152,700,178 as own source revenue. Included in the revenue collection

was Kshs.113,465,216 collected from the game entrance/royalties. The County Executive had engaged the Kenya Association of Tour Operators (KATO) for the collection of revenue from Shaba National Reserve and Buffalo Springs National Reserve as per the Service Level Agreement signed on 28 May, 2019. However, Section 2 of the Agreement required the County Executive to surrender to KATO a rebate of four (4%) per centum of the face value of all the National Reserve entry tickets sold to tour operators. Further, it required KATO to bank all the collections to the accounts provided by the County and then invoice the County Executive for the rebate due on monthly basis. However, there was no evidence provided to show that KATO had invoiced the County Executive for the collection during the year under review. This could be an indication that KATO may have been recovering the rebates directly from the revenues collected which amounts to spending revenue collected before banking into the accounts provided by the County. Section 3.3 of the Agreement obligates KATO to remit to the County Executive the proceeds of all tickets sold.

Further, Section 3.6 required KATO to submit to the County Executive an analysis of the tickets sold to the tour operators and any other information required by the County Executive. Although KATO remitted the proceeds of the tickets sold to the County Executive, analysis of the tickets sold was not remitted contrary to the Agreement. The accuracy of the deposited amounts could not, therefore, be confirmed. Section 4.6 of the Agreement obligates the County Executive to carry out monthly reconciliation of the delivery and sales of the tickets with KATO. However, there was no evidence provided for audit review to show that the monthly reconciliations were done as per the Agreement. Section 6 indicate that the Agreement was to be in force from 1 June, 2019 to 31 May, 2023 and could be extended upon agreement by both parties in writing. However, KATO irregularly continued collecting park revenue on behalf of the County even after the lapse of the agreement period. No evidence was provided to show renewal or extension of the Agreement.

In addition, although the County Executive was collecting entrance fees from the national reserve concurrently with KATO, the service agreement stated that collection of revenue was not an obligation of the County Government hence the County Executive acted contrary to the service agreement. It could not be ascertained how much the County Executive had collected in the year alongside KATO.

In the circumstances, the regularity, completeness and accuracy receipts of Kshs.113,465,216 collected as game park fees could not be ascertained.

208. Non-Remittance of Statutory Deductions

The statement of receipts and payments and as disclosed in Note 3 to the financial statements reflects Kshs.1,807,543,161 in respect to compensation of employees. Payroll deductions totalling Kshs.452,404,991 were made during the year under review. However, the payment details provided for audit review reflects remittances of statutory deductions totalling Kshs.434,470,804, resulting to a variance of Kshs.17,934,187, of statutory deductions not remitted to the respective statutory bodies. This was contrary to Section 19(1) (f) of the Employment Act, 2007 which states that an employer may deduct from employees any amount of which is authorised by law and pay the amount deducted in accordance with the time period and other requirements in law.

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

209. Failure to Construct Governor's Residence and Irregular Rental Allowance

Review of records revealed that the Governor's residence had not been constructed. This was contrary to the Salaries and Remuneration Commission (SRC) Circular Ref. No. SRC/TS/CoG/6/61/48 Vol.II (64) dated 20 May, 2017 which gave guidelines on housing benefits for Governors, Deputy Governors and County Assembly Speakers. The Commission gave a deadline of 30 June, 2022 for the commissioning of the Governor's and Speaker's residence.

In the year under review the County Executive paid an amount of Kshs.2,400,000 in rental house allowance to the Governor which could have been avoided had the Governor's residence been constructed.

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

210. Non-Adherence to Requirement on Retirement Age

Analysis of the payroll data provided for audit revealed that nineteen (19) staff members were on payroll yet their ages were above the age limit of sixty (60) years. This was contrary to Regulation, 70 of the Public Service Commission Regulations, 2020 and the Public Service Commission Circular Ref No: PSC/ADM/13(7) dated 19 November, 2020 on mandatory retirement age of public officers which requires that the mandatory retirement age shall be 60 years and 65 years for people with disability effective from 1 January, 2021. There was no evidence to confirm that the nineteen (19) officers fell under the special category of people living with disability.

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

211. Unbudgeted Procurement

The statement of receipts and payments and as disclosed in Note 9 to the financial statements reflects Kshs.762,526,927 in respect to acquisition of assets in the year under review which includes Kshs.17,000,000 on purchase of vehicles and other transport equipment. The County Executive through the department of Public Service Management (PSM) made a payment of Kshs.15,000,000 for purchase of a vehicle, through an existing contract reference number SB/015/012/2020/2021 of Office of the Principal Secretary State Department of Public Works of 10 May, 2021. However, the procurement of the motor vehicle was not in the procurement plan or the approved budget. This was contrary to Section 44(2)(a) of the Public Procurement and Asset Disposal Act, 2015 which stipulates that in the performance of the responsibility under subsection (1), an Accounting Officer shall ensure that procurements of goods, works and services of the public entity are within approved budget of that entity.

Further, the logbook of the vehicle was not provided for audit review and therefore ownership of the vehicle could not be confirmed.

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

212. Management of Assets

212.1 Failure to Maintain an Updated Asset Register

As reported in the previous year, the County Executive did not maintain an updated fixed asset register. This was contrary to Regulation 132(1) of the Public Finance Management (County Governments) Regulations, 2015 that stipulates that the Accounting Officer of a County Government entity shall take full responsibility and ensure the proper control systems exists for assets. Further as reported in the previous years, there was no evidence that Management had incorporated various assets and liabilities amounting to Kshs.14,155,106,914 and Kshs.158,259,036, respectively, from the defunct County Council of Isiolo.

In the circumstances, the accuracy, valuation, ownership, existence, completeness, location and security of the non-current assets could not be confirmed.

212.2 Uninsured Non-Current Assets

Annex 6 to the financial statements in respect to summary of non-current assets register reflects historical cost brought forward balance of Kshs.17,708,499,054, although the book value of the non-current assets was previously reported as Kshs.17,357,822,250. Further, there was no evidence to show that the assets have been insured. This was contrary to Section 160(1) of the Public Procurement and Asset Disposal Act, 2015 which states that an Accounting Officer of a procuring entity shall manage its inventory, assets, and stores for the purpose of preventing wastage and loss and continuing utilization of supplies.

In the circumstances, the security and safety of the non-current assets could not be confirmed.

212.3 Ethnic Composition on Staff Appointments

Reviewed records on new staff appointments for the County Executive in the year under review that 45.2% and 37.5% of the appointments were from two dominant communities. This was contrary to the provisions of Section 65(e) of the County Governments Act, 2012 which requires County Governments to ensure that at least thirty the appointments 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.

212.4 Non-Compliance with Law on Fiscal Responsibility on Wage Bill

The statement of receipts and payments and Note 3 to the financial statements reflects Kshs.1,807,543,161 in respect to compensation of employees which represents 38.4% of the total receipts of Kshs.4,710,388,265. This was contrary to Regulation 25(1)(a) and (b) of the Public Finance Management (County Governments) Regulations, 2015 which states that the County Government expenditure on wages and benefits for public officers should not exceed thirty-five (35%) of the total County revenue.

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

213. Failure to Prepare and Submit Financial Statements

213.1 Receiver of Revenue

Management of the County Executive did not prepare and submit to the Auditor-General financial statements in respect of revenue collected, received, and recovered by the Receiver of Revenue during the financial year. This was contrary to Section 165(1) and (3) of the Public Finance Management Act, 2012 which states that not later than three months after the end of the financial year, the Receiver of Revenue for the County Government shall submit the accounts to the Auditor-General.

213.2 Emergency Fund

The County Government of Isiolo had established an Emergency Fund in line with the provisions of Section 110(1) of the Public Finance Management Act, 2012. However, the financial statements for the Emergency Fund were not prepared and submitted to the Auditor-General. This was contrary to Section 115 (1) of the Public Finance Management Act, 2012 which requires the County Treasury to prepare and submit to the Auditor-General, financial statements in respect of the Emergency Fund for that year not later than three months after the end of each financial year.

213.3 County Revenue Fund

Management of the County Executive did not prepare and submit to the Auditor-General the financial statements in respect of County Revenue Fund financial year. This was contrary to Section 165(1) and (3) of the Public Finance Management Act, 2012 and Regulation 80(2) of the Public Finance Management (County Governments) Regulation, 2015 which states that not later than three months after the end of the financial year, the County Government shall submit the accounts to the Auditor-General.

213.4 Municipality of Isiolo

The Municipality of Isiolo Board has been in existence since January, 2019. However, it has not kept, prepared, and submitted financial statements to the County Executive Committee member for onward transmission to the Office of the Auditor-General. This was contrary to Section 46(2) of the Urban and Cities Act, 2011 which states that within a period of three months after the end of each financial year, the board or town committee shall submit to the County Executive Committee its accounts for that year for transmission to the Auditor-General together with; (a) a statement of the income and expenditure of a Board for that year; and (b) a statement of the assets and liabilities of a Board on the last day of that financial year.

213.5 Bursary Fund

Although Isiolo County Bursary Fund has been in existence since 2019 and have prepared financial statements and submitted them to the Auditor-General up to the year ended 30 June, 2022, the administrator of the Fund did not submit financial statements for the year ended 30 June, 2023 to the Auditor-General. Records available show that during the year under review the County Executive transferred Kshs.35,000,000 to the Fund.

213.6 Facility Improvement Fund (FIF)

During the year under review, the County Executive of Isiolo operated two gazetted level four hospitals namely; Isiolo County Referral Hospital and Garbatulla Hospital. However, the two facilities did not prepare and submit to the Auditor-General financial statements. This was contrary to Section 10(2a) of the Facility Improvement Fund Act, 2021 which requires officers administering the Fund to prepare, sign, and transmit to the County Treasury in respect of each financial year and within three months after the end thereof, a statement of account relating to the Fund specifying all contributions to the Fund.

Further, documents obtained from Isiolo County Referral Hospital regarding the Facility Improvement Fund reflected that the facility had realized an income of Kshs.37,840,759 and expended Kshs.23,938,477. However, both the income and expenditure were not included in the Isiolo County Executive financial statements.

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

214. Unbalanced Budget

The statement of comparison of budget and actual amounts reflects Kshs.5,223,402,709 in respect to the final receipts budget against final expenditure budget of Kshs.5,863,652,447 resulting to a budget deficit of Kshs.640,249,737. This was contrary to Regulation 31(c) of the Public Finance Management (County Governments) Regulations, 2015 which provides that budgeted revenue and expenditure appropriations shall be balanced.

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

REPORT ON THE EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

215. Weaknesses in Internal Audit Function

215.1 Lack of Approved Internal Audit Work Plan and Quarterly Reports

The internal audit department had developed an annual work plan at an estimated cost of Kshs.900,200 for the year under review. However, there was no evidence to show that the work plan was approved by the audit committee and included in the County Executive budget. This was contrary to Regulation 163(2b) of the Public Finance Management (County Governments) Regulations, 2015 which requires the annual work plans developed to be approved by the audit committee and shared with the Accounting Officer of that entity for inclusion in the budget of that entity.

Further, there were no audit reports produced by the department which was an indication that the audit department did not carry out their mandate as envisaged in Regulation 153(1) of the Public Finance Management (County Governments) Regulations, 2015 which requires internal auditors to review and evaluate budgetary performance, financial management, transparency, and accountability mechanisms and processes in County Government entities.

In addition, it was noted the internal audit department lacked functional independence since there was no Audit Committee in place. This was contrary to Regulation 155(1) of the Public Finance Management (County Governments) Regulations, 2015 which requires the head of the internal audit unit in a County Government entity to enjoy operational independence through the reporting structure by reporting administratively to the Accounting Officer and functionally to the Audit Committee.

215.2 Lack of Assessment of Internal Audit Performance and Effectiveness

The Head of Internal audit did not provide evidence for audit review including performance assessment appraisal reports, independence, performance, and competency reports and professional assessment of its effectiveness undertaken by a professionally recognized body or institution. This was contrary to Regulation 159(1) of the Public Finance Management (County Governments) Regulations, 2015 which requires that each year the head of internal audit unit shall assess its own effectiveness through an internal performance appraisal and shall carry out annual review of the performance of the internal audit activity commenting on its effectiveness in the annual report to County Treasury.

215.3 Lack of Risk Management Policy for Internal Audit

As reported in the previous year, the County Executive did not have a risk management policy. This was contrary to Regulation 153(1)(b) of the Public Finance Management (County Governments) Regulations, 2015 which requires that internal auditors shall have a duty to give reasonable assurance through the Audit Committee on the state of risk management, control, and governance within the organization.

In the circumstances, the effectiveness of the Internal Audit Department could not be confirmed and it was not possible to confirm how operational and other risks faced by the County Executive were identified, monitored, and controlled during the year under review.

COUNTY EXECUTIVE OF MERU - NO.12

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

216. Irregular Payment of Emergency Call Allowances

The statement of receipts and payments and as disclosed in Note 3 to the financial statements reflects compensation of employees totalling Kshs.4,982,899,999 which includes Kshs.126,120,000 paid to one hundred and sixty-one (161) doctors and medical officers as emergency call allowances. However, it was observed that the payment rates used of Kshs.72,000, Kshs.66,000 and Kshs.80,000 were higher than the Kshs.30,000 per month stipulated in Salaries and Remuneration Commission Circular.

Although Management provided a circular referenced MOH/ADM/CONF/STAFF/76 VOL.1 (19) dated 18 April, 2017 which was issued after negotiation with the striking health workers and was one of the issues contained in the return-to-work formula agreed between the ministry of Health and the unions of the medical practitioners, it was only valid for four (4) years from the date of the circular which had expired. Had the correct rates been applied, doctors and medical officers were entitled to Kshs.51,780,000 instead of Kshs.126,120,000 paid, resulting to irregular payments of Kshs.74,340,000.

In the circumstances, the accuracy and completeness of the allowances paid totalling Kshs.74,340,000 could not be confirmed.

217. Unsupported Expenditure

217.1 Rent and Rates

The statements of receipts and payments and as disclosed in Note 4 to the financial statements, reflects use of goods and services amounting to Kshs.1,473,938,327 which includes an amount of Kshs.3,155,350 in respect of rentals of produced assets. However, Management did not provide any documentary evidence to support these payments.

In the circumstances, the accuracy and completeness of rentals of produced assets amounting to Kshs.3,155,350 could not be confirmed.

217.2 Legal Fee Notes and Expenses for Petition No. E047 of 2021

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects use of goods and services totalling Kshs.1,473,938,327 which includes other operating expenses totalling Kshs.224,878,549 out of which Kshs.1,233,000 was incurred in respect to legal fee notes for petition No. E047 of 2021. However, the payments were not supported by records indicating how the law firm was identified and the respective service provided, service agreements signed and the proceedings or outcomes of the court cases or matters which the law firms provided legal services.

In the circumstances, the accuracy and propriety of the legal fee amount of Kshs.1,233,000 paid could not be confirmed.

217.3 Construction of New Ablution Block and Club House

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflects acquisition of assets totalling Kshs.1,346,604,654 which includes construction of buildings expenditure of Kshs.59,494,322. This amount includes payment for the construction of a new ablution block and club house to upgrade sacred lake at Kshs.2,280,870 which was not supported by advertisement, notice to tender, bid documents, the estimate for the works and market surveys, site handover minutes, work progress status reports and Clerks of Works daily log sheets detailing work done.

In the circumstances, the accuracy, propriety and completeness of the amount spent on construction of a new ablution block and club house of Kshs.2,280,870 could not be confirmed.

217.4 Finance Costs

The statement of receipts and payments and as disclosed in Note 8 to the financial statements reflects finance costs totalling Kshs.21,854,155 whose supporting documents such as approval of loan by the County Assembly, amount of loan taken, payments done and the outstanding balance were not provided for audit.

In the circumstances, the propriety and completeness of the loan and finance costs could not be confirmed.

218. Unconfirmed Transfers to Other Government Entities

The statements of receipts and payments and as disclosed in Note 5 to the financial statements, reflects an amount of Kshs.699,994,936 in respect to transfers to other Government entities. However, the following observations were made:

- (i) The amount includes Kshs.50,000,000 in respect to Meru County Investment Development Corporation while the Meru County Investment Development Corporation statement of cash flows reflect receipts from County Government of Kshs.30,000,000 resulting to an unreconciled variance of Kshs.20,000,000.
- (ii) The amount includes Kshs.33,229,347 in respect to Kaguru Agriculture and Training Centre. However, Kaguru Agriculture and Training Centre's statement of cash flows reflect receipts from County Government of Kshs.50,148,384 resulting to an unreconciled variance of Kshs.16,919,037.

In the circumstances, the accuracy and completeness of transfers to other Government entities amount of Kshs.83,229,347 could not be confirmed.

219. Unsupported Bank Balances

The statement of assets and liabilities reflects bank balances totalling Kshs.521,507,371 as disclosed in Note 10A to the financial statements. However, the following observations were noted: -

- (i) The certificate of bank balance held at a local bank reflects a bank balance of Kshs.26,191,722 and a closing cashbook balance of Nil as at 30 June, 2023. The bank reconciliation statement in respect to the account reflects unrepresented cheques totalling Kshs.377,986,928 whose details on when they were cleared in the bank were not provided. Further, the reconciliation reflects receipts in cashbook not recorded in the bank amounting to Kshs.351,795,206 described as either returned RTGS or account transfer without further details as to their nature.
- (ii) The balance includes a Nil balance in respect to a bank account held at Central bank of Kenya. However, the certificate of bank balance reflects a balance of Kshs.74,771,258 and a Nil cashbook balance as at 30 June, 2023. The reconciliation reflects receipts in cashbook not recorded in the bank amounting to Kshs.899,426,808 described as either returned RTGS or account transfer without further details as to their nature.
- (iii) Review of the payment transactions revealed that although Management paid merchants in the year under review, payments totalling Kshs.87,513,683,015 were returned as R&D cheques to the county accounts because of missing information from the payees. However, the current status of the cheques has not been provided for audit review.
- (iv) In addition, analysis of the payments system indicated that seven hundred and twenty-nine (729) transactions totalling Kshs.1,463,955,922 were voided during the year 2022/2023. However, Management has not provided status on the transactions that were voided.

In the circumstances, the accuracy and completeness of the cash and bank balances could not be confirmed.

Emphasis of Matter

220. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual amounts on a comparable basis of Kshs.11,260,373,489 and Kshs.10,242,588,658 respectively, resulting to an under-funding of Kshs.1,017,784,831 or 9% of the budget. Similarly, the County Executive spent Kshs.9,990,234,931 against an approved budget of Kshs.11,260,373,489 resulting to an under-expenditure of Kshs.1,270,138,558 or 11% of the budget.

The under-funding and under-performance affected the planned activities and may have impacted negatively on service delivery to the public.

221. Contingent Liability

Review of Other Important Disclosures in Note 14.5 to the financial statements reflects contingent liabilities totalling Kshs.601,169,420. However, Management has neither given details of the court case(s) as prescribed by the template nor provided any supporting documents.

In the circumstances, the status, accuracy, and existence of the reported liability could not be confirmed.

222. Leasing of Medical Equipment Amount

Review of Other Important Disclosures in Note 14 to the financial statements under Number 4 revealed that an amount of Kshs.110,638,298 in respect to leasing of medical equipment which was deducted at source. However, no records were provided for audit indicating where the equipment were distributed to and their status, conditional grant, amount paid to date and the evidence of the deductions at source.

In the circumstances, accuracy and existence of the equipment leased at a cost of Kshs.110,638,298 could not be confirmed.

223. Long Outstanding Pending Bills

Note 14 Under Other Important Disclosures and Annex 2 to the financial statements, reflect pending accounts payable totalling Kshs.1,044,715,617 which excludes a total of two hundred and twenty-three (223) payments totalling Kshs.276,467,775 classified as ineligible by Pending Bills Taskforce Committee. However, request for Bills not payable on a sampled basis and project status from the different departments of the County Executive totalling Kshs.241,856,783 were not provided for audit.

Review of accounts payable list revealed a Nil balance in respect of Kenya Revenue Authority debt. However, review of Kenya Revenue Authority statement revealed that the County owes the Authority debt totalling Kshs.4,139,073,084. The reconciliation evidence between the County and the Authority were not provided for audit verification.

Further, ageing analysis for pending payments with age of over ninety days was not provided for audit contrary to the provisions of Regulation 54(2)(c) of Public Finance Management (County Governments) Regulations, 2015. No satisfactory explanation was provided on the debt exposure and measures put in place by Management plan to clear the debt was not provided.

My opinion is not modified in respect of these matters.

Other Matter

224. Unresolved Prior Year Audit Matters

Review of the progress on follow up on prior year auditor's recommendations reveal that, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance which remained unresolved contrary to Section 149(2)(l) of the Public Finance Management Act, 2012 which require Accounting Officers designated for county government entities to try to resolve any issues resulting from an audit that remain outstanding.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

225. Excessive Wage Bill

The statements of receipts and payments reflects an amount of Kshs.4,982,899,999 in respect to compensation of employees which translates to 49% of the total receipts of Kshs.10,242,588,658. This was contrary to Regulation 25(1)(a) and (b) of the Public Finance Management (County Governments) Regulations, 2015 which stipulates that the County Government's expenditure on wages and benefits for its public officers, shall not exceed thirty-five (35) per cent of the County Government's total revenue.

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

226. Earnings Below the Statutory Minimum

Review of the monthly payroll records revealed that one thousand three hundred and seventy (1,370) employees' salary deductions fell below the one-third (1/3) of the basic salary. This was 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.

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

227. Lack of an Approved Staff Establishment

The County Executive did not have an approved staff establishment. This was contrary to Section B 5(2) of the County Public Service Human Resource Manual, 2013 which states that all vacancies shall be declared in a prescribed format which shall include the number of vacancies, when the vacancy occurred, whether the vacancy is within the authorized establishment and other relevant details. Further, Section B 6(3) states that in the recruitment process, due consideration will be given to appropriate organizational structure in each department, optimal staffing levels, schemes of service and career progression guidelines.

In the circumstances, it was not possible to establish if the County Executive operated at optimum staffing levels. In addition, the County Executive was in breach of the law.

228. Irregular Payments to Council of Governors and County Public Service Board National Consultative Forum

The County Executive made payments amounting to Kshs.5,000,000 and Kshs.300,000 to the Council of Governors and County Public Service Board National Consultative Forum, respectively. This was contrary to Section 52 of Intergovernmental Relation Act, 2012 which states that operational costs for the Council of Governors shall be funded by the National Government, the funds appropriated to the council.

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

229. Irregularities in Construction of New Arboretum Block, Meru Municipality Park

The County Government awarded a contract for development of a new arboretum block at a contract sum of Kshs.8,940,143 with first certificate payment of Kshs.6,319,617. However, the following anomalies were observed:

- i. Electrical works to the coffee house and fencing were not done.
- ii. Installation of doors, walling, and interior finishing to the coffee house were poorly done.
- iii. The contractor was not on site while the building materials were left behind.
- iv. Accessibility by the general public to the project upon completion was not possible as there were no roads.

In addition, evidence of monitoring and evaluation in form of reports was not provided while it was not possible to confirm whether the contract was secured by a performance bond as the tender security from the insurer was not provided.

In the circumstances, the value for money on the expenditure amounting to Kshs.6,319,617 could not be confirmed.

REPORT ON THE EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

230. Use of a Manual Payroll

During the year under review, the County Executive operated two payroll systems; a manual payroll system and an Integrated Personnel and Payroll Database System (IPPD). The use of a manual system requires manual calculation of deductions and net pay and constant monthly and/or annual updates of the data manually which is prone to error or manipulations. The Management did not provide a justification of maintaining a manual payroll and demonstrate mechanisms put in place to protect payroll data integrity in respect to the manual payroll.

In the circumstances, the effectiveness of payroll management system could not be confirmed.

231. Non-Functional Audit Committee

Review of the governance structures revealed that the County Executive has an Audit Committee in place. However, the Management did not provide appointment letters for respective committee members and minutes to confirm that the committee met during the year. Further, the Committee did not publish an annual report on the review of the independence, performance, and competence of the Internal Audit Unit contrary to Regulation 159(2) of the Public Finance Management (County Governments) Regulations, 2015.

In the circumstances, the effectiveness of the Audit Committee could not be confirmed.

232. Failure to Develop County Plans

The County Executive of Meru has not developed a County Spatial Plan, and Cities and Urban Areas Plans as envisaged in Section 107 of the County Governments Act, 2012.

In the circumstances, the County Executive might fail to guide, harmonize, and facilitate development within the county.

233. Incomplete Non-Current Assets Register

Review of the summary of non-current asset register under Annex 4 to the financial statements revealed that the information in respect to all parcels of land owned by the County including their locations, size and value were not included in the register. Although the County Executive explained that it had already made efforts to acquire ownership documents, the verification and validation exercise for the assets owned by the devolved unit has not been undertaken. Further, no title deeds in the name of the County Government were provided for audit.

In the circumstances, the existence of effective internal controls to safeguard the County Executive's assets could not be confirmed.

COUNTY EXECUTIVE OF THARAKA-NITHI - NO.13

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

234. Variances in the Financial Statements

The statement of receipts and payments reflects total payments of Kshs.4,497,849,902 while the budget execution by programmes and sub programmes reflects total payments of Kshs.4,459,904,594 resulting to unreconciled variance of Kshs.37,945,308.

In the circumstances, the accuracy and completeness total payments of Kshs.4,497,849,902 could not be confirmed.

235. Unsupported Expenditure on Fuel, Oil and Lubricants

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects use of goods and services amounting to Kshs.913,933,748 out of which Kshs.67,824,129 was incurred on fuel, oil and lubricants. However, the Management did not provide quarterly reports detailing analysis of the fuel, oil and lubricants procured through framework agreements including analysis of consumption pattern by each vehicle.

In the circumstances, the accuracy and completeness of fuel, oil and lubricants expenditure amounting to Kshs.67,824,129 could not be confirmed.

236. Unsupported Feasibility Research Studies and Appraisal

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflects acquisition of assets amounting to Kshs.764,562,446. The amount includes payments totalling Kshs.16,252,200 incurred on research, studies, project preparation, design and supervision out of which an amount of Kshs.5,411,200 relates to procurement of services for conducting feasibility studies and appraisals. However, the signed reports for the research studies and appraisals, details of adoption of the reports and their implementation status were not provided for audit review.

In the circumstances, the accuracy and completeness of research, studies, project preparation, design and supervision expenditure amounting to Kshs.5,411,200 could not be confirmed.

237. Unsupported Construction of Mukothima Stadium

The statement of receipts and payments reflects acquisition of assets amounting to Kshs.764,562,446 as disclosed in Note 7 to the financial statements. The expenditure includes an amount of Kshs.20,297,293 in respect of construction of buildings out of which an amount of Kshs.2,340,346 was part payment for construction of Mukothima Stadium platform. However, the tender advertisement, tender opening and evaluation minutes, appointment letters to the inspection and acceptance committee, appointment

letters of tender opening and evaluation committee members, tender register, professional opinion, contract agreements, signed site book, building designs and plans estimates, regret letters to unsuccessful bidders, proof of previous works done and financial capability of the bidders were not provided for audit review.

In the circumstances, the regularity, accuracy and completeness of the construction of buildings expenditure amounting to Kshs.20,297,293 could not be confirmed.

238. Lack of Ownership Documents

Annex 4 to the financial statements reflects historical cost of non-current assets balance of Kshs.5,612,754,839 which includes land valued at Kshs.4,386,080. However, details of the land including location and ownership documents were not provided for audit review. Further, the balance includes purchase of vehicles and other transport equipment amount of Kshs.431,231,177. Review of documents reflects that the County Executive had one hundred and eighty-three (183) motor vehicles and one hundred and four (104) motor cycles. However, only ownership documents for one hundred and twenty-five (125) motor vehicles and fifty-five (55) motor cycles were provided for audit. This resulted to fifty-eight (58) and forty-nine (49) motor vehicles and motor cycles respectively whose ownership documents were not provided for audit.

In the circumstances, the accuracy, valuation and ownership of the land, motor vehicles and motor cycles balance of Kshs.435,617,257 could not be confirmed.

239. Variances in the Accounts Payables

The statement of assets and liabilities and as disclosed in Note 10 to the financial statements reflects account payables balance of Kshs.82,893,840 while the supporting schedules reflect a balance of Kshs.2,173,701 resulting to an unreconciled variance of Kshs.80,720,139. Further, the balance, includes contractors' retention money of Kshs.77,794,222 which differed with the deposits bank account balance of Kshs.1,059,545 resulting to an unexplained variance of Kshs.76,734,677.

In the circumstances, the accuracy and completeness of the account payables balance of Kshs.82,893,840 could not be confirmed.

240. Unsupported Expenditure on Catering Services

The statement of receipts and payments reflects use of goods and services expenditure totalling Kshs.913,933,748 as disclosed in Note 4 to the financial statements. The amount includes hospitality supplies and services expenditure of Kshs.170,424,893 out of which an amount of Kshs.3,989,000 was for provision of catering services. However, the supporting documents including signed daily attendance registers, invitation letters to meetings, agendas of the meeting, programme of the activities, back to office reports, work tickets, evidence of transport to and from the venues were not provided for audit review.

In the circumstances, the accuracy and completeness of the hospitality supplies and services expenditure amounting to Kshs.3,989,000 could not be confirmed.

241. Irregular Payment of Salaries and Allowances

The statement of receipts and payments and as disclosed in Note 3 to the financial statements reflects an amount of Kshs.2,471,960,109 in respect to compensation of employees. Review of the payrolls revealed that eighty-one (81) employees in various cadres were paid monthly basic salary and house allowances at higher rates than those recommended by the Salaries and Remuneration Commission (SRC) guidelines on compensation of employees vide Circular No. SRC/TS/JE/CG/3/33/6 VOL.III (30) dated 01 July, 2020 on implementation of Job Evaluation Results Phase IV salary review in respect to County Government employees.

In the circumstances, the regularity, accuracy and completeness of compensation of employees expenditure amounting to Kshs.2,471,960,109 could not be confirmed.

Emphasis of Matter

242. Budgetary Control and Performance

The statement of comparison of budget and actual amounts - recurrent and development combined reflects final receipts budget and actual on a comparable basis of Kshs.5,104,469,751 and Kshs.4,486,057,345, respectively, resulting to budget under-funding of Kshs.618,412,406 or 12% of the budget. Similarly, the County Executive spent Kshs.4,497,849,902 against an approved budget of Kshs.5,104,469,751 resulting to an under-expenditure of Kshs.606,619,849 or 12% of the budget.

In the circumstances, the budget under-funding and under-performance may have affected the planned activities and may have impacted negatively on service delivery to the public.

243. Pending Bills

Note 13.1 to the financial statements on Other Important Disclosures reflects pending bills balance of Kshs.810,774,700 out of which a balance of Kshs.343,100,882 relates to the period between 5 February, 2014 and 26 April, 2019.

However, Management did not explain why the bills were not settled during the year when they occurred, or the failure to pay them as a first charge in the subsequent 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.

Failure to settle bills during the year they relate to distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

My opinion is not modified in respect of these matters.

Other Matter

244. Unresolved Prior Year Audit Matters

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

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

245. Non- Compliance with One Third Basic Pay Salary Rule

The statement of receipts and payments reflects an amount of Kshs.2,471,960,109 in respect to compensation of employees. However, review of the payrolls revealed that twenty-eight (28) employees' received net salaries less than a third (1/3) of their basic salaries. This was contrary to Section 19(3) of the Employment Act, 2007 which states that, the total amount of all deductions which, may be made by an employer from the wages of his employee at any one time shall not exceed two-thirds of such wages.

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

246. Irregular Engagement of Casual Employees

The statement of receipts and payments and as disclosed in Note 3 to the financial statements reflects compensation of employees amount of Kshs.2,471,960,109 which includes an amount of Kshs.62,623,764 for basic wages of temporary employees. Analysis of the casual payrolls revealed that casual employees in various departments were engaged for more than three (3) months continuously. This was contrary to Section 37(b) of the Employment Act, 2007 which states that, where a casual employee performs work which cannot reasonably be expected to be completed within a period, or a number of working days amounting to the equivalent of three months or more, the contract of service of the casual employee shall be deemed to be one where wages are paid monthly and Section 35(1)(c) shall apply to that contract of service.

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

247. Incomplete Water Intake for Kithiru Irrigation Project

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflects an amount of Kshs.764,562,446 in respect to acquisition of assets. The expenditure includes an amount of Kshs.259,814,086 for infrastructure and civil works out of which an amount of Kshs.4,742,521 relates to construction of water intake works for Kithiru Irrigation Water Project. However, review of the project file and physical verification carried out in the month of August, 2023 revealed that the intake was complete but the channeling of water from the source river to the various farms had not commenced, therefore, the project was incomplete and was not benefiting the residents as intended.

In the circumstances, value for money for the expenditure of Kshs.4,742,521 could not be confirmed.

248. Non-Compliance with 30% Reservation Rule

Review of the Access to Government Procurement Opportunities (AGPO) report for the year under review revealed that only Kshs.15,244,980 was reserved for the disadvantaged groups which is less than 30% of the total procurement budget. This was contrary to Section 157(5) of the Public Procurement and Asset Disposal Act, 2015 which states that an Accounting Officer of a procuring entity shall, when processing procurement, reserve a prescribed percentage of its procurement budget, which shall not be less than thirty per cent, to the disadvantaged group and comply with the provisions of this Act and the regulations in respect of preferences and reservations.

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

249. Non-Compliance with Fiscal Responsibilities Principles – Wage Bill

The statement of receipts and payments reflects an expenditure of Kshs.2,471,960,109 on compensation of employees which represents fifty-five (55) percent of the total receipts of Kshs.4,472,918,005. This was contrary to Regulation 25(1)(b) of the Public Finance Management (County Governments) Regulations, 2015 which states that the County Executive Committee Member with the approval of the County Assembly shall set a limit on the County Government's expenditure on wages and benefits for its public officers which shall not exceed thirty-five (35) percent of the County Government's total revenue.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

250. Lack of an Audit Committee

The County Executive did not have a functional Audit Committee as required by Regulations 167(1) and (4) of the Public Finance Management (County Governments) Regulations, 2015. It was noted that the audit committee had only the Chairperson and a member representing the County Treasury and therefore could not meet due to lack of quorum. The other three members of the Committee were only appointed by the Governor vide Kenya Gazette Notice No.8495 dated 05 May, 2023.

In the circumstances, the effectiveness of internal controls and governance of the County Executive could not be confirmed.

251. Use of a Manual Payroll

The statement of receipts and payments and as disclosed in Note 3 to the financial statements reflects compensation of employees amounting to Kshs.2,471,960,109 out of which an amount of Kshs.14,320,638 was paid through manual payrolls. The County Executive operated both the manual payroll system and the Integrated Payroll and Personnel Database (IPPD) system. However, the use of the manual payroll system

requires manual calculation of gross pay, deductions and net pay and constant monthly and/or annual updates of the data which could be prone to human error and manipulation.

In the circumstances, the effectiveness of internal controls on manual payroll processing could not be confirmed.

252. Unsurrendered Imprest

The statement of assets and liabilities and as disclosed in Note 9 to the financial statements reflects accounts receivables balance of Kshs.5,270,186. The balance includes outstanding imprests amount of Kshs.5,198,100 out of which a balance of Kshs.2,262,100 was issued between 17 November, 2022 and 05 April, 2023 and ought to have been surrendered by 30 June, 2023. This was contrary to Regulation 93(5) of the Public Finance Management (County Governments) Regulations, 2015 which states that a holder of a temporary imprest shall account or surrender the imprest within seven (7) working days after returning to duty station.

In the circumstances, the existence of effective imprest management could not be confirmed.

COUNTY EXECUTIVE OF EMBU - NO.14

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

253. Unsupported Expenditure

The statement of receipts and payments reflects an amount of Kshs.522,951,207 and as disclosed in Note 4 to the financial statements in respect of use of goods and services. However, the following anomalies were noted:

253.1 Unsupported Communication, Supplies and Services

Included in use of goods and services is an amount of Kshs.2,610,013 in respect of communication, supplies and services out of which an amount of Kshs.372,129 was not supported by relevant documents including requisitions, invoices, payment vouchers and delivery notes.

253.2 Irregular Payment of Motor Vehicles Insurance

Included in use of goods and services is an amount of Kshs.154,760,519 in respect of insurance costs out of which an amount of Kshs.533,370 was paid to a firm for provision of motor vehicle insurance services. The expenditure includes an amount of Kshs.156,069 in respect of insurance for a pickup which was privately owned by a Commercial Bank. No explanation was provided by Management on why the cost for insurance was incurred on a privately-owned vehicle.

In the circumstances, the regularity and completeness of the communication, supplies and services and insurance costs amounting to Kshs.156,069 and Kshs.372,129, respectively, could not be confirmed.

254. Unsupported Deposit and Retention Balance

The statement of assets and liabilities reflects a balance of Kshs.18,724,203 and as disclosed in Note 15 to the financial statements in respect of accounts payables as at 30 June, 2023. However, the bank statement in respect of deposits account reflected a balance of Kshs.7,609,578 resulting to unexplained variance of Kshs.11,114,625. Further, the amount includes a balance of Kshs.591,632 in respect of KRA withholding taxes which was not supported by a schedule and individual ledgers to show the nature of the withholding tax.

In the circumstances, the accuracy and completeness of the accounts payables balance of Kshs.18,724,203 could not be confirmed.

255. Unsupported Acquisition of Land

The statement of receipts and payments reflects an amount of Kshs.616,623,666 and as disclosed in Note 8 to the financial statements in respect of acquisition of assets which includes an amount of Kshs.8,845,000 in respect of land acquisition. However,

Management did not provide records including land title deeds and valuation reports to confirm that the ownership of the land was transferred to the County Executive. Further, there were no records in respect of the acreage of land owned, valuation report for the land and buildings owned by the County Executive and their location.

In the circumstances, the existence, value, location and ownership of non-current assets amounting to Kshs.8,845,000 could not be confirmed.

256. Unsupported Expenditure on Legal Services

The statement of receipts and payments reflects an amount of Kshs.522,951,207 and as disclosed in Note 4 to the financial statements in respect of use of goods and services. Included in the expenditure is an amount of Kshs.64,728,319 in respect of other operating expenses out of which an amount of Kshs.7,174,000 was paid as legal expenses. However, review of legal documents revealed that two (2) law firms were paid an amount of Kshs.5,870,200 without an approval from the Executive Committee in regard to outsourcing of legal services as required under Section 16 of the Office of the County Attorney Act, 2020. Further, the payments were not supported by itemized fee notes and the respective status of cases handled. In addition, Management did not provide signed contract agreements between the law firms and the County Executive.

In the circumstances, the accuracy, completeness and propriety for the legal expenditure amounting to Kshs.5,870,200 could not be confirmed.

257. Unsupported Expenditure in the Construction of Bio-Digester

The statement of receipts and payments reflects an amount of Kshs.616,623,666 in respect to acquisition of assets as disclosed in Note 8 to the financial statements which includes an amount of Kshs.78,583,129 in respect of construction of buildings out of which an amount of Kshs.4,539,525 is in respect of construction of bio-digester at a level 4 Hospital at a contract sum of Kshs.14,532,925. However, included in the bills of quantities is an amount of Kshs.1,300,000 for prime costs and provisional sums which was not supported by requisition and approval of tender evaluation committee, specifications of works done and detailed schedules of payments contrary to Section 139(2)(b) and(e) of the Public Procurement and Assets Disposal Act, 2015.

In addition, the contractor was to undertake landscaping after site clearance, excavation, preparation and levelling of the ground in order to plant grass and trees at a total cost of Kshs.594,000. However, at the time of audit in the month of September, 2023, no landscaping had been done although the contractor had been paid in full.

In the circumstances, the accuracy, completeness and value for money on the expenditure amounting to Kshs.1,894,000 could not be confirmed.

Emphasis of Matter

258. Budgetary Control and Performance

The statement of comparison of budget and actual amounts (recurrent and development combined) reflects final receipts budget and actual on a comparable basis of Kshs.6,373,123,635 and Kshs.5,241,639,654 respectively, resulting in under-funding of

Kshs.1,131,483,981 or 18% of the budget. Similarly, the County Executive spent an amount of Kshs.5,245,692,939 against an approved budget of Kshs.6,373,123,635, resulting in under-expenditure of Kshs.1,127,430,696 or 18% of the budget.

The under-funding and under-performance affected the planned activities and may have impacted negatively on service delivery to the public.

259. Pending Accounts Payable

Annex 2 to the financial statements reflects total pending accounts payable balance of Kshs.1,926,990,499 which includes an amount of Kshs.1,338,462,063 and Kshs.588,528,436 in respect of accounts payables and pending staff emoluments in form of unremitted deductions to Saving and Credit Cooperative Organization (SACCO) and pension schemes, respectively.

Failure to settle bills during the year in which they relate to adversely affects the budgetary provisions for the subsequent year as they form a first charge.

My opinion is not modified in respect of these matters.

Other Matter

260. Unresolved Prior Year Matters

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

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

261. Irregularities in Fleet Management

261.1 Failure to Maintain an Updated Vehicle Register

During the year under review, Management failed to maintain an updated vehicle register with details of chassis numbers, engine numbers, the dates the vehicles were put into use and the dates the vehicles were grounded. In addition, fleet records provided did not include motor vehicle chassis numbers whereas one hundred and six (106) motor vehicles and bikes lacked engine numbers.

261.2 Lack of Records for Grounded Motor Vehicles and Bikes

Management presented a list of two hundred fifty-one (251) movable assets for audit out of which one hundred forty-three (143) motor vehicles in Nairobi and bikes were grounded and scattered in several yards and hospitals across the County. There were no records of the dates the assets were grounded and Management did not provide a disposal plan in respect of the assets. This was contrary to Regulation 176(1) of the Public Procurement

and Assets Disposal Regulations, 2020 which requires the Accounting Officer of a procuring entity to ensure that an annual assets disposal plan is prepared of items declared as unserviceable, surplus, or obsolete, obsolescence stores, asset or equipment as set out under Section 53(4) of the Act. Management reported that an unknown number of motorbikes belonging to the Department of Agriculture were grounded. However, there were no details including registration numbers and make of the grounded motorbikes.

261.3 Missing Motor Vehicles

Three (3) motor vehicles in the register were reported as missing while one (1) motor vehicle was grounded at a motor vehicle company for the past three (3) years due to outstanding arrears relating to repairs and maintenance of the vehicle. This was contrary to Regulation 132(1) of the Public Finance Management (County Governments) Regulations, 2015 which stipulates that the Accounting Officer of a County Government entity shall take full responsibility and ensure that proper control systems exist for assets and that preventative mechanisms are in place to eliminate theft, security threats, losses, wastage, and misuse.

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

262. Non-Compliance with the One Third Basic Salary Rule

Review of the payroll for the year ended 30 June, 2023 revealed that the County Executive had eighty-eight (88) employees whose net pay was below a third (1/3) of their basic pay contrary to Section 19(3) of the Employment Act, 2007 and Section C.1 (3) of the Human Resource Policies and Procedures Manual for the Public Service, 2016 on Salary and Allowances which states that public officers shall not over-commit their salaries beyond two-thirds (2/3) of their basic pay.

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

263. Non-Compliance with Law on Ethnic Composition

During the year under review, the County Executive had a total of two thousand nine hundred seventy-three (2,973) employees in its payroll. However, review of the payroll revealed that one thousand six hundred and seventeen (1,617) or 54% of employees were from the dominant ethnic community. This was contrary to Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 which stipulates that all public establishments shall seek to represent the diversity of the people of Kenya in the employment of staff and no public establishment shall have more than one third of its staff from the same ethnic community.

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

264. Failure to Remit Payroll Deductions

Review of payroll data revealed that the County Executive had overdue outstanding remittances totalling Kshs.536,973,166 deducted from employee salaries aged more than a year and which had not been remitted to the respective entities. The deductions include contributions to various retirement schemes such as the Local Authorities Provident Fund

(LAPFUND), the Local Authorities Pension Trust (LAPTRUST), savings and loan repayment to different SACCOs and Banks, union dues, HELB, statutory deductions, staff welfare associations, insurance policy deductions, and the County Pension Fund. This was contrary to Section 19(4)(5) of the Employment Act, 2007 which stipulates that an employer who deducts an amount from an employee's remuneration in accordance with subsection (1)(a), (f), (g) and (h) shall pay the amount so deducted in accordance with the time period and other requirements specified in the law, agreement court order or arbitration as the case may be.

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

265. Failure to Appoint and Operationalize the Office of the County Attorney

During the financial year under review, the County Executive did not have a functional office of the County Attorney to handle legal matters. This was contrary to Section 4(1) of the Office of the County Attorney Act, 2020 which establishes in each County, the Office of the County Attorney, as an office in the County Public Service.

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

266. Non-Compliance Fiscal Responsibility Principles on Wage Bill

The statements of receipts and payments reflects an expenditure of Kshs.2,963,079,947 on compensation of employees representing 57% of the total receipts of Kshs.5,241,639,654. This was contrary to the provisions of Regulation 25(1) (a) and (b) of the Public Finance Management (County Governments) Regulations, 2015 which stipulates that the County Government's expenditure on wages and benefits for its Public Officers, shall not exceed thirty-five (35) per cent of the County Government's total revenue.

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

267. Excess Budget Allocation to the County Assembly

During the year under review, the County Assembly Embu had an approved budget amounting to Kshs.927,949,416 which was equivalent to 15% of the total budgeted revenue of the County Government amount of Kshs.6,373,123,635. This was contrary to Regulation 25(1)(f) of the Public Finance Management (County Governments) Regulations, 2015, which states that the approved expenditure of a County Assembly shall not exceed seven per cent of the total revenue of the County Government or twice the personnel emoluments of that County Assembly, whichever is lower.

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

268. Expired Drugs at Embu Level 5 Hospital

Physical inspection conducted in Embu Level 5 Hospital stores in the month of August, 2023 revealed that the facility had in stock of expired drugs whose estimated value amounting to Kshs.7,981,076. This was contrary to Section 162(3) of the Public Procurement and Asset Disposal Act, 2015 which states that stores, inventory and assets that are procured by a public entity shall not be allowed to suffer deterioration from any

preventable cause and overstocking of any particular item shall be avoided. Further, the Accounting Officer had not established a disposal committee to verify and process all disposal recommendations as required by Section 163 of the Public Procurement and Asset Disposal Act, 2015.

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

269. Irregularities in the Projects Management

The statement of receipts and payments reflects an amount of Kshs.616,623,666 in respect of acquisition of assets and as disclosed in Note 8 to the financial statements. However, the following anomalies were observed;

269.1 Stalled Proposed Renovation and Alterations of the County Headquarters

Note 8 to the financial statements reflects an amount of Kshs.78,583,129 in respect of construction of buildings which includes payments for renovation and alterations of the County headquarters block - Phase 2. The contract was awarded on 22 February, 2022 at a contract sum of Kshs.24,994,903 with an expected completion date of 22 August, 2022. However, physical inspection conducted in September, 2023 revealed that the project was incomplete, the contractor was not at site and there was no evidence of extension of the contract period. Further, included in the bills of quantities was an amount of Kshs.3,955,000 for installation of lift for six (6) persons capacity which had not been installed. No explanation was given for failure to install the lift twelve (12) months after the expiry of the contract period.

In addition, included in the bills of quantities was an amount of Kshs.1,309,590 for renovation of the procurement block. However, apart from the front canopy with an estimated cost of Kshs.110,320, the other works including external finishes, internal finishes, new works, wall finishes, ceiling finishes, roof finishes and floor finishes with an estimated cost of Kshs.1,199,270 had not been done. No explanation was given for failure to complete the renovations twelve (12) months after the expiry of the contract period.

In the circumstances, the regularity and value for money on the expenditure incurred could not be confirmed.

269.2 Stalled Governor's Official Residence

A contract for construction of the Governor's residence at a contract sum of Kshs.49,703,439 was awarded on 8 March, 2021. The contract period was seventy-two (72) weeks with expected completion date of 8 September, 2022. According to the Salaries and Remuneration Commission Circular Ref. No. SRC/TS/COG/6/61/48 VOL.II (64) of 20 May, 2019, the County Executive was required to allocate funds and prioritize construction of houses for the Governor and Deputy Governor on public land. However, at the time of audit in the month of August, 2023, the Governor's official residence was incomplete and the last certificate of work done revealed that the project was 55% complete. The project had stalled since the contractor was not on site. No evidence was provided to confirm whether the contractor had sought for extension of contract period, or a default notice issued to the contractor by the County Executive.

In the circumstances, Management was in breach of the law and the public may not have obtained value for money already spent on the stalled project.

269.3 Irregularities in Levelling of Primary School Playground

Note 8 to the financial statements reflects an amount of Kshs.133,003,651 in respect of infrastructure and civil works which includes an amount of Kshs.2,398,532 paid for playground levelling and installation of goal posts at a local primary school. However, physical inspection of the site in August, 2023 revealed that drainage trenches were not done on the sides of the trimmed ground and the grounds were not trimmed and graded as per the bill of quantities. Further, project drawings and technical specifications were not provided for audit, hence works done could not be confirmed.

In the circumstances, value for money on the expenditure amounting to Kshs.2,398,532 could not be confirmed.

269.4 Failure to Operationalize a Milk Cooler

Note 8 to the financial statements reflects an amount of Kshs.133,003,651 in respect of infrastructure and civil works which includes an amount of Kshs.1,989,946 paid for construction and installation of a milk cooler. Physical inspection of the plant in August, 2023 revealed that the construction and installation of the cooler was complete but was not in use.

In the circumstances, value for money on the construction and installation of a milk cooler could not be confirmed and the public may have been denied benefits that could have accrued from the use of the milk cooler.

270. Irregular Engagement of Casuals

The statement of receipts and payments reflects an amount of Kshs.2,963,079,947 in respect of compensation of employees as disclosed in Note 3 to the financial statements which includes an amount of Kshs.74,080,873 paid to casual employees attached to health facilities who have been engaged for over three years. This was contrary to Section 37 1(b) of the Employment Act, 2007 which stipulates that where a casual employee performs work which cannot reasonably be expected to be completed within a period, or a number of working days amounting in the aggregate to the equivalent of three months or more the contract of service of the casual employee shall be deemed to be one where wages are paid monthly.

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

271. Failure to Maintain Motor Vehicles Repairs and Maintenance Records

The statement of receipts and payments reflects an amount of Kshs.522,951,207 in respect of use of goods and services as disclosed in Note 4 to the financial statements which includes an expenditure of Kshs.8,188,884 in respect of routine maintenance of vehicles and other transport equipment. However, Management did not provide records of maintenance and repairs in respect of each motor vehicle, plant and equipment. This

was contrary to Regulation 174(3) of the Public Procurement and Asset Disposal Regulations, 2020 which requires maintenance and repair records.

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

272. Irregular Payment to Council of Governors

The statement of receipts and payments reflects an amount of Kshs.522,951,207 as disclosed in Note 4 to the financial statements in respect of use of goods and services which includes an amount of Kshs,64,728,319 in respect of other operating expenses out of which an amount of Kshs.5,000,000 was paid to the Council of Governors. However, Management did not provide supporting documents including, legal framework, invoice and contract agreement that formed the basis for the payment. This was contrary to Section 37 of the Intergovernmental Relations Act, 2012 which states that the operational expenses in respect of the structures and institutions established in this Act shall be provided for in the annual estimates of the revenue and expenditure of the National Government.

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

273. Long Outstanding Imprest

The statement of assets and liabilities and as disclosed in Note 13 to the financial statements reflects a balance of Kshs.25,468,592 in respect of account receivables which represents outstanding imprests as at 30 June, 2023, issued between July, 2021 and 30 June, 2023, and not surrendered or accounted for. This was contrary to Regulation 93 (5) of the Public Finance Management (County Governments) Regulations, 2015 which stipulates that a holder of a temporary Imprest shall account or surrender the Imprest within seven (7) working days after returning to duty station.

As at the time of the audit in the month of August, 2023, the recovery process had not commenced. Further, Management did not provide an explanation why some officers had not accounted for the imprest for over five (5) years and no measures had been taken to recover the long outstanding imprest. In addition, some offices held multiple imprest before surrender of previous issues contrary to Regulation 93 (4)(b) of the Public Finance Management (County Governments) Regulations, 2015.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis of Conclusion

274. Anomalies in Compensation of Employees

The statement of receipts and payments reflects compensation of employees amounting to Kshs.2,963,079,947 as disclosed in Note 3 to the financial statements. However, the following unsatisfactory issues were noted;

274.1 Failure to Prepare Human Resource Plans

During the year under review, the County Executive did not prepare Human Resource Plans to support the achievement of goals and objectives in their Strategic plans. This was contrary to Section B.2(1) of the Human Resource Policies and Procedures Manual for the Public Service, 2016 which states that every Ministry or State Department shall prepare Human Resource Plans to support achievement of goals and objectives in their Strategic plans.

In the circumstances, hiring, promotions, training and deployment of employees may not be aligned with the strategic goals of the County.

274.2 Lack of Approved Staff Establishment

During the year under review, the County Executive did not have in place an approved staff establishment. The approved staff establishment would have included the determination and creation of the number of offices and the minimum number of salaried positions in the County Public Service as stipulated in Section 26 of the Public Service Commission Act, 2017.

In the absence of an approved staff establishment, there is a risk of over staffing leading to a high wage bill.

274.3 Unsupported Recruitment, Appointment, Promotion and Re-designation of Employees

During the year under review, the County Public Service Board appointed sixty-eight (68) staff members, promoted forty-eight (48) officers and re-designated nine (9) officers all totalling one hundred and twenty-five (125) staff into various positions. However, Management did not provide for audit, a summary of the score sheets of the candidates from shortlisting, interviews and appointments, promotions and re-designations as stipulated in Section 68 of the County Governments Act, 2012.

Further, the County Executive advertised for nineteen (19) positions for County Chief Officers. In November, 2022 the County Public Service Board Secretary wrote to the Governor indicating that a total of one hundred and eighty-nine (189) applicants applied, sixty-one (61) were shortlisted and sixty (60) were interviewed, while one (1) did not attend. However, recommendations and approvals from the County Assembly were not provided for audit, contrary to Section 45(1)(a)(b) of the County Governments Act, 2012.

In the circumstances, it was not possible to confirm whether the recruitment, promotions and re-designations were undertaken in a fair, competitive and transparent manner.

274.4 Use of a Manual Payroll

The statement of receipts and payments and as disclosed in Note 3 to the financial statements reflects an amount of Kshs.2,963,079,947 in respect of compensation of employees. During the year under review, the County Executive operated two (2) payroll systems, a manual payroll system and an electronic integrated personnel and payroll database system (IPPD). The use of a manual system requires manual calculation of

deductions and net pay and constant monthly and or annual updates of the data manually which is prone to error or manipulations. The Management did not provide a justification for maintaining a manual payroll and did not demonstrate mechanisms put in place to protect payroll data integrity in respect of the manual payroll.

In the circumstances, data integrity and reliability in the manual system could not be confirmed.

275. Ineffective Internal Audit Function

The County Executive has an established Audit Committee. However, the Management did not provide appointment letters for the respective committee members and there were no minutes to confirm that the committee met during the year. Further, the Committee did not publish an annual report on the review of the independence, performance, and competence of the Internal Audit Unit contrary to Regulation 159(2) of the Public Finance Management (County Governments) Regulations, 2015.

In addition, review of the Internal Audit Unit and as previously reported, revealed that the Unit did not have sufficient staffing as it was manned by only one (1) officer and lacked facilitation to ensure that it was able to effectively discharge its mandate. The Department did also not have an approved annual audit plan. This was contrary to Regulation 163(1) of the Public Finance Management (County Governments) Regulations, 2015 which provides that internal audit planning shall be carried out based on risk assessment and shall be set out in a three-year (3) Strategic Plan, based on which an annual internal audit activity plan shall be developed.

In the circumstances, the effectiveness of the internal controls, risk management and overall governance for the County Executive could not be confirmed.

276. Failure to Develop County Plans

The County Executive had not developed a County Spatial Plan and Cities and Urban Areas Plans as envisaged in Section 107 of the County Governments Act, 2012.

In the circumstances, Management may fail to guide, harmonize and facilitate development within the County.

277. Failure to Maintain Assets Register

Annex 6 to the financial statements reflects a summary of non-current assets register with historical cost of Kshs.11,862,235,316. However, Management did not maintain an updated fixed asset register. This was contrary to Regulation 136(1) of the Public Finance Management (County Governments) Regulations, 2015 which provides that the Accounting Officer shall be responsible for maintaining a register of assets under his or her control or possession as prescribed by the relevant laws.

In the circumstances, the existence of effective internal controls to safeguard the County Executive assets could not be confirmed.

COUNTY EXECUTIVE OF KITUI - NO.15

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

278. Inaccuracies in the Financial Statements

278.1 Variances Between Financial Statements and the IFMIS Amounts

Comparison between the financial statements and the Integrated Financial Management Information System (IFMIS) trial balance revealed the following variances:

Item	Financial Statements Balance (Kshs.)	IFMIS Balance (Kshs.)	Variance (Kshs.)
Compensation of Employees	4,729,926,122	4,036,516,562	693,409,560
Use of Goods and Services	1,803,378,273	2,175,959,747	(372,581,474)
Transfers to Other Government Entities	1,029,936,698	485,861,615	544,075,083
Other Grants and Transfers	959,816,713	16,480,740	943,335,973
Social Security Benefits	-	129,552,376	(129,552,376)
Acquisition of Assets	1,801,398,676	1,605,700,233	195,698,443
Bank Balances	2,075,979,877	-	2,075,979,877
Outstanding Imprests and Advances	7,187,093	5,936,383	1,250,710
Deposits and Retentions	87,465,194	50,819,640	36,645,554
Fund Balance Brought Forward	330,957,157	-	330,957,157
Prior Year Adjustments	(317,281,440)	-	(317,281,440)
Surplus/Deficit for the Year	1,982,363,143	-	1,982,363,143
Transfers from the CRF	11,225,488,047	12,255,424,745	(1,029,936,698)

The variances have not been explained or reconciled.

In the circumstances, the accuracy of the respective financial statements amounts and balances could not be confirmed.

278.2 Misclassification of Expenditure

The statement of receipts and payments and as disclosed in Note 9 to the financial statements reflects acquisition of assets amount of Kshs.1,801,398,676 which includes construction and civil works expenditure of Kshs.782,448,955. Included in the construction and civil works amount is Kshs.15,590,746 being electricity bills paid as subsidy for two water companies was irregularly charged to construction and civil works.

In the circumstances, the accuracy of construction and civil works amount of Kshs.782,448,955 could not be confirmed.

278.3 Unsupported Expenditure

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects use of goods and services totalling Kshs.1,803,378,273. However, the payments includes an amount of Kshs.417,472,683 in respect of specialized materials and services out of which Kshs.3,525,000 was for purchase of vaccines whose payment was not supported by invoices and delivery notes for items totalling Kshs.3,153,000.

Further, included in the expenditure and as disclosed in Note 4 to the financial statements is Kshs.55,746,852 for routine maintenance of motor vehicles and other transport equipment which were not supported with efficiency analysis reports for serviced County motor vehicles, posting in the motor vehicle logbooks, work tickets, user requisitions, motor vehicle service pre-inspection and post inspection certificates.

In the circumstances, the accuracy and completeness of routine maintenance of motor vehicles and other transport equipment and specialized materials and services totalling Kshs.55,746,852 and Kshs.3,153,000, respectively could not be confirmed.

278.4 Inaccuracies in Cash and Bank Balance

The statement of assets and liabilities and as disclosed in Note 13 A and B to the financial statements reflects cash and cash equivalents balance totalling Kshs.2,076,316,961 being balances held in various bank accounts and cash in hand as at 30 June, 2023. Review of cashbooks, bank statements and bank reconciliation statements revealed the following anomalies;

- i. The bank reconciliation statements for a commercial bank revenue collection account reflects reconciled cashbook balance of Kshs.11,704,438 while Note 13 A to the financial statements reflects a balance of Kshs.299,678 resulting to a variance of Kshs.11,404,760.
- ii. The cashbook for a commercial bank revenue collection account for the month of June, 2023 was not provided for audit review.

In the circumstances, the accuracy and completeness of the cash and cash equivalents balance of Kshs.2,076,316,961 as at 30 June, 2023 could not be confirmed.

Further, review of revenue records revealed receipts totalling Kshs.11,395,086 recorded in the cashbook but not in the bank statements as at 30 June, 2023. In addition, the cashier analysis indicated un-surrendered revenues amounting to Kshs.883,741.

278.5 Unsupported Compensation of Employees Amount

The statement of receipts and payments and as disclosed in Note 3 to the financial statements reflects compensation of employees amounting to Kshs.4,729,926,122. The County Executive operates three payroll systems namely, a manual (Excel format) payroll system, the Early Childhood Development Education (ECDE) Payroll (Excel Format) and the Integrated Personnel and Payroll Database (IPPD) system. Review of data from the three systems revealed that an amount of Kshs.684,515,368 was reported through the

two manual payroll systems while Kshs.4,039,477,433 was paid through the IPPD system, both totalling Kshs.4,723,992,802 which differs with the financial statements amount by Kshs.5,933,320.

Further, review of ledger schedules provided for audit revealed that an amount of Kshs.301,152,729 and Kshs.101,150,584 was paid to teachers and other casuals respectively. The Human Resources (HR) records and IFMIS payment details indicated that casuals were engaged at the departmental level. However, the number of the casuals engaged could not be confirmed as there were no requisitions raised. In addition, copies of the engagement contract, details of the tasks, job descriptions of some of employees and the monthly muster rolls were not provided for audit review.

No evidence was also provided to confirm that the County Public Service Board had authorized the departments to engage the casuals, thereby raising doubt on the integrity of the hiring process.

In the circumstances, the accuracy and completeness of Kshs.4,729,926,122 expenditure on compensation of employees could not be confirmed.

Emphasis of Matter

279. Budgetary Control and Performance

The statement of comparison of budget and actual amounts (recurrent and development combined) reflects final expenditure budget and actual on a comparable basis of Kshs.12,306,052,565 and Kshs.10,392,571,731 respectively resulting to an under-expenditure of Kshs.1,913,480,834 or 16% of the budget.

The under-expenditure affected implementation of the planned activities and programs and impacted negatively on service delivery to the public.

280. Pending Accounts Payables

Annexes 2, 3 and 4 to the financial statements under Other Important Disclosures reflect outstanding pending bills balance of Kshs.766,771,377, comprises of accounts payables, staff payables and other pending payables of Kshs.749,737,343, Kshs.11,474,674 and Kshs.5,559,360 respectively.

However, Note 20(1) under Other Important Disclosures reflects pending accounts payable paid during the financial year under review of Kshs.786,969,581 while the schedules provided for audit reflect payments totalling Kshs.849,225,572 settled during the year under review, resulting to unexplained variance of Kshs.62,255,991.

Further, the financial statements reflect opening balances for pending bills of Kshs.1,537,738,958 while the audited financial statements for prior year reflect a balance of Kshs.1,829,392,067 resulting in an unexplained variance of Kshs.291,653,109.

281. Failure to Settle Pending Bills

Review of the schedules provided revealed that out of total validated pending bills of Kshs.1,431,226,010 as per Pending Bills Review Committee Report (PBRC), bills totalling Kshs.766,771,377 were outstanding as at 30 June, 2023. Out of the amount, pending bills relating to court decrees and arbitral awards amounted to Kshs.533,631,481. In addition, interests arising from suits due to delayed payments amounted to Kshs.64,012,513 after negotiations, while the legal costs amounted to Kshs.11,040,306.

According to PBRC report, court decrees and arbitral awards were to be granted first priority in order to avoid interest accruals and other avoidable costs. However, only Kshs.124,860,119 or 23% was paid during the year, leaving a balance of Kshs.408,771,362 unsettled.

282. Ineligible Pending Bills

The PBRC report further noted that bills amounting to Kshs.1,129,492,629 or 44% of the bills reviewed totalling Kshs.2,560,718,638 were ineligible and hence not payable. Management has not explained further action taken on the matter.

In the circumstances, the accuracy and completeness of pending bills totalling Kshs.766,771,377 reported in the financial statements could not be confirmed.

My opinion is not modified in respect of these matters.

Other Matter

283. Unresolved Prior Year Matters

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

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

284. Irregular Payment to Council of Governors

The statement of receipts and payments and as disclosed in Note 9 to the financial statements reflects acquisition of assets totalling Kshs.1,801,398,676, which includes expenditure on research, studies, project preparation, design, and supervision of Kshs.190,612,811. The expenditure includes Kshs.3,000,000 irregularly paid to Council of Governors contrary to Section 37 of the Intergovernmental Relations Act, 2012, which states that, the operational costs of the Council shall be funded from the allocation of the National Government.

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

285. Non-Compliance with the Fiscal Responsibility Principle on Development Expenditure

The statement of receipts and payments reflects total expenditure of Kshs.10,392,571,731 comprising of recurrent and development expenditures of Kshs.8,171,665,686 and Kshs.2,220,906,045 respectively. The development expenditure accounted for 21% of the total expenditure which was below the 30% threshold stipulated by Regulation 25(1)(g) of the Public Finance Management (County Governments) Regulations, 2015.

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

286. Land Without Title Deeds

The County Executive under the Ministry of Sports and Culture acquired two parcels of land measuring seven (7) acres each in the financial year 2022/2023 at a cost of Kshs.2,600,000 and Kshs.5,800,000 for construction of stadium in Mutomo and Mwingi respectively. However, Management had not obtained the title deeds for the two parcels of land. Further, the land had not been secured with a fence to check on encroachment contrary to the provisions of Section 153 (1) (a) and (b) of the Public Finance Management Act, 2012, which stipulates that the Accounting Officer for a County Government entity is responsible for Management of the entity's assets and liabilities, and shall manage those assets in such a way as to ensure that the County Government entity achieves value for money in acquiring, using or disposing of those assets.

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

287. Irregularities in Legal Expenses

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects use of goods and services amounting to Kshs.1,803,378,273, which includes other operating expenses of Kshs.289,230,529. Included in other operating expenses are legal expenses totalling Kshs.25,342,454 incurred on hire of various legal firms. However, scrutiny of documents revealed that the County legal office engaged the services of several consultants to render legal services without the approval of the County Executive Committee. This was contrary to Section 16(1) of the County Attorney Act of 2020 which states that a department or public entity established within a county executive shall not engage the services of a consultant to render any legal services relating to the functions of the County Attorney without the approval of the County Executive Committee.

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

288. Irregular Public Participation after Approval of Budget

Review of the budget making process, approved budget for the financial year 2022/2023 and County Level Infrastructure Development Programme (CLIDP) documents revealed that the County prepared and submitted development budget estimates of Kshs.765,576,469 to the County Assembly and the same was approved in June, 2022. The public participation was however, conducted on 16 and 17 January, 2023 which was after the approval of the budget. This was contrary to Section 125 (2) of the Public Finance

Management Act of 2012, which requires County Executive Committee member for finance to ensure that there is public participation in the budget process.

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

289. Irregular Funding of National Government Functions

The Office of the Governor awarded contract number CGOKTI/GVN/Q023/2021-2022 on 30 November, 2021 for procurement of the proposed gate and renovations at Kisasi Boys Secondary School at a contract sum of Kshs.3,192,000. The project however, falls under the National Government functions as per Fourth Schedule of the Constitution of Kenya, 2010, which describes the functions of the National Government to include Universities, tertiary educational institutions, other institutions of research and higher learning and primary schools, secondary schools and special education institutions.

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

290. Payment for Incomplete Project

The County Government awarded a contract for construction of an eight (8) door pit latrines at Kitui Stadium at a contract sum of Kshs.1,748,126 vide a contract dated 24 March, 2023. The contractor was paid vide Payment Voucher No.46141 dated 3 May, 2023. However, although the structure is complete, electrical works and sanitary fittings installation works valued at Kshs.207,996 were incomplete.

Management explained that the electrical and sanitary fittings were vandalized during the defect liability period. Although the retention money has not been paid to the contractor, Management has not explained measures being taken to address the matter and ensure residents fully benefit from the project.

In the circumstances, the public may not get value for the money invested in the project.

291. Vandalized Completed Projects and Failure to Erect Signages

Review of documents on implementation of projects and inspection of the projects revealed that three projects namely construction of chain link fence and two door pit latrines at Mutha Community playground; construction of chain link fence, gate and goal posts at Kanzanzu Primary School and construction of Chain link fence, gate, football and volleyball goals at Katuuni Secondary (Ngomeni), implemented during the year at a total cost of Kshs.5,129,696.74 had been vandalized.

Further, the projects undertaken at Kanzanzu and Mukameni Primary Schools, and Katuuni Secondary (Ngomeni) lacked signages for purpose of identification. This was contrary to provisions of Section 151(2) of the Public Procurement Assets and Disposal Act, 2015, which requires contract implementation to be monitored to ensure that all delivery or performance obligations are met and the contractor acts in accordance with the provisions of the contract.

In the circumstances, the public did not achieve value for money invested in the projects.

292. Stalled Projects

Review of project documents and physical site visits revealed that projects detailed below had stalled, while others were completed but not operational.

292.1 Water Projects

A project for construction of sump well and pump house at Nzeeu river and rehabilitation of Mukameni pipeline was awarded to a contractor at contract sum of Kshs.11,044,422 vide a contract agreement signed on 1 January, 2022. As reported in the previous year, it was estimated to be at fifty five percent (55%) completion level and the contractor had been paid Kshs.5,081,026, about 46% of the contract sum by the time the project was abandoned. Review of the project records revealed that the contractor had requested for extension of contract period, but approval had not been given.

Further, the County Government awarded a contract for construction of elevated steel water tank at Muuani, and pipeline extension to other areas (water distribution) to a contractor at a contract sum of Kshs.5,640,230. The contract agreement was signed on 1 January, 2022, and as at the time the project was abandoned, it was estimated to be at eighty-five percent (85%) level of completion, the contractor had been paid Kshs.4,809,755 or 85% of the contract sum.

Physical verification of the projects on 8 August, 2023 revealed that no further works had been undertaken for both projects and no correspondences were provided on measures being taken to fast track the completion of the projects.

292.2 Department of Health

Review of records and project verification exercise conducted for the department of health, projects funded at approximately Kshs.573,553,514 revealed that they were incomplete. As reported in the previous year, the contractors had abandoned the sites. The project files show that the projects were started in 2017 and some of the contracts' periods had lapsed. Further, it was noted that some of the projects have been budgeted for completion during 2023/2024 financial year, but no documents were provided to confirm progress made.

292.3 Kitui Municipality (Kithomboani Modern Market)

The County Government signed a contract on 27 May, 2019 for the proposed Construction of Kithomboani modern market in Kitui town at a contract sum of Kshs.351,585,555. The project commenced on 25 June, 2019 for a contract period of one twenty (120) weeks with an expected completion date of 6 September, 2021. As at the time of the audit in August, 2023, the Contractor had been paid Kshs.87,599,412 or 25% of the contract sum while the value of work certified, as per interim payment certificate number 13, was Kshs.216,251,012 or 62%. The project had stalled and the contractor had abandoned the site. There was no evidence of approval of extension of the contract period.

292.4 Land Infrastructure and Urban Development (LIUD) Headquarters

The County Government contracted a firm for the construction of LIUD Headquarters at a contract sum of Kshs.64,880,916 on 2 December, 2016 for a period of twelve (12) months with a completion date of 2 December, 2017. Site inspection report dated 10 May, 2023, indicates that the project was at seven percent (7%) completion level and value of work certified was Kshs.5,701,156 as per interim payment certificate number 1 of 15 December, 2017.

In the circumstances, the public has been denied benefits that would accrue from the completed projects and value for money invested had not been realized.

293. Lack of an Updated Assets Register

The County Executive through the Office of the Governor and the Ministry of Trade, Cooperatives and Investments procured assets worth Kshs.18,141,020.10 and Kshs.5,613,142.70 respectively, both totalling Kshs.23,754,143. The assets included motor vehicles, computers and office furniture, which were not recorded in the assets register contrary to Regulation 136 (1) of the Public Finance Management (County Governments) Regulations, 2015, which requires the Accounting Officer to be responsible for maintaining a register of assets under his or her control or possession.

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

294. Non-adherence to Expenditure Threshold on Personnel Emolument

The statement of receipts and payments and as disclosed in Note 3 to the financial statements reflects compensation of employees amounting to Kshs.4,729,926,122 which is equivalent to 38% of the total receipts of Kshs.12,374,934,873 for the year. The expenditure exceeded the threshold of 35% as prescribed under Regulation 25(1)(a) and 25(b) of the Public Finance Management (County Governments) Regulations, 2015.

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

295. Staff on Probation for More than 6 Months

Review of employees' records revealed that five hundred and seventy-seven (577) officers had been on probation for more than six (6) months out of which 234 officers had been on probation for more than three (3) years without confirmation. This was contrary to Section 42(2) of the Employment Act, 2007 which states that a probation period shall not be more than six months but may be extended for a further period of not more than six months with the agreement of the employee.

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

296. Non-Compliance with Law on Ethnic Diversity

Review of the County Government muster roll and other staff records indicated that out of four thousand six hundred and ninety-five (4,695) employees of the County Government, four thousand two hundred and five (4,205) employees or 89.5% of the establishment were from the dominant ethnic community in the County. In addition, the County Executive recruited sixty-five (65) employees during the year under review, of

whom 64 or 98% were from the dominant ethnic community. This was contrary to Section 7(2) of the National Cohesion and Integration Act, 2008 which stipulates that no public establishment shall have more than one third of its staff from the same ethnic community.

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

297. Non-Compliance with the One Third Basic Salary Rule

Review of IPPD payroll data revealed that ninety-seven (97) employees were receiving net salaries that were less than a third (1/3) of their basic pay, with some getting net salaries of below one hundred Kenya shillings (Kshs.100). This was contrary to Section C.1 (3) of Public Service Commission -Human Resource Policies and Procedures Manual for the Public Service (2016), which gives guidance on the amount an employer is allowed to deduct from an employees' wage or salary.

In the circumstances, Management was in breach of the law and employees are exposed to the risk of pecuniary embarrassment.

298. Lack of Approved Human Resource Manuals and Policies

Review of the human resources records revealed that the County lacked approved key policy manuals for Human Resource Management. The policies include customized scheme of service, career progression guidelines, casuals engagement policy, HR development policy and staff establishment. As a result, confirmation of the appropriateness of the current staffing level that would enhance achievement of the County's strategic objectives was not possible. This was contrary to Section 3.1 of the Kitui County Human Resource Policies and Procedures Manual for the Public Service of May, 2018 which requires every public entity to prepare Human Resource Plans to support achievement of goals and objectives in their Strategic plans.

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

299. Non Deduction and Remittance of Statutory Dues

Review of payroll records revealed failure to deduct and remit various taxes to Kenya Revenue Authority (KRA). Demand letters dated 24 November, 2022 from the Kenya Revenue Authority indicated that an amount totalling Kshs.614,904,696 which comprised of Pay as You Earn (PAYE), Value Added Tax (VAT) and Withholding Tax of Kshs.151,557,932, Kshs.19,026,933 and Kshs.444,319,830, respectively was owed by the County Government, some dating back to 2018. The delay in remittance of tax to KRA was contrary to Section 37(1) of the Income Tax Act that requires an employer who pays emoluments to an employee to deduct and account for tax thereon, to such extent and in such manner as may be prescribed.

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

300. Failure to Submit Financial Statements for Kitui Municipality

Review of records revealed that the County established Kitui Municipality through a charter dated and approved on 29 June, 2018. However, the Municipality Board did not

submit financial statements for 2019/2020, 2020/2021, 2021/2022 and 2022/2023 financial years for audit contrary to provisions of Section 46(1) and (2) of the Urban Areas and Cities Act, 2019, which requires the board or town committee to cause to be kept all proper books and records of account of its income, expenditure, assets and liabilities, and to submit the financial statements to the County Executive Committee member for transmission to the Auditor-General.

Further, it was noted that during the year under review, Kitui Municipality had an approved budget of Kshs.194,274,934 and incurred an expenditure totalling Kshs.151,981,621 which was reported under the County Government.

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

REPORT ON THE EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

301. Lack of an Internal Audit Committee

Review of the governance structure of the County Executive revealed that there was no audit committee and the head of internal audit reports directly to the Accounting Officer. This was contrary to Section 155(5) of the Public Finance Management Act, 2012 which provides for establishment of an audit committee. Lack of the Audit Committee means the operational independence of the Internal audit unit is not guaranteed. Further, the internal audit function is not adequately staffed and there are no internal auditors attached to the various departments.

In the circumstances, the effectiveness of internal controls and overall governance could not be confirmed.

302. Revenue Collection Management

Review of records relating to collection and management of revenue revealed following anomalies:

302.1 Non-Collection of Revenue Arrears

Review of the County's electronic revenue collection system records for land rates revealed that Management did not collect outstanding property rates totalling Kshs.799,878,240 owed to the County. This was an increase of Kshs.179,134,460 from the outstanding balance of Kshs.620,743,780 as at 30 June, 2022. Management had not demonstrated measures instituted to recover the long outstanding rates.

In the circumstances, Management did not achieve its revenue collection targets which may have hampered service delivery to the public.

302.2 Use of Parallel Systems for Revenue Collections

Review of revenue records and revenue collection systems indicated that the County Government used various Systems to collect revenue which were dedicated for different

sources of revenue. However, review of the systems reports revealed that there was commingling of revenue from different sources in the systems.

Further, review of records on own generated revenue revealed that the County lacked a valuation roll to help in estimating the expected revenue.

In the circumstances, it is not clear how Management reconciled revenues from the various systems since they are not linked, for efficient and effective management of revenue receipts.

302.3 Lack of Information Communication Technology (ICT) Policy

Review of the County Executive's ICT environment revealed that the entity had a draft ICT policy developed in 2018. The policy had not been approved for implementation to enable Management of business processes for the delivery of services to the public in an effective and efficient manner. Lack of automated system and ICT Policy might have led to loss of data confidentiality and inaccuracies in data processed.

In the circumstances, the existence of a reliable, transparent and effective information communication technology could not be confirmed.

302.4 Lack of Risk Management Policy and a Disaster Recovery Plan

Review of records and information provided by Management revealed that the County Government lacks a risk management policy. As a result, there was no risk assessment carried out during the year under review. Further, the County Government did not have a disaster recovery and business continuity plans contrary to provisions of Section 158(b)(1) of the Public Finance Management (County Governments) Regulations, 2015.

In the circumstances, the existence of an effective risk management could not be confirmed.

COUNTY EXECUTIVE OF MACHAKOS - NO.16

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

303. Inaccuracies in the Comparative Balances

The statement of cash flows reflects comparative decrease in cash and cash equivalents of Kshs.659,695,806 while the audited financial statements reflects an increase of Kshs.356,120,327 resulting in an unreconciled and unexplained difference of Kshs.1,015,816,133.

In the circumstances, the accuracy and completeness of the comparative decrease in cash and cash equivalents balance of Kshs.659,695,806 could not be confirmed.

304. Variances Between Financial Statements and IFMIS Balances

The financial statements reflect amounts of Kshs.1,400,609,381, Kshs.1,851,025,447 and Kshs.1,387,309,122 that were at variance with the Integrated Financial Management Information System (IFMIS) amount of Kshs.737,356,541, Kshs.170,471,256 and Kshs.1,669,211,333 under use of goods and services, transfer to other Government entities and acquisition of assets resulting to an unexplained variance of Kshs.663,252,840, Kshs.1,680,554,191 and Kshs.281,902,211, respectively.

In the circumstances, the accuracy and completeness of the respective financial statements amounts could not be confirmed.

305. Inaccuracies in the Compensation of Employees

The statement of receipts and payments and as disclosed in Note 3 to the financial statements reflects an amount of Kshs.5,566,708,303 on compensation of employees, while the Integrated Personnel and Payroll Database (IPPD) and manual (Excel) data shows an amount of Kshs.5,165,653,041 resulting in an unexplained and unreconciled variance of Kshs.401,055,262. Further, review of sampled personal files provided for audit revealed that some records of County Executive staff had identical names but different payroll numbers.

In the circumstances, the accuracy and completeness of the compensation of employees' costs totalling Kshs.5,566,708,303 could not be confirmed.

306. Inaccuracies in the Cash and Cash Equivalents Balances

The statement of assets and liabilities and as disclosed in Note 13A and 13B to the financial statements reflects bank balances of Kshs.1,916,198,744 and Nil cash in hand. However, audit review of financial records revealed that the disclosed bank balance related to only eighteen (18) bank accounts. However, two hundred and forty-five (245) bank accounts with a balance of Kshs.225,474,286 as at 30 June, 2023 were not disclosed in the financial statements. Further, the bank balance for the Machakos County Development Account reflected a balance of Kshs.141,990,365 which differed with

balance of Kshs.816,506 disclosed in the financial statements. In addition, cashbook balances of Kshs.707,933 were omitted from the financial statements.

Similarly, review of financial records revealed that one hundred and seventy bank accounts (170) were not supported by bank reconciliation statements, cashbooks and certificates of bank balances.

Further, included in the cashbook balances is Kshs.816,506 in relation to development account. However, the balance included transactions that took place in the month of July, 2023 which is outside the accounting period indicative of non-adherence to end of year cut off procedures.

In the circumstances, the existence, accuracy and completeness of the cash and cash equivalents balance of Kshs.1,916,198,744 could not be confirmed.

307. Undisclosed Outstanding Imprest

The statement of assets and liabilities and as disclosed in Note 14 to the financial statements reflects Nil outstanding Imprest and advances. However, review of the Imprest register and payments details revealed that sampled vouchers had outstanding imprest balances of Kshs.4,644,000. The Imprests have been outstanding for a long period contrary to Regulation 93(5) of Public Finance Management (County Governments) Regulations, 2015 which requires the amount to be surrendered within seven (7) working days after returning to duty station.

Further, Imprest registers provided revealed that officers with imprest amounting to Kshs.7,914,482.00 had been issued imprest for official duty despite having numerous un-surrendered imprests. This was in contravention with Regulation 93(4) and (5) of the Public Finance Management (County Governments) Regulations, 2015. In addition, imprest amounting to Kshs.936,400 was inadequately supported with back to office reports and imprests worth Kshs.16,382,570 had not been recorded in the Imprest Register.

In the circumstances, the regularity, accuracy and completeness of the nil outstanding imprest and advances balance could not be confirmed.

308. Un-Supported Prior Year Adjustments

The statement of assets and liabilities reflects prior year adjustments balance of Kshs.369,359,599 which relates to correction of errors in various bank accounts and as disclosed in Note 17 to the financial statements. However, the supporting journals to the adjustments were not presented for audit review.

In the circumstances, the occurrence and accuracy of the prior year adjustment balance of Kshs.369,359,599 could not be confirmed.

309. Unconfirmed Non-Current Assets Balance

Annex 6, summary of non-current asset register to the financial statements reflects cumulative assets balance of Kshs.16,086,642,885. However, the balance excludes assets inherited from defunct Local Authorities. Further, the County Executive did not

have ownership documents for the inherited assets. In addition, no supporting schedules of the assets additions balance of Kshs.1,387,309,122 including logbooks for motor vehicles were provided for audit review.

Similarly, there were no movements in the work in progress balance of Kshs.476,157,461 during the year under review. This is an indicative of projects which had been commenced in prior years but have not been progressed to completion.

In the circumstances, the existence, ownership, accuracy and completeness of the non-current asset balance of Kshs.16,086,642,885 could not be confirmed.

310. Use of Goods and services

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects an amount of Kshs.1,400,609,381 under use of goods and services. The following unsatisfactory matters were noted;

310.1 Omitted Fuel, Oil and Lubricants Expenses

Included in the use of goods and services is an amount of Kshs.92,164,090 incurred on fuel, oil and lubricants. However, review of recorded transactions revealed that an amount of Kshs.17,000,000 was omitted in the IFMIS general ledger.

310.2 Un-Supported Expenditure

Review of expenditure under use of goods and services revealed that expenditure items totalling Kshs.67,574,700 were not adequately supported by way of relevant documentation.

In the circumstances, the occurrence, accuracy and completeness of the use of goods and services amounting to Kshs.1,400,609,381 could not be confirmed.

311. Misclassified Expenditure

The statement of receipts and payments reflects total payments of Kshs.10,257,046,327. However, review of various expenditure items totalling Kshs.678,896,690 revealed an unexplained misclassifications as detailed below;

Account Charged	Amount (Kshs.)	Appropriate Account to Charge
Transfers to Other Government entities	346,243,213	Use of goods and services
Foreign Travel	4,270,158	Various
Foreign Travel	120,000	Other operating expenses
Foreign Travel	20,000	Domestic travel
Foreign Travel	3,659,938	Compensation of employees
Foreign Travel	470,220	Standing Imprest
Hospitality Supplies	156,102,713	Various
Hospitality Supplies	145,184,725	Domestic Travel and subsistence
Hospitality Supplies	9,627,700	Other operating expenses
Hospitality Supplies	1,290,288	Training expenses

Account Charged	Amount (Kshs.)	Appropriate Account to Charge
Utilities, supplies and services	86,000	Domestic Travel and subsistence
Printing, Advertising and Information Supplies and Services	7,502,935	Domestic Travel and subsistence
Training expenses	4,318,800	Daily subsistence allowances
Total	678,896,690	

In the circumstances, the accuracy, presentation and disclosure of payments amounting to Kshs.678,896,690 could not be confirmed.

312. Non-Adherence to End of Year Cut-off Procedures

Review of the expenditure records for the year under review revealed the following anomalies:

312.1 Transfers to Other Government Entities

The statement of receipts and payments and as disclosed in Note 6 to the financial statements reflects transfers to other Government entities amount of Kshs.1,851,025,447. However, review of the general ledger and cashbook revealed that transfers totalling Kshs.249,162,118 made during the month of July, 2023 were included in the expenditure for the year under review.

312.2 Receipts and Payments Outside the Financial Reporting Period

The statement of receipts and payments reflects total expenditure and receipts amounting to Kshs.10,257,046,327 and Kshs.11,969,212,702, respectively. However, review of the expenditure and receipts schedules presented for audit revealed that payments and receipts totalling Kshs.552,009,938 and Kshs.74,480,848, respectively, related to the month of July, 2023 and therefore outside the reporting period were incorporated into these financial statements.

In the circumstances, the accuracy and completeness of the total expenditure and receipts of Kshs.10,257,046,327 and Kshs.11,969,212,702 respectively could not be confirmed.

313. Un-Authorized Expenditure

The statement of receipts and payments and as disclosed in Note 6 to the financial statements reflects transfers to other Government entities amount of Kshs.1,851,025,447. The amount includes other capital grants and transfers-development amount of Kshs.158,548,800. Review of schedules provided in support of the expenditure reflects payments totalling Kshs.110,189,998 made to the Kenya Revenue Authority (KRA) which had not been budgeted for and therefore was an unauthorized payment.

In the circumstances, the regularity and value for money for the expenditure amounting to Kshs.110,189 could not be confirmed.

314. Irregular Sharing of Revenue

Note 4 to the financial statements reflects use of goods and services expenditure of Kshs.1,400,609,381 which includes an amount of Kshs.375,461,796 incurred on specialized materials and services. However, review of records relating to the expenditure revealed that the County Executive engaged a consultant for the Up-grading of Local Authority Financial and Operational Management System (LAIFOM) at a cost of Kshs.8,000,000 to provide license for a duration of five (5) years at a cost of 1.5% of total revenue collected and Cloud data hosting cost at Kshs.5,000 per month. The clause on revenue sharing was against the provisions of the Public Finance Management Act, 2012. Further, the consultant was paid an amount of Kshs.25,443,315 on 22 May, 2023 being 1.5% of revenue collected during the period. However, no supporting documents by way of payment voucher was provided for audit review.

In addition, during technical evaluation, one of the criteria set required a live demo. However, there is no evidence of the demo having been conducted which is a violation of the evaluation criteria.

In the circumstances, the value for money and regularity of revenue sharing agreement of revenue collection could not be confirmed.

315. Irregular Expenditure -Pending Bills Verification and Audit Taskforce

Note 4 to the financial statements reflects hospitality supplies and services amount of Kshs.94,528,398. Included in the expenditure is an amount of Kshs.14,436,184 paid out in form of taskforce allowances to the Machakos County Executive pending bills verification and audit taskforce vide gazette notice No. 12637 of 6 October, 2022 for a period of one month. Audit Review revealed that the taskforce co-opted a member from the public sector for specialized services. However, there was no gazette notice co-opting the member or an appointment letter provided for audit review. Further, the Committee did not have authority to co-opt a member who did not work for the County Executive and the taskforce was for period of one hundred and twenty (120) days as contrary to the Salaries and Remuneration Commission (SRC) guidelines on duration of taskforces not exceeding twenty (20) days. In addition, Kshs.1,512,000 paid vide voucher no. FIN/354/04/23/R was at a rate of Kshs.12,600 per day for one hundred and twenty (120) days instead of the Kshs.4,000 as set out by the SRC.

In the circumstances, the regularity and value for money for the task force allowances amounting to Kshs.14,436,184 could not be confirmed.

316. Misclassification and Non-Remittance of Pension and other Social Security Scheme Deductions

Included in Note 3 to the financial statements is pension and other social security contributions totalling Kshs.178,624,059. However, schedules provided revealed that an amount of Kshs.100,414,573 comprised of deductions to SACCOs, payment of salaries and deductions for loans. This contravened Section 5(1) of the Pensions Act, 2012 which states that every officer shall have an absolute right to pension and gratuity. The disclosed amount of Kshs.178,624,059 could not be confirmed. In addition, Note 8 to the financial

statements reflects an amount of Kshs.51,394,073 on social security benefits. However, schedules provided for audit revealed that an amount of Kshs.35,500,431 comprised of deductions to SACCOs, welfares, loans to banks and salaries.

In the circumstances, the completeness, accuracy and regularity of the pension and other social security scheme amounting to Kshs.135,915,004 could not be confirmed.

Emphasis of Matter

317. Budgetary Control and Performance

The statement of comparative budget and actual amounts reflects final receipts budget and actual on a comparable basis of Kshs.12,544,591,439 and Kshs.11,969,212,702 respectively resulting to an under-funding of Kshs.575,378,737 or 5% of the budget. Similarly, the County Executive expended Kshs.10,257,046,328 against an approved budget of Kshs.12,544,591,439 resulting to an under-expenditure of Kshs.2,287,545,112 or 18% of the budget.

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

318. Pending Bills

Annex 2- Analysis of pending accounts payable, Annex 3-Analysis of pending staff payables and Annex 4- Analysis of other pending payables to the financial statements reflects pending bills balance of Kshs.2,860,719,440, Kshs.325,505,169 and Kshs.336,875,311, respectively totalling Kshs.3,523,099,920. Management has not explained why the bills were not settled during the year when they occurred.

Further, included in the balance are legal fees and other related costs amounting to Kshs.737,535,345 or (20.9%) for several on-going court cases. Analysis of the legal fees pending bills revealed that a balance of Kshs.30,875,711 was paid during the year and no fresh instructions were issued to the legal firms. However, audited prior year financial statements indicated closing pending legal expenses balances of Kshs.607,769,485. In effect closing pending bills should have been a balance of Kshs.576,893,774 and not a balance of Kshs.737,535,345 reported in the financial statements. No explanation or reconciliation has been provided for the variance.

In the circumstances, the accuracy and completeness of the reported pending bills balance of Kshs.3,523,099,920 could not be confirmed. Further, failure to settle bills during the year in which they relate to adversity affects the budgetary provisions for the subsequent year to which they have to be charged.

My opinion is not modified in respect of these matters.

Other Matter

319. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public

Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, the Management had not resolved the issues or given any explanation for failure to implement the recommendations.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

320. Non-Adherence to Fiscal Responsibility Principle on Development Expenditure

Machakos County Executive expenditure net of transfers to the County Assembly for the year under review amounted to Kshs.9,283,939,085. Out of the total expenditure, an amount of Kshs.1,248,924,387 was expended on development or 13% of the total expenditure. The development expenditure was also equivalent to 12% of the total revenue realized. This was contrary to Section 107 (2)(b) of the Public Finance Management Act, 2012 which caps the development expenditure to 30% of the County Government's budget.

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

321. Failure to Match County Contribution on Donor Funded Projects

Note 6 to the financial statements reflects transfers to other Government entities amount of Kshs.1,851,025,447. Included in the expenditure is an amount of Kshs.69,568,478 and Kshs.24,826,670 relating to transfers to the Climate Change Fund and DANIDA (Universal health in Devolved units) respectively. However, the County transferred an amount of Kshs.58,568,477 as part of County Contribution-Locally Led Funds against the required amount of Kshs.86,822,262. The County Executive therefore underfunded the donor funded projects by an amount of Kshs.28,253,785.

Similarly, review of the Memorandum of Understanding between the Royal Danish Embassy and the Council of Governors, indicated that the Embassy was to remit an amount of Kshs.11,453,750 while the County contributes an amount of Kshs.10,596,250 to fund one hundred and sixty-four (164) primary health care services in level 3 and 2 facilities. The total expected funding for this programme amounted to Kshs.22,050,000. However, although the Embassy transferred its contribution share, the County did not transfer the agreed contribution to these health facilities.

In the circumstances, the County Management was in breach of the memorandum of understanding.

322. Ineligible Pending Bills

322.1 Irregular Supply and Delivery of Materials for Repair and Service of Boreholes

The Department of Water, Irrigation, Sanitation, Environment and Climate Change had accumulated pending bills and unpaid obligations totalling Kshs.177,429,480. Included in this amount is a pending bill relating to tender for the supply and delivery of materials for

the repair and service of a borehole that had been outstanding since 2021/2022 financial year. Review of the contract file revealed that the procurement exceeded its budget of Kshs.5,000,000 as per approved user requisition of Kshs.4,500,000 as the invoiced amount was Kshs.9,500,000. In addition, the quoted amount was not read out and recorded at tender opening and evaluation and therefore the lowest evaluated bidder could not be confirmed.

Further, the contract did not indicate the quoted price hence the possibility of overcharging and it also lacked contract period.

In the circumstances, the value for money and regularity of the invoiced amount of Kshs.9,500,000 could not be confirmed.

322.2 Irregular Supply and Delivery of Water Meters

Included in the pending bills is a contract for the supply and delivery of water meters amount of Kshs.3,881,900 of 30 June, 2015. However, the approved budget and procurement plan for the tender were not provided for audit review. Therefore, the procurement method applied in identifying and awarding the tender could not be ascertained.

In addition, the contract was signed on 8 July, 2015. However, at the time of signing, the supplier, had not accepted the award. The contract signed was open ended and lacked timeline of when the goods should be supplied. Further, the project appears in the list of pending bills due to lack of funds, though the Management had explained the bill has remained unpaid since it was ineligible for payment.

In the circumstances, the value for money and regularity of the pending bills could not be confirmed.

323. Unsatisfactory Matters in Procurement Process

Review of procurement records revealed areas of non-compliance with the provisions of the Public Procurement and Assets Disposals Act, 2015 for sampled twelve (12) projects with a contract sum totalling Kshs.84,766,835.

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

324. Irregularities in the Human Resource Management

324.1 Non-Compliance with Fiscal Responsibility Principle on Employees Compensation

The statement of receipts and payments reflects compensation of employees cost of Kshs.5,566,708,303 representing 46.5% of total revenue collected of Kshs.11,969,212,702. The expenditure exceeded the threshold of 35% as prescribed under Regulation 25(1)(a) and (b) of the Public Finance Management (County Governments) Regulation, 2015.

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

324.2 Non-Compliance with One Third Basic Salary Pay Rule

Review and analysis of the payroll records revealed that fifty-five (55) employees of the County Executive earned net pay that was below a third of their basic pay contrary to the provision of Section 19 (3) of the Employment Act, 2007 which requires that an employee's salary should not be deducted beyond two thirds of the basic salary.

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

324.3 Non-Conformity with Law on Recruitment of Persons with Disabilities

During the year under review, the County Executive recruited a total of one hundred and sixty-eight (168) employees, out of which only one (1) person with disability was recruited, which translates to 0.6%. This was contrary to Section B.23 (2) of the Human Resource Policies and Procedures Manual for the Public Service, 2016 on Rights and Privileges of Persons with Disabilities which requires the Government to implement the principle that at least five (5) percent of all appointments are for persons with disabilities.

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

324.4 Failure to Remit Statutory Deductions

Annex 3 to the financial statements and as disclosed in Note 20 (2) reflects Other Important Disclosures analysis of pending staff payables of Kshs.325,505,170 comprising dues to LAPFUND of Kshs.12,007,458, CPF Financial Services of Kshs.265,563,647, NHIF of Kshs.22,990,280 and personal claims of Kshs.24,943,787. This was in contravention of Section 27(1) of the National Social Security Act of 2013 and Section 18(1) of the NHIF Fund of 1998.

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

324.5 Irregular Promotions

During the year under review, several staff were promoted. However, review of personal files revealed that some promotions were effected but some staff lacked academic and professional qualifications for the higher post and in general there was no approved establishment or structures and approved career progression guidelines.

In addition, several staff members had designation in the IPPD pay slip which differed with their actual designation as per their current appointment letters. Further, it was established that some staff had designations which do not exist in scheme of service or job groups grading structure by the Salaries and Remuneration Commission.

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

324.6 Non-Authentication of Academic and Professional Certificates

Review of sampled personnel files revealed that some staff academic and professional certificates were not authenticated with Kenya National Qualification Authority (KNQA).

In the circumstances, the regularity of academic and professional certificates held by staff members could not be confirmed.

325. Lack of Training Needs Assessment

Note 4 to the financial statements reflects use of goods and services amount of Kshs.1,400,609,381 which includes an amount of Kshs.33,680,975 on training expenses. However, training expenses incurred were not based on a training needs assessment plan. The criteria of selection of personnel to attend various trainings could not be established, training bonding of employees may not have been adhered to and trainings may have been attended but without much value for money being realised.

In the circumstances, value for money for the training expenses could not be confirmed.

326. Failure to Submit Financial Statements for Municipalities

Review of records indicated that the Governor granted special municipality status to three (3) urban areas namely Machakos, Mavoko and Kangundo. However, no financial statements, books and records of accounts for the financial years 2018/2019, 2019/2020, 2020/2021, 2021/2022 and 2022/2023 have been submitted for audit. This was contrary to Section 46(1) and (2) of the Urban Areas and Cities Act, 2011 which requires that the Board shall keep proper books and records of its incomes, expenditure, assets and liabilities and within a period of three months after the end of each financial year submit them to the County Executive Committee Member for onward transmission to the Auditor General together with the statement of assets and liabilities.

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

327. Stalled Projects

327.1 Construction of Community Recreation Centre

Review of pending bills paid in the year under review, revealed that County Executive Management awarded a tender on 1 March, 2018 for the construction of Community Recreation Centre. However, the agreement dated 1 March, 2018 had not been signed by the Contractor and did not have a contract end date, which may imply that it was an open-ended contract with risk of extending indefinitely. Further, an advance payment of Kshs.5,543,574 was made which was not in the agreement.

Further, a sub-contractor was engaged on 01 November, 2019 to complete the remaining works within five (5) months. Management wrote a default notice to the contractor on 17 July, 2018 and a follow up on 6 November, 2019 but still paid the firm an amount of Kshs.8,115,944 on 17 December, 2020. The Management approved further extension requests on 18 April, 2022 extending the project completion to 16 October, 2022. Review of the project in the month of August, 2023 revealed that the project had not been completed. It was unclear why the contractor had not completed the project five (5) years later and why the Department did not do effective monitoring and evaluation on the project implementation.

327.2 Design and Build of 12-15 Storey Thin and Tall Building

The County Executive entered into a contract for the proposed design and build of 12-15 storey thin and tall building of 20mx20m and above with two entrances comprising of 2 elevators or more, washrooms at every floor with an art piece and heavy glass. The agreement was signed on 1 March, 2018 at a contract sum of Kshs.399,640,361. Review of contract documents revealed that the total value of certified works to-date was Kshs.230,335,885 and interim certificate number. 7 of Kshs.19,794,908 was paid on 10 May, 2023. However, it was observed that the contract had no contract duration, opening minutes, tender evaluation report, and professional opinion were all not provided for audit review. In addition, individual evaluators score sheet had no names nor adequate budget to complete the project. The project remained incomplete as at the time of the audit in September, 2023.

In the circumstances, the public may not realize value for money on the project.

328. Non-Compliance with Law on Ethnic Composition

The County Public Service Board employed one hundred and seventy-six (176) new staff out of which one hundred and seventy (170) or 96% were from the local dominant community. This was contrary to Section 65(1)(e) of the County Governments Act, 2012 which states 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.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

329. Failure to Update Personal Files

During the financial year under review, Machakos County Executive recruited a total of one hundred and sixty-eight (168) employees. However, sampled personal files lacked academic and professional certificates and curriculum vitae.

In the circumstances, the effectiveness of the recruitment process and the competency of the new recruited staff could not be ascertained.

330. Use of a Manual Payroll

The County Executive operates two payroll systems namely; a manual (Excel format) and the Integrated Personnel and Payroll Database (IPPD) system. In the year under review, the County Executive processed salaries totalling Kshs.108,001,719 through the manual payroll system which is prone to errors and manipulation,

In the circumstances, the effectiveness of controls over payroll management could not be confirmed.

331. Lack of Audit Committee

During the year under review, there was no audit committee in place. It is unclear when the tenure of the previous committee came to an end and the Management has not provided an explanation on why the audit committee is had not been constituted. Further, several internal audit reports had been done in the year under review but in the absence of an audit committee, the reports could not be discussed and recommendations made.

In the circumstances, the existence of controls for effective implementation and follow-up of audit reports could not be confirmed.

COUNTY EXECUTIVE OF MAKUENI - NO.17

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

332. Variances Between Financial Statement and IFMIS Payment Details Amounts

Review of the financial statements and the Integrated Financial Management Information System (IFMIS) payment details revealed differences in amounts for the items noted below;

Item	Financial Statements Amount (Kshs.)	IFMIS Payment Details Amount (Kshs.)	Difference (Kshs.)
Compensation of Employees	4,051,904,618	3,997,102,235	54,802,383
Use of Goods and Services	2,758,770,249	2,532,405,337	226,364,912
Transfer to other Government Units	65,466,787	64,781,330	685,457
Other Grants and Transfers	62,879,052	63,719,224	(840,172)
Acquisition of Assets	1,519,565,700	1,027,421,338	492,144,362

In the circumstances, the accuracy and completeness of the respective financial statements amounts could not be confirmed.

333. Overstatement of Receipts and Payments Amounts

The statement of receipts and payments reflects total receipts and payments amounting to Kshs.8,278,384,792 and Kshs.8,458,686,406 respectively. Review of the receipts and expenditure schedules, however revealed that receipts and payments totalling Kshs.1,277,228,150 and Kshs.367,524,013.40 respectively relating to the month of July, 2023 had been included instead of being accounted for in the financial year 2023/2024.

In the circumstances, the total receipts and payments for the year are overstated.

334. Misstated Emergency Relief and Refugee Assistance Amount

The statement of receipts and payments reflects other grants and transfers amounting to Kshs.62,879,052. Included in the amount is emergency relief and refugee assistance amount of Kshs.38,149,538 as disclosed in Note 7 to the financial statements. Review of bank statements however, revealed that Kshs.47,232,938 was transferred from the County Executive of Makueni to the County Emergency Fund, resulting in an unexplained and unreconciled variance of Kshs.9,083,400.

In the circumstances, the accuracy and completeness of emergency relief and refugee assistance amount of Kshs.38,149,538 could not be confirmed.

335. Transfers Amount Accounted for by the County Executive

The statement of receipts and payments and Note 6 to the financial statements reflect transfers to other government entities of Kshs.65,466,787. Review of cash books, expenditure schedules and payment vouchers revealed that the amount relate to payments made by the County Executive on behalf of Wote Municipality and Makueni Sand Conservation Authority. The amount should have been transferred to the two entities and accounted for separately.

In the circumstances, funds totalling Kshs.65,466,787 were irregularly accounted for by the County Executive.

336. Un Authorized Reallocation of Funds to Construction and Civil Works

The statement of receipts and payments reflects acquisition of assets amount of Kshs.1,519,565,700. Included in the amount is construction and civil works expenditure of Kshs.1,203,985,186 as disclosed in Note 9 to the financial statements. Review of the expenditure schedules revealed that payments totalling Kshs.41,977,782 were irregularly charged to construction and civil works instead of being reported under transfers to other government entities.

In the circumstances, the accuracy and completeness of construction and civil works amounting to of Kshs.1,203,985,186 could not be confirmed.

337. Un-Authorized Re-Allocation of Development Funds to Recurrent Vote

The statement of receipts and payments reflects acquisition of assets amount of Kshs.1,519,565,700. Included in the amount is expenditure of Kshs.129,249,481 on account of purchase of certified seeds, breeding stock and live animals as disclosed in Note 9 to the financial statements. The expenditure includes staff allowances paid and fuel expenses of Kshs.4,712,560 and Kshs.1,290,127 respectively totalling Kshs.6,002,687. The amount was irregularly charged to development vote instead of recurrent vote under the daily subsistence allowance and fuel, oil and lubricants items respectively.

In the circumstances, the purchase of certified seeds, breeding stock and live animals amounting to Kshs.129,249,481 is misstated.

338. Un-Authorized Re-Allocation of Funds to other Operating Expenses

The statement of receipts and payments reflects use of goods and services amount of Kshs.2,758,770,249. Included in the amount is expenditure on other operating expenses of Kshs.1,707,104,760 as disclosed in Note 4 to the financial statements. The expenditure on other operating expenses includes transfer of grants and payments for various projects totalling Kshs.1,465,639,987 as per the expenditure schedules reviewed. The transfer to other entities amount was irregularly expensed under other operating expenses.

In the circumstances, the accuracy and completeness of other operating expenditures amounting to Kshs.1,707,104,760 could not be confirmed.

Emphasis of Matter

339. Budgetary Control and Performance

The statement of comparison of budget and actual amounts (recurrent and development combined) reflects final receipts budget and actual amounts on a comparable basis of Kshs.9,808,966,758 and Kshs.8,739,955,374 respectively resulting to an under-funding of Kshs.1,069,011,385 or 11% of the budget. Similarly, the County Executive spent Kshs.8,458,686,406 against an approved budget of Kshs.9,808,966,758 resulting to an under-expenditure of Kshs.1,350,280,352 or 14% of the budget.

The under-funding and under-expenditure affected implementation of the planned activities and programs and may have impacted negatively on service delivery to the public.

340. Pending Bills

Note 1 to the financial statements under Other Important Disclosures reflects pending accounts payable of Kshs.293,235,951. Review of the analysis of pending accounts payable at Annex 2 revealed bills that had been outstanding for more than one year amounting to Kshs.31,008,914. This is indicative of the County Government's failure to settle the pending bills as a first charge to the budget contrary to the requirement of Regulation 41 of the Public Finance Management (County Governments) Regulations, 2015.

Further, included in the pending bills amount were pending bills from supply of services amounting to Kshs.266,360,341. Scrutiny of the supporting documentation revealed the following anomalies;

340.1 Tax Payable to Kenya Revenue Authority

Included in the balance is amount owed to Kenya Revenue Authority of Kshs.60,695,211. However, the Kenya Revenue Authority ledger indicates amount owed by the County Government of Makueni as Kshs.81,038,126 comprising of principal, accrued penalty and interest of Kshs.60,695,211, Kshs.3,034,761 and Kshs.17,308,155 respectively. As a result, the pending bills are understated by the accrued penalty and interest totalling Kshs.20,342,915.

340.2 Pending Bills to CPF Financial Services

Further, the pending bills includes a balance owing to CPF Financial Services (Local Authorities Pension Trust) of Kshs.35,147,257, being pre-devolution pension liability of Kshs.14,739,759 and post-devolution pension liability of Kshs.20,407,498. As a result, the pension liabilities had accrued interest amounting to Kshs.19,007,351 as at 30 June, 2023.

In the circumstances, the County Executive has incurred losses on interest charged and penalties which is avoidable expenditure.

My opinion is not modified in respect of these matters.

Other Matter

341. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, Management has not resolved the issues or given any explanation for failure to adhere to the provisions of the standards prescribed by the Public Sector Accounting Standards Board template.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

342. Irregular Contributions to Council of Governors

The statement of receipts and payments reflects use of goods and services amounting to Kshs.2,758,770,249. Included in the amount is expenditure on other operating expenses of Kshs.1,707,104,760 as disclosed in Note 4 to the financial statements. The expenditure on other operating expenses includes expenditure on intergovernmental contributions to the Council of Governors of Kshs.4,000,000, contrary to Section 37 of Intergovernmental Relations Act, 2012, which states that the operational expenses in respect of the structures and institutions established in this Act shall be provided for in the annual estimates of the revenue and expenditure of the National Government.

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

343. Irregular Expenditure on Members of County Assembly (MCAs)

Note 9 to the financial statements discloses construction and civil works expenditure of Kshs.1,203,985,186. Review of schedules provided in support of the expenditure revealed payments totalling Kshs.751,700 for allowances paid to Members of the County Assembly. The allowances were paid during County sensitization meeting on draft for Emali-Sultan Hamud Municipal Charter which took place at a Hotel in Nairobi. The payment of allowances to the Members of County Assembly was irregular, as the Assembly had its own budget for such activities.

In the circumstances, the propriety and value for money on the expenditure of Kshs.751,700 could not be confirmed.

344. Discriminatory Insurance Medical Cover

The County Executive made payments amounting to Kshs.100,000,000 and Kshs.98,999,999 for provision of comprehensive medical cover vide payment vouchers No.129411 of 03 February, 2023 and No.129819 of 17 February, 2023 respectively.

Review of contract documents revealed that the tender document under item 15 required commitment letter by bidders to provide uninterrupted cover for in-patient and out-patient, chronic, HIV/AIDS congenital, pre-term, pre-existing, dental, optical conditions, psychiatric, COVID-19 treatments, maternity and caesarean section (CS), for the specific

job groups as stipulated by the Salaries and Remuneration Commission (SRC). The contract however, had a special clause limiting staff members in job group A-J who make up three-quarters of the total staff from accessing services in major hospitals in Kenya making it discriminatory.

In the circumstances, the County Executive's staff did not obtain value for money spent on insurance medical cover.

345. Unexplained Sponsorship of KESSHA Retreat

The statement of receipts and payments reflects use of goods and services amount of Kshs.2,758,770,249 as disclosed in Note 4 to the financial statements. Included in the amount is an expenditure of Kshs.66,288,648 on domestic travel and subsistence which includes Kshs.2,500,000 incurred vide payment voucher No.134750 of Kshs.1,000,000 dated 29 April, 2023 and payment voucher No.134751 of Kshs.1,500,000 dated 29 April, 2023. The payments were made to a hotel in Mombasa for provision of hotel services to Kenya Secondary Schools Heads Association (KESSHA) Makueni Sub County members. The services were provided during retreat for Principals on 4 March, 2023 and Deputy Principals on 2 July, 2022. However, the activities funded by the County are National Government functions. This was contrary to Article 186(1) of the Constitution which provides that except as otherwise provided by this Constitution the functions and powers of the National Government and the County Governments, respectively, are as set out in the Fourth Schedule.

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

346. Violation of Fiscal Policy on Payment of Wages and Benefits

The statement of receipts and payments reflects total receipts of Kshs.8,278,384,792. The statement further reflects expenditure on wages and benefits of Kshs.4,051,904,618 which is approximately 49% of the total revenue. The expenditure exceeds the recommended threshold of 35% stipulated in Regulation 25(1)(b) of the Public Finance Management (County Governments) Regulations 2015.

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

347. Delays in Transfer of Own Source Revenue

Review of the own source revenue records revealed that there were delays in transferring revenue from the collection accounts to the County Revenue Fund Account. Further, the following irregularities were noted on transfer of funds from the revenue collection account to the County Revenue Fund Account.

- i. Transfer of Kshs.3,754,423 was done on 08 August, 2022 with the next transfer of Kshs.10,116,019 being done on 23 August, 2022, ten (10) working days after the preceding transfer.
- ii. Transfer of Kshs.3,076,115 was done on 17 October, 2022 with the next transfer of Kshs.24,122,763 being done on 01 November, 2022, nine (9) working days after the preceding transfer.

iii. Transfer of Kshs.4,080,300 was done on 22 November, 2022 with the next transfer of Kshs.7,693,500 being done on 06 December, 2022, nine (9) working days after preceding transfer.

This was contrary to Regulation 81(2) of the Public Finance Management (County Governments) Regulations, 2015 which requires that, the receivers of revenue shall promptly pay the revenue received into the County Revenue Fund, as soon as possible and in any case not later than five (5) working days after receipt thereof.

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

348. Failure to Comply with Staff Ethnic Composition Threshold

Review of recruitment and appointment records for the financial year under review indicates that out of the one hundred and forty-two (142) employees recruited, one hundred and twenty-seven (127) or 89.4% of the appointments were from the dominant ethnic community contrary to Section 65(1) (e) of the County Governments Act, 2012 which requires 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 positions 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.

349. Violation of One Third Basic Pay Rule

Analysis of the payroll records revealed that a total of sixty-seven (67) employees earned a net pay below a third of their basic pay during the month of June, 2023 contrary to Section 19 (3) of the Employment Act, 2007 which requires that an employee's salary should not be deducted beyond two thirds of the basic salary.

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

350. Failure to Meet Threshold on Recruitment of Persons with Disabilities

During the financial year under review, the County Executive recruited a total of one hundred and forty-two (142) employees, out of which only one person with disability was hired, which translates to 0.7% contrary to Section B.23 (2) of the Human Resource Policies and Procedures Manual for the Public Service, 2016 on Rights and Privileges of Persons with Disabilities, which requires at least five (5) percent of all appointments are for persons with disabilities.

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

351. Lack of Value for Money in Expenditure on Projects

351.1 Renovation Works at Nzeeni Institute

The County Executive through the Department of ICT, Education and Internship, awarded a contract for the renovation, alteration, electrical installation and external works at Nzeeni

CTTI vide contact number. 1008046 at a contract sum of Kshs.3,886,680 which was paid on 02 May, 2023. Further, Management awarded a contract for the supply and delivery of tools, equipment and training materials to the same institute vide contract number 1007137 at a contract sum of 1,543,500 and the same paid on 30 March, 2023. However, physical verification carried out on 22 August, 2023 revealed the following anomalies;

- a) The institute funded was not in operation and had been abandoned as no students had been admitted.
- b) Poor workmanship was noted on the renovations with huge cracks on walls and some electrical materials had been vandalized.
- c) The tools, equipment and electrical materials were stored in another institution with Management of the County citing insecurity at the institute.
- d) An inspection carried out at the institute where the equipment were kept revealed that there was no record maintained and the equipment were mixed with those of other institutes.
- e) Access to the store was also not controlled and this could lead to loss of equipment.

351.2 Construction of Market Sheds

The County Executive through the Department of Trade, Marketing, Industry, Culture and Tourism awarded a contract for the construction of market sheds at Emali market vide contact No.856222/2020/2021 at a contract sum of Kshs.6,851,272 on 6 April, 2021. Physical inspection done on 23 October, 2023 revealed that the project was complete but not in use. Management has not demonstrated any efforts to operationalize the project. Further, the following anomalies were noted.

- a. Roller shutter door on one of the stalls had detached from the wall.
- b. Red oxide applied on the floor had faded.
- c. Poor workmanship on floor finishing and cracks was noted.

351.3 Construction of Makueni Fresh Produce Market

Management through the Department of Finance awarded a contract for the construction of the Makueni fresh produce wholesale market at Emali Town vide contract No.948610-2021/2022 dated 7 June, 2022 at a contract sum of Kshs.172,885,038. The contract period was thirty (30) days from the date of signing the contract. Project inspection on 22 August, 2023 revealed the following anomalies;

- a. The project was complete but not in use.
- b. There was no power supply at the market.
- c. There were cracked and faded terrazzo floors at the wholesale stalls
- d. There were cracks on the walls, poor plastering and paintwork at the retail stalls.
- e. The floor at the retail stalls was chipped and was generally poorly done.
- f. The sockets at the retail stalls were poorly fitted.
- g. The floors at the market shades were chipped and faded.

- h. The taps at the ladies toilets were loosely fitted and one was broken.
- i. The walls at the Administration block and Revenue offices were poorly plastered.
- j. There were loosely fitted taps in the toilets in the Administration block and Revenue offices.

351.4 Construction of a Dormitory at Makueni PWD Centre

Review of procurement documents at the Department of ICT, Education and Internship revealed that a contract for the construction of a boy's dormitory at Makueni PWD Centre was awarded to a contractor through contract number 1216126-2022/2023 dated 6 April, 2023 at a contract sum of Kshs.4,658,753. The contract was to be completed in three (3) months, from 06 July, 2023. The first payment of Kshs.2,067,715.60 was made on 30 June, 2023 vide voucher number 10640890. However, physical inspection of the project done on 25 August, 2023 revealed that the project had stalled, and the contractor was not on site. As per the bill of quantities, windows, rainwater goods, ceiling, painting, doors, floor finishes and wall finishes had not been completed.

In the circumstances, value for money spent on these projects may not have been realized by the public.

352. Non-Operationalization of Wote and Emali–Sultan Hamud Municipalities

Review of County records and documents revealed that the Governor granted municipality status to two (2) urban areas namely Wote and Emali–Sultan Hamud Municipalities in 2018 and November 2022, respectively. The Board of Management for Wote Municipality was appointed through letter Ref. GMC/GVN/LND/1/4 dated 30 November, 2018. The Wote Municipality Management has however, not submitted financial statements and books of accounts for the financial years ended 30 June, 2019, 2020, 2021, 2022 and 2023 for audit review. The Emali–Sultan Hamud Municipality Management has also not submitted financial statements and books of accounts for the financial year ended 30 June, 2023 for audit review.

In addition, the two municipalities have not been operationalized and the functions are still performed by the respective County departments contrary to Section 46(1) of the Urban Areas and Cities Act, 2011 which requires that the Board keep proper books and records of its income, expenditure, assets and liabilities.

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

353. Anomalies in the Implementation of E-procurement System

As previously reported, review of the procurement processes of the County Executive revealed that e-procurement system (Oracle) was in place but not fully implemented during the year under review contrary to Regulations 52 of the Public Procurement and Assets Disposal Regulations, 2020. Further manual procurement processes were performed without the necessary approval.

Included in the sampled payments is an amount of Kshs.30,160,000 paid to a firm for the supply, implementation and commissioning of a Revenue Management and

Administration System vide a contract No. GMC/F/T/006/2016/2017 dated 19 January, 2017. The procurement process used to award the tender to the supplier was manual.

In addition, a sample of selected payments totalling Kshs.44,156,472 made under the Office of the Governor procured through e-procurement revealed the following anomalies.

- i. The procurement plan was not prepared through the e-procurement system.
- ii. The participating bidders were not invited for tender opening as the system does not allow bidders to participate in opening tenders.
- iii. The system combines both the tender opening and tender evaluation processes, and the Accounting Officer appoints only one committee to handle both functions.
- iv. Management did not have digital signature certificates for accounting officer, head of procurement and opening and evaluation committee members.

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

REPORT ON THE EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

354. Use of a Manual Payroll

Review of payroll documents revealed that the County Executive operates two payroll systems, a manual (Excel format) payroll system and the Integrated Personnel and Payroll Database (IPPD) system. In the year under review, emoluments totalling Kshs.268,226,681 were processed through the manual payroll system which requires manual calculations for both allowances and deductions to arrive at a net monthly pay.

The manual updates of the payroll data make the process prone to human error and manipulation and the internal controls system are weak.

355. Poor Management of Temporary Imprest

Review of temporary imprests expenditure, imprests processing, controls, issuance and accounting for the same revealed that amounts totalling Kshs.246,196,439 were transferred from the County Executive recurrent bank account to Sub County Imprest bank accounts for imprests issuance. The amount was then transferred to staff accounts for further disbursement to other staff members and non-staff members for various activities in the County.

Management did not use the imprests issuance and accountability process where imprests warrant is raised, amount recorded in the imprests register and amount accounted for through surrender voucher and supporting documents. The amount

transferred to Sub-County imprests account was expensed directly before assignment was undertaken.

In the circumstances, the effectiveness of imprests management could not be confirmed.

356. Weaknesses of Payment of Casual Wages

The Department of Trade, Marketing, Industry, Culture and Tourism incurred an expenditure of Kshs.9,278,520 on payment of casuals for cleaning various markets within the County. However, review of supporting documents revealed that the payments were made through imprest (Makueni County Market Cleaning Imprest Account), and were not supported with the following requirements;

- a) The prescribed rate on remuneration of casuals.
- b) Terms of engagement of casuals.
- c) Signed payment schedules.
- d) Schedules to the bank for payment of casuals.
- e) Bank statements indicating details of wages drawn by casuals.

In the circumstances, payments to casual employees may be abused in the absence of necessary supportive documents.

COUNTY EXECUTIVE OF NYANDARUA - NO.18

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

357. Payments After the Financial Year End

The statement of receipts and payments and Note 4 to the financial statements reflects Kshs.1,410,802,077 in respect of use of goods and services, out of which, Kshs.495,596,700 was incurred after 30 June, 2023. Further, Note 9 to the financial statements reflects acquisition of assets amounting to Kshs.1,425,895,785, out of which Kshs.465,054,601 was paid after 30 June, 2023.

The expenditure incurred after 30 June, 2023 totalling Kshs.960,651,301 was backdated in the records of the County Executive as incurred on 30 June, 2023. This was contrary to Regulation 97(1) of the Public Finance Management (County Governments) Regulations, 2015 which states that the accounts of the County Government entities shall record transactions which take place during a financial year running from the 1 July of the preceding year to 30 June, of the following year.

In the circumstances, the accuracy and completeness of the statement of receipts and payments could not be confirmed.

358. Payment of Salary Outside Integrated Personnel and Payroll Database (IPPD)

The statement of receipts and payments and Note 3 to the financial statements reflects Kshs.2,234,077,783 in respect of compensation of employees. Review of salary records revealed that the expenditure included wages totalling Kshs.183,628,389 which was paid through a manual payroll system. A manual payroll is prone to errors and other forms of misstatement.

In the circumstances, accuracy and propriety of personnel emoluments totalling Kshs.183,628,389 could not be confirmed.

359. Misclassification of Expenditure in Transfers to Other Government Entities

The statement of receipts and payments and Note 7 to the financial statements reflects other grants and transfers amounting Kshs.675,869,405. However, included in this amount are payments amounting to Kshs.102,428,905 made to suppliers and individuals but charged to transfers to other Government entities.

In the circumstances, the accuracy of the transfers to other Government entities amounting to Kshs.675,869,405 could not be confirmed.

Emphasis of Matter

360. Assets and Liabilities Inherited from the Defunct Local Authority

As reported in the previous year, the County Executive inherited assets and liabilities including land and buildings from the defunct County Council of Nyandarua. However, the assets are yet to be incorporated into the County fixed assets, as they were not formally handed over by the defunct Transition Authority and did not have their respective values.

361. Pending Bills

The financial statements under other important disclosures 1 reflects pending accounts payables totalling Kshs.1,121,910,741 which includes additional pending accounts payables amount of Kshs.295,383,701 in the year under review.

Failure to settle bills during the year to which they relate adversely affects service delivery for the subsequent year since pending bills forms first charge in the budget for the subsequent year.

My opinion is not modified in respect of these matters.

Other Matter

362. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, the Management did not resolve all the issues or provide any explanation for failure to resolve the issues.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

363. Non-Compliance with the Law on Ethnic Composition

Review of records provided revealed that the County Executive had two thousand three hundred and seventy-three (2,373) employees. However, two thousand two hundred and sixty-four (2,264) members of staff or 95% were from one dominant ethnic community. This was contrary to Section 7(2) of the National Cohesion and Integration Act, 2008 which states that no public establishment shall have more than one third of its staff from the same ethnic community.

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

364. Non-Compliance with Law on Fiscal Responsibility on Wage Bill

The statement of receipts and payments reflects compensation of employees amounting to Kshs.2,234,077,983 representing thirty-nine (39%) of the total revenue of the County Executive total revenue amounting to Kshs.5,759,503,946. This was contrary to Regulation 25(1)(b) of the Public Finance Management (County Governments) Regulations, 2015 which provides that the county government's expenditure on wages and benefits for its public officers shall not exceed 35% of the County Government's total revenue.

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

365. Excess Budgetary Allocation to the County Assembly

Review of the County budget revealed that during the year under review Kshs.911,747,686 was allocated to the County Assembly of Nyandarua. This allocation was equivalent to 12% of the total County Revenue budget for the year amounting to Kshs.7,582,066,351. This was contrary to Regulation 25(1)(f) of the Public Finance Management (County Governments) Regulations, 2015 which provides that the approved expenditures of a County Assembly shall not exceed seven per cent (7%) of the total revenues of the County Government or twice the personnel emoluments of that County Assembly, whichever is lower.

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

366. Projects Implementation and Completion Status

Review of sampled projects records, status reports and projects inspection revealed the following:

366.1 Unutilized Hospital Equipment

Note 7 to the financial statements reflects other grants and transfers amounting to Kshs.675,869,405, which includes other grants amount of Kshs.307,128,134. The latter includes Kshs.3,500,000 paid for supply of seven (7) oxygen concentrators and Kshs.9,990,000 paid for supply and delivery of an operating theatre equipment for Manunga Health Centre. However, inspection of the equipment carried out in the month of August, 2023 revealed that the medical equipment had not been put to use. Further, an amount of Kshs.5,449,000 was spent on supply and delivery of hospital management information system for J.M County Referral Hospital. The management system required hardware equipment including thirty-two (32) desk top computers, thirty-two (32) power backups of 700AV, three (3) tablets, external hard disk of 2TB, and three (3) laptop computers. However, audit inspection carried out in the month of August, 2023 revealed that ten (10) out of thirty-two (32) desktop computers with a total cost of Kshs.1,150,000 and ten (10) out of thirty-two (32) power backups costing Kshs.95,000 were not in use.

366.2 Issues in Projects Implementation

Note 9 to the financial statements reflects acquisition of assets totalling Kshs.1,425,895,785 out of which various projects with a cost totalling Kshs.63,281,512

were inspected in the month of August, 2023. However, there were unsatisfactory observations made for projects worth Kshs.48,641,524 including projects completed and not put to use, incomplete projects and poor workmanship. Further, review of documents provided for audit revealed that projects costing a total of Kshs.96,308,009 had taken long period to complete compared to the duration indicated in the contract agreements.

In the circumstances, value for money may not have been realized on projects costing Kshs.96,308,009.

366.3 Delayed Construction of Perimeter Wall and Gate for Potato Processing Warehouse

Note 9 to the financial statements reflects acquisition of assets totalling Kshs.1,425,895,785, which includes construction and civil works amounting to Kshs.970,757,667. The latter amount includes a total of Kshs.23,867,918 paid to two (2) contractors for the construction of a perimeter wall and gate for the potato processing warehouse.

The tender for construction of the perimeter wall for potato processing warehouse, phase one was awarded on 12 July, 2021 at a contract sum of Kshs.16,112,945. However, the contract did not specify the scope of coverage in length of the perimeter wall and contract duration, and a total amount of Kshs.13,500,864 had been paid to the contractor. Further, the contract for construction of perimeter wall and gate for potato processing warehouse, phase two was awarded to a contractor at a contract sum of Kshs.13,277,573 with completion date of on or before 13 June, 2022 and an amount of Kshs.10,367,054 had been paid to the contractor. However, physical inspection carried out in November, 2023 revealed that the perimeter wall and the gate were incomplete.

In the circumstances, value for money on the expenditure totalling Kshs.23,867,918 could not be confirmed.

367. Delayed Execution of Consultancy Services

Examination of records revealed that the County Executive entered into a contract for provision of consultancy services for preparation of County Spatial Development Plan at a cost of Kshs.104,593,140 on 24 April, 2017. A total of Kshs.100,663,355 representing 96% of the total cost had been paid to the consultant. However, the final document had not been presented to the County Government for implementation, over six (6) years from the date of the contract. Further, no procurement plan and procurement documents were provided to show how the consultant was identified.

In the circumstances, value for money on the expenditure of Kshs.100,663,355 on consultancy services could not be confirmed.

368. Managed Equipment Service Lease Contract

As reported previously, the County Executive and the Ministry of Health of the National Government signed a Memorandum of Understanding (MOU) for the provision of medical equipment and related services, otherwise referred to as the Managed Equipment

Services (MES) on 10 February, 2015. The medical equipments a Level 4 hospital and a Level 3 facility, on a 7-year lease arrangement.

According to the annual County Allocation of Revenue Act (CARA), in the five years that the MES programme was in operation, the County paid lease rentals amounting to Kshs.619,148,937. It was noted that the lease rental was reflected in the CARA as a Conditional Grant for leasing of medical equipment. However, the amount was not remitted to the County Executive, but retained at the Ministry of Health. Review of records revealed that the basis of the amounts of annual lease rentals could not be determined, and the County Executive did not have a register for recording the delivered MES assets. Further, Lots 3 and 4 of the MES equipment were not supplied despite the fact that the County Executive had constructed two laboratories for the items while the Intensive Care Unit (ICU) equipment which were under Lot 6, reserved for level 5 hospitals had not been provided since the County Executive did not have such facility.

In the circumstances, value for money from the expenditure on Managed Equipment Services (MES) programme could not be confirmed.

369. Irregular Payment to the Council of Governors

During the year under review, the County Executive made payments totalling Kshs.5,000,000 to the Council of Governors. This was contrary to Section 37(b) of the Intergovernmental Relations Act, 2012 which provides that the operational expenses in respect of the Council of Governors should be provided for in the annual estimates of the revenue and expenditure of the National Government.

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

370. Irregular Variation of Contract

Review of procurement records provided for audit revealed that a total of Kshs.9,669,055 was paid to a firm for proposed extension to the existing maternity theatre at J.M. Kariuki County Referral Hospital. The contract agreement and the Bills of Quantities for the project indicate that the project cost was Kshs.8,524,330. However, the contractor did not build and extend the existing maternity block but instead built a ten (10) door Intensive Care Unit (ICU) using the Bills of Quantities and contract agreement for extending the maternity wing, at a cost of Kshs.9,669,055.

However, the variation of the contract was not approved. This was contrary to Section 139(1)(a) of the Public Procurement and Asset Disposal Act, 2015 which provides that an amendment or a variation to a contract resulting from a procurement proceeding is effective only if the variation or amendment has been approved in writing by the respective tender awarding authority within a procuring entity.

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

371. Outstanding Imprest and Advances

Note 14 to the financial statements reflects outstanding imprest and advances totalling Kshs.8,394,530. The outstanding imprest had not been accounted for. This was contrary to the provisions of Regulation 93(5) of the Public Finance Management (County Governments) Regulations, 2015 which states that a holder of a temporary imprest shall account or surrender the imprest within 7 working days after returning to duty station. Further, the analysis of outstanding imprest and advances was not disclosed under Annex 5 of the financial statements as required by the Annual Financial Reporting Template issued by the Public Sector Accounting Standards Board.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

372. Property Plant and Equipment

372.1 Incomplete Details on Valuation and Ownership of Land and Building

Review of records revealed that the County Executive had several buildings and parcels of land. However, details and documentation regarding the land size, values and ownership documents were not provided for audit review. Further, there was no evidence to confirm that the assets were valued and fixed assets had been tagged, acquisition date indicated and valuation.

372.2 Unconfirmed Value of Motor Vehicle

Annex 6 of the financial statements on the summary of non-current assets register includes forty-seven (47) grounded motor vehicles whose value could not be confirmed as at 30 June, 2023.

372.3 Land Ownership Dispute at Agricultural Mechanization Services

As reported in the previous period, the asset register maintained by the Department of Agriculture, Livestock and Fisheries indicated that the Agricultural Mechanization Services (AMS) Department had two parcels of land in Nyahururu Municipality. The two parcels were not registered under the Department and some private companies and individuals had irregularly taken possession of approximately 2.5 acres of the land. Further, an approximate 0.919 hectares consisting of 8 blocks of land had been hived off from one of the parcels and certificates of lease issued.

In addition, an approximated 1.5 acres on the second parcel had been encroached and illegally fenced off by private developers. Copies of certificates of official search presented for audit verification revealed details of six (6) private developers who had encroached into the land while the rest were unknown.

The two parcels of land did not have complete perimeter fence while large sections had not been developed. The County government did not have ownership documents to the parcels of land.

In the circumstances, the effectiveness of the asset management system in place and its ability to safeguard the County assets could not be confirmed.

COUNTY EXECUTIVE OF NYERI - NO.19

REPORT ON THE FINANCIAL STATEMENTS

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

373. Misclassification of Other Grants and Transfers

The statement of receipts and payments reflects other grants and transfers amounting to Kshs.427,252,921 as further disclosed in Note 7 to the financial statements. This amount includes payments totalling Kshs.3,934,800 made to suppliers/individuals who are not Government Agencies.

In the circumstances, the accuracy and completeness of other grants and transfers amounting to Kshs.3,934,800 could not be confirmed.

Emphasis of Matter

374. Pending Bills

Other Important Disclosures Note 1 to the financial statements reflects pending accounts payable totalling Kshs.67,479,256 as further disclosed in Annex 2 to the financial statements which were not settled in the year under review.

Failure to settle bills during the year to which they relate distorts the financial statements for that year and adversely affects the provisions for the subsequent year to which they have to be charged.

My opinion is not modified in respect of this matter.

Other Matter

375. Unresolved Prior Year matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, and Report on Lawfulness and Effectiveness in Use of Public Resources. However, the Management has not resolved the issues or given any explanation for the delay in resolving the issues.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

376. Irregular Expenditure on Compensation of Employees

The statement of receipts and payments reflects compensation of employees amounting to Kshs.3,595,551,694 or 60.8% of the total revenue amounting to Kshs.5,910,923,056.

This was contrary to Regulation 25(1)(b) of the Public Finance Management (County Governments) Regulations, 2015 which states that expenditure on wages and benefits should not exceed thirty-five (35) percent of the County Government total revenue.

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

377. Non-Compliance with Law on Staff Ethnic Composition

Review of personnel records provided revealed that the County Executive had ninety-two (92) per cent of its workforce from the dominant ethnic community. This was contrary to Section 7(2) of the National Cohesion and Integration Act, 2008 which states that no public establishment should have more than one third of its ethnic staff from the same community.

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

378. Delay in Delivery of Consultancy Services

As previously reported, the County Executive of Nyeri procured consultancy services for surveying, registration and titling of eight colonial villages at a cost of Kshs.20,810,400 with effect from 24 March, 2021 to 24 March, 2022. However, no public participation was carried out prior to the engagement of the consultant. This was contrary to Article 201(a) of the constitution of Kenya, 2010 which requires openness and accountability, including public participation in financial matters. Further, the consultant had not handed over the report by November, 2023 or one and half (1½) years after the contract period.

In the circumstances, Management was in breach of the law and value for money could not be confirmed.

379. Unaccounted for Fuel

The statement of receipts and payments reflects use of goods and services amounting to Kshs.914,906,617. The amount includes fuel, oil and lubricants amounting to Kshs.28,685,599 as disclosed in Note 4 to the financial statements. The fuel, oil and lubricants expenditure includes Kshs.3,352,827 paid to a petrol station for supply of fuel. However, the fuel expenditure was not supported with by registers and motor vehicle work tickets. Further, information provided revealed that the petrol station had been closed down before supplying the fuel.

In the circumstances, value for money for the fuel expenditure amounting to Kshs.3,352,827 could not be confirmed.

380. Delayed in Implementation of Development Projects

380.1 Projects not Started

Review of projects implementation status report revealed that five (5) projects from the Department of Transport, Public Works, Infrastructure and Energy, and one from the Office of the Governor with a budget totalling Kshs.61,480,811 and Kshs.16,250,000

respectively had not started. This is an indication of inappropriate project implementation mechanism hence denying the residents the likely benefits and service delivery.

380.2 Project Complete but not in use

Further, twenty-one (21) projects with a contract sum totalling Kshs.99,690,154 were visited for verification in the month of July, 2023. The projects included two boreholes with a contract sum of Kshs.4,626,449 which were complete but had yielded little or no water. Further, three (3) projects with a contract sum of Kshs.14,237,173 had no signage.

In the circumstances, value for money could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

381. Irregularities in Payroll Management

Review of the payroll revealed the following anomalies:

381.1 Irregular Career Progression

Twenty (20) officers skipped job groups in their career progression during the year under review. No justification was provided for the irregular career progression.

381.2 Irregular Payment of Salary Arrears

Sixty-seven (67) officers received salary arrears payments on earnings not in their normal earnings amounting to Kshs.3,210,940. Further, fifty-eight (58) employees were paid arrears more than twice in a financial year.

381.3 Over Payment of Allowances

Two Hundred and fifty (250) employees were overpaid leave allowance totalling Kshs.7,816,697.

In the circumstances, the effectiveness of payroll management could not be confirmed.

COUNTY EXECUTIVE OF KIRINYAGA - NO.20

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

382. Inaccuracies in Pending Accounts Payables

Note 20.1 under other important disclosures to the financial statements reflects pending accounts payables totalling Kshs.801,660,183. However, the analysis of the pending accounts payables as disclosed in Annexure 2 to the financial statements was not postate as required or prescribed by reporting template. Further, review of the pending bills list provided revealed pending bills amount of Kshs.696,509,925, resulting to unreconciled and unexplained variance of Kshs.105,150,258. In addition, pending accounts payables of Kshs.598,345,400 were not supported by local service/purchase order details.

The payables have been outstanding for more than 3 years and Management has continued to accumulate pending bills. 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 circumstance, the accuracy and completeness of the pending accounts payables totalling Kshs.801,660,183 could not be confirmed.

383. Non-Disclosure of Pending Staff Payables

Note 20.2 under other important disclosures to the financial statements reflects Nil pending staff payables. However, review of records revealed that the County Executive owes the Local Authorities Provident Fund (LAP Fund) a total amount of Kshs.33,173,831 being accrued interest for the period from April, 2013 to 15 May, 2021. However, the amount due has also not been disclosed in the financial statements.

In the circumstances, the accuracy and completeness of Kshs.Nil pending staff payables could not be confirmed.

Emphasis of Matter

384. Low Budget Absorption for Scholarship Programme

The statement of receipts and payments reflects other grants and transfers totalling Kshs.155,162,730 which includes scholarships and other educational benefits amounting to Kshs.108,200,000 as disclosed in Note 7 to the financial statements. Review of records revealed that Management operated a scholarship funds program both at the Department of Education and Ward levels.

During the year under review, the Department of Education disbursed bursaries of Kshs.2,650,364 or 30% against the total budgeted amount of Kshs.6,650,000.

In addition, review of records in sixteen (16) Wards with a total allocation of Kshs.82,880,000 in the month of September, 2023 revealed that funds amounting to Kshs.27,399,807 or 33% had not been utilised by the end of the financial year.

The under absorption and low disbursement of funds denied deserving students' critical funds necessary for their continued education.

My opinion is not modified in respect of this matter.

Other Matter

385. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, Management has not resolved the issues or given any explanation for delay in resolving the issues.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

386. Non-Adherence to Fiscal Responsibility Principle on Staff Expenses

The statement of receipts and payments reflects compensation of employees expenditure totalling Kshs.2,626,248,656 as disclosed in Note 3 to the financial statements, which translates to 46% of the County Executive's total receipts amounting to Kshs.5,731,270,125. This was contrary to Regulation 25(1)(b) of the Public Finance Management (County Government) Regulations, 2015, which states that the County Government expenditure on wages and benefits for public officers should not exceed 35% of the County Government total revenue.

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

387. Non-Compliance with the One Third of Basic Salary Rule

Review of payroll revealed that a hundred and twenty-two (122) members of staff were paid net salaries below a third of their basic pay. This was 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 the provisions of any other written law, the total amount of all deductions made by an employer from the wages of his employee at any one time shall not exceed two-thirds of such wages.

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

388. Non-Compliance with Staff Ethnic Diversity

Review of human resource records revealed that the County Executive had two thousand four hundred and forty-eight (2,448) members of staff, out of which two thousand two hundred and fifty-five (2,255) members of staff, translating to 92%, are from the dominant

ethnic community. This was contrary to Section 7(2) of the National Cohesion and Integration Act, which requires that no public establishment shall have more than one third of its staff from the same ethnic community.

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

389. Irregular Payment of Salaries to Staff Engagement in Other Gainful Employment

The statement of receipts and payments reflects compensation of employees totalling Kshs.2,626,248,656 as disclosed in Note 3 to the financial statements. However, review of the payroll revealed that two (2) employees of the Kirinyaga Investment Development Authority were paid an amount totalling Kshs.7,019,730 while at the same time being substantive employees of other state departments and agencies. This was contrary to Article 77(1) of the Constitution of Kenya 2010 which provides that a “full time state officer shall not participate in any other gainful employment.” and Section 26 of the Leadership and Integrity Act, 2012 which states that subject to subsection (2) a state officer who is serving on a full-time basis shall not participate in any other gainful employment.

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

390. Long Outstanding Retention Amount

The statement of assets and liabilities reflects deposits and retentions totalling Kshs.99,311,119 as disclosed in Note 15 to the financial statements. However, analysis of the deposits and retentions amount revealed that an amount of kshs.79,624,695, was long outstanding beyond the retention period of 6 months for defect liability and beyond one (1) year. This was contrary to Section 17 of the Unclaimed Financial Asset Act, 2011 which provides that assets held for the owner by a Court or a Government Department that remains unclaimed by the owner for more than one year after becoming payable or distributable is presumed abandoned. Management did not provide plausible explanation as to why the amounts were still outstanding or measures put in place to have them refunded back to beneficiaries.

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

REPORT ON THE EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

391. Lack of Audit Committee

Review of County Public Service Board minutes dated 29 November, 2018 revealed that the audit committee members were appointed on a three-year term ending 27 November, 2021. There was no evidence provided for audit on appointment of the audit committee after the term of the previous committee lapsed. Management did not establish an Audit Committee as required by Regulation 167(1) of the Public Finance Management (County Governments) Regulations, 2015.

In the absence of an Audit Committee, oversight and follow up on the recommendations of the internal auditors was not effective.

392. Incomplete Assets Register with Unsupported Values

Annex 6-summary of non-current asset register to the financial statements reflects assets historical cost totalling Kshs.5,542,249,358. However, the balance was not supported by valuation documents. In addition, physical verification revealed that the assets were not tagged with identification or serial numbers.

In the circumstance, the effectiveness of the asset management controls at the County Executive could not be confirmed.

393. Lack of a Risk Management Policy

During the year under review, Management did not put in place a Risk Management Policy to guide its risk assessment and formulation of risk mitigation strategies. This was contrary to Regulation 158(1)(a) and (b) of the Public Finance Management Act (County Governments) Regulations, 2015 which requires the Accounting Officer to develop risk management strategies which include fraud prevention mechanism and internal control that builds robust business operations.

In the absence of a risk management policy, it was not possible to confirm whether the internal controls built within the financial and operational systems were functioning as intended.

COUNTY EXECUTIVE OF MURANG'A - NO.21

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

394. Expenditures Incurred After the End of the Financial Year

The statement of receipts and payments reflects payments totalling Kshs.7,522,424,469 out of which, Kshs.779,732,692 was paid after 30 June, 2023. The expenditure was backdated in the records of the County Executive as incurred on 30 June, 2023. This was contrary to Regulation 97(1) of the Public Finance Management (County Governments) Regulations, 2015 which states that the accounts of the County Government entities shall record transactions which take place during a financial year running from the 1 July to 30 June.

In the circumstances, the accuracy and propriety of expenditure amounting to Kshs.779,732,692 could not be confirmed.

395. Variances Between Financial Statements Balances and Integrated Financial Management Information System (IFMIS) Report

The financial statements reflects amounts that differ with the respective amounts reflected in the Integrated Financial Management Information System (IFMIS) as shown below;

Item	Balance as per Financial Statements (Kshs)	Balance as per IFMIS Trial Balance (Kshs)	Variance (Kshs)
Transfers from the CRF	7,558,543,751	189,421,067	7,369,122,684
Compensation of Employees	3,899,279,511	3,966,165,458	(66,885,947)
Use of Goods and Services	1,572,321,614	1,506,681,733	65,639,881
Transfer to Other Government Entities	736,159,980	743,353,568	(7,193,588)
Social Security' Benefits	66,790,654	66,740,654	50,000
Acquisition of Assets	915,272,710	948,828,734	(33,556,024)
Finance Costs, including loan interest	-	96,265,100	(96,265,100)

Item	Balance as per Financial Statements (Kshs)	Balance as per IFMIS Trial Balance (Kshs)	Variance (Kshs)
Other Payments	12,000,000	22,690,316	(10,690,316)
Bank Balances	54,183,954	(11,241,001,677)	11,295,185,631
Cash Balances	-	15,624,045,324	(15,624,045,324)
Outstanding Imprests and Advances	-	(42,997,359)	42,997,359
Deposits and Retentions	-	37,292,895,687	(37,292,895,687)

In the circumstances, the accuracy and completeness of the financial statements amount could not be confirmed.

396. Unsupported Current Grant to Semi-Autonomous Government Agencies

The statement of receipts and payments reflects an amount of Kshs.736,159,980 in respect of transfers to other Government entities as disclosed in Note 6 to the financial statements, which includes an amount of Kshs.129,286,587 in respect to current grant to semi-autonomous Government agencies. However, the current grant to semi-autonomous Government Agencies includes staff imprests totalling Kshs.36,149,872 whose surrender vouchers were not provided for audit and do not qualify as grants and transfers. Further, the balance includes transfers totalling Kshs.36,327,563 to various health facilities, whose expenditure returns were not provided for audit review. In addition, the balance includes Kshs.35,931,282 incurred on procurement of goods and services paid to suppliers and individuals that have been misclassified and do not qualify as transfers.

In the circumstances, the accuracy and completeness of the current grant to semi-autonomous Government Agencies expenditure of Kshs.129,286,587 could not be confirmed.

397. Lack of Proper Description in Expenditure Schedules

The statement of receipts and payments reflects payments amounting to Kshs.7,522,424,469. However, included in the amount is Kshs.1,349,832,081, whose payment schedules reflects general descriptions such as repair of motor vehicles, dairy subsistence allowance and construction of buildings which lack key details on the nature and purpose of the payments, and some did not have any description.

In the circumstances, the propriety, accuracy and completeness of the expenditure amounting to Kshs.1,349,832,081 could not be confirmed.

398. Unsupported Pending Bills

Note 1 and 2 on Other Important Disclosures and Annex 2 and 3 reflects pending bills totalling Kshs.1,137,499,458 comprising of pending accounts payable balance of Kshs.439,165,167 and pending staff payables of Kshs.698,334,291. However, the following anomalies were noted:

- (i) The pending accounts payable balance brought forward of Kshs.661,076,765 varies with the prior audited financial statements balance of Kshs.2,458,413,565 resulting to unexplained and unreconciled variance of Kshs.1,797,336,800.
- (ii) The balance of Kshs.1,137,499,458 differs from the Controller of Budget's annual report as at 30 June, 2023 balance of Kshs.3,650,000,000 resulting in unexplained and unreconciled variance of Kshs.2,512,500,542. It was also noted that Annex 2 to the financial statements does not disclose detailed analysis of individual pending bills as prescribed by the reporting template issued by the Public Sector Accounting Standards Board.
- (iii) Pending bills amounting to Kshs.9,000,000 were paid during the year under review had not been disclosed in the financial statements for the year ended 30 June, 2022.
- (iv) A comparison between the LAPFUND and the Defunct Local Authority balance and demand letter from the Local Authorities Provident Fund (LAPFUND) REF: LAPF/CORR/MRG-CG/DR/VOL 1/16 dated 15 October, 2023 revealed total outstanding balances of Kshs.591,476,679 and Kshs.9,858,261, while the financial statements supporting schedules reflect a balance of Kshs.6,994,978 and a Nil, balance respectively, resulting in unreconciled variances of Kshs.584,481,701 and Kshs.9,858,261 respectively. In addition, review of records/demand letter held at Local Authorities Provident Fund (LAPFUND) reflected an outstanding balance of Kshs.601,334,941, Kshs.148,794,894 and Kshs.452,540,047 in respect of principal, interest and penalties respectively. The interest was charged at a compounded rate of three (3) percent per month. Had the County remitted the respective deductions by the due deadlines from 30 April, 2013 savings of Kshs.452,540,047 would have been made.

In the circumstances, the accuracy, completeness, and existence of pending accounts payable totalling Kshs.1,137,499,458 could not be confirmed.

399. Unsupported Training Expenditure

The statement of receipts and payments reflects use of goods and services amounting to Kshs.1,572,321,614 and as disclosed in Note 4 to the financial statements. Included in this amount is Kshs.40,585,661 in respect of training expenses out of which Kshs.2,383,740 was paid to a firm for a pending bill incurred and invoiced on 24 June, 2014 for a residential training program of seventeen (17) senior County officers on management change, planning, governance and performance management. However, the payment was not supported by notification to the attendees of the trainings, evidence of travel, the training program, signed attendance registers for both trainers and trainees and certificates of participation.

In the circumstances, the accuracy and completeness of the training expenditure amounting to Kshs.2,383,740 could not be confirmed.

400. Unsupported Budget Adjustments

The statement of comparison of budget and actual amounts - recurrent and development combined reflects budget adjustments amounting to Kshs.278,096,353 which was not supported by information on actual expenditure and outstanding liabilities or commitments against the planned activities as at the date of the request for supplementary allocations.

Further, the estimates lacked footnotes explaining the reasons for the variations and the impact or implications for the affected programmes. This was contrary to Regulation 39(6) of the Public Finance Management (County Governments) Regulations, 2015 which provides that the request for supplementary budget shall be presented in a format that facilitates comparison with the original budget and shall contain all the information necessary to enable a decision on the application to be reached.

In addition, the supplementary budget was not supported with a memorandum from the Accounting Officers to the County Treasury explaining the additional funding requests, contrary to Regulation 39(7) of the Public Finance Management (County Governments) Regulations, 2015, which provides that the County Government entity requesting additional funds through a supplementary budget process shall submit a memorandum to the County Treasury, on a date determined by County Treasury.

In the circumstances, the accuracy and completeness of the budget adjustments amount of Kshs.278,096,353 could not be confirmed.

401. Expenditure Charged to Default Cash Account

Review of Integrated Financial Management Information System (IFMIS) payments detail revealed that during the year under review, payments amounting to Kshs.18,394,573 were charged to a default cash account. No satisfactory explanation was provided for the failure to charge the payments to their respective voted expenditure line items.

In the circumstances, the propriety, accuracy and completeness of the expenditure of Kshs.18,394,573 could not be confirmed.

Emphasis of Matter

402. Budgetary Control and Performance

The statement of comparison of budget and actual amounts - recurrent and development combined reflects final receipts budget and actual on comparable basis of Kshs.8,930,204,956 and Kshs.7,558,543,751, respectively resulting to an underfunding of Kshs.1,371,661,205 or 15% of the budget. Similarly, the County Executive spent Kshs.7,522,424,469 against an approved budget of Kshs.8,930,204,956 resulting in under-expenditure of Kshs.1,407,780,487 or 16% of the budget.

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

My opinion is not modified in respect of this matter.

Other Matter

403. Unresolved Prior Year Issues

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, the issues have not been disclosed in the financial statements. Further, management has not resolved the issues nor given any explanation for delay to resolve the issues.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

404. Compensation of Employees

The statement of receipts and payments reflects compensation of employees amounting to Kshs.3,899,279,511 and as disclosed in Note 3 to the financial statements. However, the following unsatisfactory issues were noted:

404.1 Non-Compliance with the Law on Fiscal Responsibility - Wage Bill

The statement of receipts and payments reflects an expenditure of Kshs.3,899,279,511 on compensation of employees representing 52% of the total County revenue amounting to Kshs.7,558,543,751. This was contrary to the provisions of Regulation 25 (i) (b) of the Public Finance Management (County Governments) Regulations, 2015 which provides that the County Government's expenditure on wages and benefits shall not exceed 35% of total County Government's total revenue.

404.2 Non-Compliance with Law on Ethnic Composition

Review of the personnel records revealed that the County Executive had 92% of its workforce from the same/dominant community. This was contrary to Section 7(1)(2) of the National Cohesion and Integration Act, 2008 which states that, no public institution shall have more than one third of its staff establishment from the same ethnic community".

Further, review of staff recruited during the year under review revealed that sixty-five (65) staff out of the total number of seventy-six (76) or 86% of new staff were from one dominant ethnic community. This was contrary to Section 65(1)(e) of the County Governments Act, 2012 which states 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.

404.3 Over payment of House Allowances

Review of the Integrated Personnel and Payroll Database (IPPD) data revealed that the County Executive paid house allowance to various officers over and above the recommended rates amounting to Kshs.39,860,253. This was contrary to SRC circular Ref. No: SRC/TS/MDP/3/1/2(2) dated 11 August, 2015 which provides for the rates upon which house allowances are paid to various officers depending on their cadre.

404.4 Staff in Service after Attaining Mandatory Retirement Age

Review of the payroll revealed that several employees with emoluments totalling Kshs.45,997,001 were still in service beyond the retirement age. This was contrary to Section D.21 Human Resource Policies and Procedures Manual for the Public Service, 2016 which requires that all officers shall retire from the Service on attaining the mandatory retirement age of 60 years, 65 years for persons with disabilities and/or as may be prescribed by the Government from time to time.

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

404.5 Non-Remittance of Non-Statutory Deductions

Note 1 and 2 on Other Important Disclosures and Annex 2 to the financial statements reflects pending staff payables totalling Kshs.698,334,291, which includes staff deductions owed to the Kenya County Governments Workers Union amounting to Kshs.2,787,720 which was not remitted. Information available indicates that the County Executive had been sued by the Union. This was contrary to Section 19(4) of the Employment Act, 2007 which states that employers who deducts an amount from an employee's remuneration shall pay the amount deducted in accordance with the time period and other requirements specified in law, agreement, court order or arbitration.

The non-remittance of pending staff payables deductions amounting to Kshs.2,787,720 may attract penalties and interest from the receiving institution and deny the staff of Murang'a County respective services and benefits.

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

405. Unaccounted for Funds Transfer

Information available indicates that the County Executive opened an account by the name of "Small Traders Empowerment Fund Account" domiciled at a local Bank during financial year 2020/2021. The account was credited with a total Kshs.22,000,000 in two tranches of Kshs.12,000,000 on 12 April, 2021 and Kshs.10,000,000 on 31 January, 2022. Further, another account was opened under the name "Small Traders Empowerment Loan Account", domiciled at the same local bank. Review of records revealed that an amount of Kshs.20,000,000 was transferred from Small Traders Empowerment Fund Account to Small Traders Empowerment Loan Account in two equal instalments of Kshs.10,000,000 each on 27 January, 2022 and 4 February, 2022. Further, as soon as the amount of Kshs.20,000,000 was credited to Small Traders Empowerment Loan Account, the same was immediately transferred to "Loan to Wachuuzi" in two equal instalments of Kshs.10,000,000 on 27 January, 2022 and 4 February, 2022, but records showing how

they were utilized and accounted for were not provided for audit review. As at the time of audit in October, 2023, the Small Traders Empowerment Fund Account and the Small Traders Empowerment Loan Account had a credit balance of Kshs.9,190 and a Nil balance respectively.

In addition, the Fund Management did not prepare and submit the financial statements for audit to account for the funds transferred to loan to Wachuuzi and Small Traders Empowerment Fund accounts. Authority to open and operate the above bank accounts as stipulated under Section 119 of the Public Finance Management Act, 2012 was also not provided for audit review.

In the circumstances, the regularity and completeness of transferred funds of Kshs.21,990,810 could not be confirmed.

406. Irregular Facilitation of Members of Murang'a County Assembly

Review of Murang'a County Executive cashbooks and payment vouchers for the year under review revealed that the County Executive made payments totalling Kshs.19,054,206 to Members of the County Assembly (MCAs) and County Assembly staff as facilitation during joint meetings. However, no satisfactory explanation was provided for meeting the expenditure of the MCAs and County Assembly staff by the County Executive while the County Assembly has its own budget.

In the circumstances, the regularity and value for money on the expenditure of Kshs.19,054,206 could be confirmed.

407. Irregular Expenditure on Designated Departments

Note 4 to the financial statements reflects use of goods and services amounting to Kshs.1,572,321,614, which includes domestic travel and subsistence amounting to Kshs.179,556,062 out of which expenditure amounting to Kshs.8,934,096 was in respect of facilitation and daily subsistence allowances for Mango Subsidy Program. However, it was noted that the program was fully domiciled under the fully operational Murang'a Agricultural Farmers Input Subsidy Fund which had its own budgetary resource.

Further, during the year under review, the County Executive paid a total of Kshs.56,126,672 on behalf of the Municipality of Murang'a which was fully operational and had its own budgetary resource. This was contrary to Regulation 71(4) of the Public Finance Management (County Governments) Regulations, 2015 which provides that a County government entity is not allowed to give another County government entity cash donation to augment the budgetary resources of designated departments.

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

408. Unutilized Fund in Nutritional International Project (NI)

Note 6 to the financial statements reflects transfers to other Government entities amounting to Kshs.736,159,980, which includes an amount of Kshs.61,682,681 transferred to the Nutritional International Project (NI). However, the Programme account had unutilized funds totalling Kshs.25,236,924 as at 30 June, 2023. The Management did not provide explanation for the failure to utilize the funds as required.

Further, several officers were paid subsistence allowances directly to their bank accounts totalling Kshs.25,077,917 without the use of imprest warrants for proper accountability of the funds.

Failure to fully utilize the funds denied the public benefits expected from the Programme.

409. Irregular Commitments for Supply of Goods and Services

Review of procurement records revealed that expenditure commitments/contracts for various supplies of goods and services totalling Kshs.20,233,184 were made after 31 May, 2023 without the written approval of the Accounting Officers. This was contrary to Regulation 50(1) of the Public Finance Management (County Governments) Regulations, 2015 which provides that all commitments for the supply of goods or services shall be done not later than the 31 May each year except with the express approval of the Accounting Officer in writing.

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

410. Lack of Prudence in the Use of Public Funds

During the year under review, the County Executive spent Kshs.7,538,817 on staff subsistence allowances while attending various workshops, training and meetings. However, review of the cashbooks, bank statements and payment vouchers revealed that most of the activities took place at hotels in Nairobi and Mombasa. This was contrary to The National Treasury Circular No. 20/2015 which requires the Accounting Officers to ensure that all workshops and retreats with the majority of participants drawn from one duty station, are held within the precincts of the duty station to curtail expenditures which may pose as intended to earn officers' unjustifiable allowances.

Further, some officers moved from their duty stations to other towns for the purpose of carrying out regular assignments relating to their job description that would ordinarily be done in their offices to save on subsistence allowances and conference facilitation charges.

In the circumstances, public funds amounting to Kshs.7,538,817 were not prudently utilized.

411. Irregularities in Management of Travel Expenses

Note 4 to the financial statements reflects use of goods and services amounting to Kshs.1,572,321,614. Included in this amount are staff imprest payments totalling Kshs.198,205,899 issued to various officers to perform official duties. However, the following weaknesses were noted in the Management of travel expenses:

- i. Officers were paid per diems and travel allowances directly to their bank accounts without the use of imprest warrants. This was contrary to Regulation 93(1) of the Public Finance Management (County Governments) Regulations, 2015 which provides that an imprest shall be issued for a specific purpose, and any payments made from it, shall be only for the purposes specified in the imprest warrant.
- ii. Various activities were undertaken throughout the financial year without prior approvals. It was noted that approvals were done after the activities and journeys

were undertaken. In the circumstances, it is not possible for the Management to curtail journeys that are not objective and strategic to the goals of the County Executive. Good practice require all journeys should be approved by the officer in charge before the activity.

- iii. Regulation 93(5) of the Public Finance Management (County Governments) Regulations, 2015 requires a holder of a temporary imprest to account or surrender the imprest within 7 working days after returning to duty station. However, a review of the surrender documents revealed that officers do surrender jointly and no explanation has been provided why surrenders are not made individually as required.
- iv. Section 6.5.2 of the National Treasury Accounting and Financial Reporting Manual for County Governments requires staff to use an imprest surrender form (F022) for travel and accommodation which shall form the basis of posting the specific expenditure category to the general ledger. However, surrender documents provided for audit were not supported by way of financial order Form 22.
- v. The Management did not maintain individual imprest ledgers, imprest registers and memorandum cash books.
- vi. The County Executive Management failed to operationalize the imprest management in IFMIS.

In the circumstances, it was not possible to confirm whether the payments were regular and whether the County Executive obtained value for money from the expenditure of Kshs.198,205,899.

412. Failure to Prepare and Submit Financial Statements for Level 4 and 5 Hospitals

The County Management did not prepare and submit for audit financial statements for the County Referral hospital and three Sub-County Hospitals as prescribed by the Public Sector Accounting Standards Board (PSASB) and communicated through The National Treasury Circular Ref. No. AG.4/16/3 Vol. II (66) of 06 July 2022. This was contrary to Section 164(1) of the Public Finance Management Act, 2012 which provides that at the end of each financial year, the accounting officer for a County Government entity shall prepare financial statements in respect of the entity in formats to be prescribed by the Accounting Standards Board.

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

413. Excessive Budgetary Allocation to County Assembly

Review of the County Executive's budget revealed that Kshs.977,000,000 was allocated to Murang'a County Assembly. This allocation was equivalent to 10% of the total County Revenue budget for the year amounting to Kshs.9,803,879,956. This was contrary to Regulation 25(1)(f) of the Public Finance Management (County Governments) Regulations, 2015, which provides that the approved expenditures of a County Assembly shall not exceed seven percent (7%) of the total revenues of the County Executive or twice the personnel emoluments of that County Assembly, whichever is lower.

The excess budgetary provisions led to less allocation to the development vote hence denying the public benefit that would have accrued if the money was allocated to projects.

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

414. Project Implementation Status Report

The Murang'a County Executive had an approved development budget totalling Kshs.2,995,382,567. Included in the balance is Kshs.548,300,000 in respect of the Infrastructure and Community Projects Department. However, the projects implemented during the year were one hundred and thirty-two (132) with a budget of Kshs.507,235,072 resulting in an unexplained variance of Kshs.41,064,928. Further, the project implementation status report shows that 113 projects worth Kshs.399,394,736 were completed and in use, 14 projects worth Kshs.198,714,089 were ongoing, 5 projects worth Kshs.7,861,843 had not started while 2 projects worth Kshs.6,069,912 were completed and not in use. This is an indication of inadequacy in project planning and control mechanisms to ensure efficient absorption of available funds.

In the circumstances, the public did not get the expected value for money from the incomplete and unutilized projects.

415. Unauthorized Use of Water from Water Resources

Information provided for audit review indicated that eight boreholes drilled and equipped within the County were commissioned and water put into use before the application for the permit was done. This was contrary to Regulation 7(1) of the Water Resources Regulations, 2021 which provides that a person who intends to undertake an activity involving the use of water from a water resource shall apply to the Authority for a permit before commencing the activity.

The use of water from the boreholes before approval by the respective Authority may jeopardize the health of the public.

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

416. Failure to Deduct Retention Fees from Contractors' Payments

Note 15 to the financial statements reflects a Nil balance on deposits and retention monies as at 30 June, 2023. Examination of the payment vouchers and other supporting documents revealed that the County Executive did not withhold retention fees of 10% for the various contracted and executed works certificates paid totalling Kshs.645,258,435 on construction and civil works as disclosed under Note 9 to the financial statement on acquisition of assets.

In the circumstances, in case of defects on completed works, the Management may be unable to compel the contractors to correct the defects causing loss of public funds.

417. Irregular Payments to Council of Governors

During the year under review, Management paid Kshs.2,100,000 to Council of Governors. This was contrary to Section 37(b) of the Inter-Governmental Relations Act, 2012 which states that the operational expenses in respect of the Council of Governors should be provided for in the annual estimates of the revenue and expenditure of the National Government.

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

418. Unexplained Voided Transactions

Review of IFMIS records revealed that one thousand and twenty-six (1,026) payment transactions totalling Kshs.956,210,120 were processed and voided or canceled during the year ended 30 June, 2023. However, no satisfactory explanation was provided on why the payments were voided. Further, no evidence was provided to confirm that the Controller of Budget was informed of the voiding of the payments so as to make necessary adjustments.

In the circumstances, Management did not observe financial discipline.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

419. Lack of Risk Management Policy

The County Management had not put in place risk management policy to guide the Management on risk assessment and formulation of risk mitigation strategies. This was contrary to Regulation 158(1)(a) and (b) of the Public Finance Management (County Governments) Regulations, 2015 which requires the Accounting Officer to ensure that the County Government entity develops risk management strategies which include fraud prevention mechanism and internal control that builds robust business operations.

In the absence of a risk management policy, it has not been possible to confirm whether the internal controls built within the financial and operational systems were functioning as intended during the year under review.

420. Lack of Information Technology Systems Interface

Review of the County Executive Information Communication Technology (ICT) systems revealed that four systems are in operation within the County, including Murang'a Revenue Management System provided by the National Government, Unstructured Supplementary Service Data (USSD) code, Fleet Management System and Lands Management System. However, the systems have not been integrated or interfaced with each other to facilitate a common shared data base and better service delivery in executing the County Executive mandate.

Further, it was observed that Unstructured Supplementary Service Data (USSD) code (*267#) usage and maintenance is obtained directly from the vendor without any formal

service level agreement or patent ownership rights. This omissions may expose the County Executive to disruption of operations in the event the developer discontinues its services or locks the system due to disputes.

In addition, the continued use of USSD code undermines the full implementation of Murang'a Revenue Management System which is meant to capture full details of revenue, its source and expenditure including the targets and ranking of the revenue stream.

In the circumstances, the effectiveness of the County Executive's ICT systems could not be confirmed.

421. Summary of Non-Current Assets Register

As disclosed in Annex 6 to the financial statements, the summary of non-current assets register reflects summary of noncurrent assets with historical cost balance of Kshs.6,203,508,790 as at 30 June, 2023. However, as previously reported the County Executive Management did not provide for audit an updated non-current asset register. In addition, assets were not tagged and properly recorded in both manual and automated registers and were therefore prone to misplacement and loss.

In the circumstances, the effectiveness of the asset management measures by the County Executive during the year under review, could not be confirmed.

COUNTY EXECUTIVE OF KIAMBU – NO.22

REPORT ON THE FINANCIAL STATEMENTS

Basis for Adverse Opinion

422. Inaccuracies in the Financial Statements

Review of the financial statements submitted for audit revealed various inaccuracies as detailed in the paragraphs below;

422.1 Variances Between Financial Statements and Supporting Ledgers

The statement of receipts and payments reflects an expenditure of Kshs.2,005,432,642 under use of goods and services as disclosed in Note 4 to the financial statements. The amount includes Kshs.114,144,855 and Kshs.71,201,900 in respect of domestic travel and subsistence, and hospitality supplies and services which differ with ledger amounts of Kshs.114,068,855 and Kshs.71,101,900 resulting to an unreconciled variances of Kshs.76,000 and Kshs.100,000 respectively.

422.2 Variances Between Financial Statements and IFMIS Trial Balance

Review of the financial statements and IFMIS trial balance submitted for audit revealed variances between the two set of records as detailed in the table below;

Description	Financial Statements Balance (Kshs.)	IFMIS Trial Balance (Kshs.)	Variance (Kshs.)
Outstanding Imprests and Advances	10,630,360	12,129,160	1,498,800
Exchequer Release/Provisioning	0	110,435,217,817	110,435,217,817
Remittances to Exchequer	0	101,616,801	101,616,801
Development Bank Account	938,553	15,801,311	14,862,758
Deposit Bank Accounts	151,924,641	184,472,846	32,548,205
Cash in Hand	0	49,622,980	49,622,980
Other Debtors and Prepayments	0	90,000	90,000

422.3 Incorrect Balances

422.3.1 Related Party Transactions

The statement of receipts and payments reflects an amount of Kshs.951,971,640 being transfers to other Government entities which, as disclosed in Note 6A to the financial statements, includes other current transfers, grants and subsidies and other capital grants and transfers amounting to Kshs.370,937,922 and Kshs.581,033,718 respectively. However, Note 6 to the financial statements on other important disclosures reflects total transfers to related parties amounting to Kshs.1,567,203,132 resulting to an unreconciled variance of Kshs.615,231,492.

422.3.2 Unreconciled Variance – Acquisition of Assets

The statement of receipts and payments reflects an expenditure of Kshs.764,867,560 under acquisition of assets as disclosed in Note 9 to the financial statements. However, Annex 6 - summary of non-current asset register reflects assets acquired during the year amounting to Kshs.331,007,210. The resultant variance of Kshs.433,860,350 was not reconciled or explained.

422.4 Misclassification of Expenditure

Review of the financial statements presented for audit revealed expenditure totalling Kshs.273,080,785 charged to the incorrect expenditure items as detailed below:

Item	Expenditure Charged to Incorrect Account (Kshs.)	Correct Expenditure Item Chargeable
Compensation of Employees		
Basic Salaries of Permanent Employees	21,953,031	Basic Wages of Temporary Employees
Employer Contribution to Compulsory National Social Scheme	131,852,289	Other Personnel Payments
Employer Contribution to Compulsory National Social Scheme	6,909,661	Basic Salaries of Permanent Employees
Use of Goods and Services		
Domestic Travel and Subsistence	691,072	Foreign Travel and Subsistence
Hospitality Supplies and Services	460,800	Communication, Supplies and Services
Specialized Materials and Services	9,935,667	Domestic Travel and Subsistence
Other Operating Expenses	7,448,749	Compensation of Employees
Transfers to Other Government Entities	54,440,422	Domestic Travel and Subsistence
Acquisition of Assets		
Construction and Civil Works	975,300	Construction of Buildings
Purchase of Vehicles and Other Transport Equipment	16,918,000	Use of Goods and Services
Research Studies, Project Preparation, Design and Supervision	18,000,000	Purchase of certified seeds, breeding stock and live animals.
Other Domestic Accounts Payables	3,037,594	Communication, Supplies and Services
Other Domestic Accounts Payables	458,200	Printing, Advertising and Information Supplies and Services
Total	273,080,785	

In the circumstances, the accuracy and completeness of the financial statements for the year ended 30 June, 2023 could not be confirmed.

423 Unsupported Balances

423.1 Pending Payables

Note 20 to the financial statements on other important disclosures reflects pending payable balance of Kshs.6,002,623,881 while the pending bills listing reflect Kshs.5,835,692,306 resulting to an unreconciled variance of Kshs.166,931,575. Further, review of the pending bills listing revealed an amount of Kshs.748,971,917 relating to 2017/2018 and earlier years. It was not clear why the pending bills did not a form first charge on the County Revenue Fund in the subsequent years. This may result in the County Government incurring nugatory costs arising from interest payments on overdue amounts.

In addition, Note 20 to the financial statements indicates that pending payables totalling Kshs.660,709,445 were paid during the year under review while Note 9 reflects payments in the year of Kshs.543,361,880 resulting to unexplained variance of Kshs.117,347,565 which was not supported.

Further, pending bills amounting to Kshs.172,893,412 were sampled for review. However, an amount of Kshs.36,930,039 was not supported by authentic and verifiable source documents and schedules clearly indicating the goods or services supplied, contracted amount, the amount paid during the year and the outstanding balances at the end of the year.

423.2 Unsupported Expenditure on Use of Goods and Services

The statement of receipts and payments reflects an expenditure of Kshs.2,005,432,642 in respect of use of goods and services as disclosed in Note 4 to the financial statements. Review of the expenditure revealed the following anomalies;

423.2.1 AIE Expenditure to Sub-Counties

The expenditure of Kshs.2,005,432,642 on use of goods and services includes amounts of Kshs.50,640,448 and Kshs.142,010,080 relating to printing, advertising and information supplies and services and other operating expenses respectively. Review of documents revealed amounts of Kshs.716,945 and Kshs.7,600,000 respectively all totalling Kshs.8,316,945 was paid as Authority to Incur Expenditures (AIEs) to sub-counties and expensed. However, supporting documents including expenditure returns from the sub-counties indicating the AIEs issued and whether they were spent as per the approved budget were not provided for audit.

423.2.2 Domestic Travel and Subsistence Allowances

The expenditure of Kshs.2,005,432,642 on use of goods and services further includes domestic travel and subsistence allowances amounting to Kshs.114,144,855 out of which an amount of Kshs.5,687,750 was paid as meal allowances and facilitation allowances to officers for working beyond normal working hours. However, justification on why staff were getting extra payments for performing their normal duties within their workstations was not provided. Further, an additional amount of Kshs.3,258,000 was paid in respect of rapid results initiative to inspectorate staff at the rate of Kshs.2,000 per person per day to all participants taking part in the inspection despite having different job group ranks.

423.2.3 Allowances to Players, Team Managers and Coaches for KIKOSCA Games

Expenditure of Kshs.2,005,432,642 on use of goods and services also includes other operating expenses amounting to Kshs.142,010,080 out of which an amount of Kshs.12,730,000 was paid as allowances to players, team managers and coaches for the 9th edition of KIKOSCA games in Kisumu County from 15 January, 2023 to 21 January, 2023. However, the payment was not supported by proof of travel such as, work tickets, back-to-office reports, attendance register, certificate of participation in the KIKOSCA games and evidence of registration of teams and players. Further, the allowances were directly expensed before surrender hence the allowances issued were not accounted for.

Further, other operating expenses of Kshs.142,010,080 includes an amount of Kshs.1,287,720 paid to various officers under the Office of the Governor and Deputy Governor in respect of allowances for extraneous duties such as working early morning, lunch and late evening. However, the extraneous allowances payments were not supported by prior approvals, acknowledgements of receipt of such payments by the officers, or attendance registers.

423.3 Payment of Salary Arrears

The statement of receipts and payments reflects an expenditure of Kshs.7,864,014,565 in respect of compensation of employees as disclosed in Note 3 to the financial statements. Analysis of staff payroll data revealed frequent payment of salary arrears totalling Kshs.102,746,443. Further, twenty (20) officers were paid arrears of Kshs.500,000 and above totalling Kshs.20,022,099. However, the basis for the payment of the salary arrears was not explained and supporting schedules for the payments with individual breakdown of the arrears indicating total salary in arrears, amount paid and balance as at 30 June, 2023 were not provided for audit.

423.4 Legal Expenditure

The statement of receipts and payments reflects an expenditure of Kshs.764,867,560 under acquisition of assets which, as disclosed in Note 9 to the financial statements, includes an amount of Kshs.543,361,880 in respect of other domestic accounts payables. The later balance includes an amount of Kshs.7,367,133 relating to payment for legal services made to two (2) Advocates. However, procurement documents including requisition for the legal services, contract agreements, Tender Opening and Evaluation Committee minutes and evidence on procurement method used in selecting the service providers were not provided for audit.

In the circumstances, the accuracy and completeness of the balances totalling Kshs.379,878,826 could not be confirmed.

424. Cash and Cash Equivalents

The statement of assets and liabilities reflects a balance of Kshs.184,338,850 in respect of cash and cash equivalents, as disclosed in Note 13 to the financial statements. Review of cash and bank records provided for audit revealed the following anomalies;

424.1 Unsupported Cash and Cash Equivalents

The County Government of Kiambu provided an approved list of one hundred and thirty-one (131) bank accounts maintained in various banks. However, review of the records revealed that forty-seven (47) bank accounts were not supported by cashbooks, bank statements and bank reconciliation statements. Further, Management did not present bank reconciliation statements for every month to the County Treasury and the Office of the Auditor-General as required by Regulation 90(1) of the Public Finance Management (County Governments) Regulation, 2015.

In addition, review of the trial balance revealed cash and cash equivalents balance of Kshs.264,453,336 resulting to an unexplained variance of Kshs.80,114,486.

In the circumstances, the accuracy and completeness of the cash and cash equivalents balance of Kshs.184,338,850 as at 30 June, 2023 could not be confirmed.

424.2 Irregularities in Preparation and Maintenance of Cashbooks for Hospitals

Review of cashbooks maintained by Kiambu County Hospitals revealed the following anomalies;

- i. Ten (10) bank accounts presented for audit had their cashbooks maintained in excel which can easily be manipulated instead of the system-generated cashbooks.
- ii. Kigumo Level IV Hospital-Operation account maintained in a local commercial bank had a balance of Kshs.407,021 which was not transferred to Facilities Improvement Fund (FIF) Account as of 30 June, 2023. In addition, the cashbook was not balanced off, checked, or verified monthly by a senior officer.
- iii. Gatundu North Sub County–Revenue account and Gatundu South Sub County Revenue account maintained in a local bank had previous month’s balances that were not carried forward to the next month. In addition, balancing and closing of the cashbooks and bank reconciliations was not done.
- iv. Kiambu Level V Hospital’s FIF account maintained in a commercial bank had a cashbook which was not balanced off, checked, or verified every month by a senior officer. Further, the cash book for the month of June, 2023 had no opening balance carried forward from May, 2023. In addition, the bank balance of Kshs.29,713,727 as at 30 June, 2023 was not transferred to FIF Account.
- v. Review of Kiambu Level V Hospital Grant account bank reconciliation statement revealed stale cheques totalling Kshs.2,137,539 as at 30 June, 2023 which had not been reversed.

424.3 Unreconciled Cash and Cash Equivalents

Note 13 to the financial statements reflects cash and cash equivalents balances of Kshs.1,690, Kshs.938,553 and Kshs.879,657 in respect of CBK-Recurrent, CBK-Development and CBK- Road Maintenance Levy Fund respectively which differs from the cash book balances of nil for the CBK-Recurrent and Development and Kshs.303,200,584 for CBK Road Maintenance Levy Fund. The variance of Kshs.303,261,170 was not reconciled.

In the circumstances, the accuracy and completeness of the cash and cash equivalents balance of Kshs.184,338,850 as at 30 June, 2023 could not be confirmed.

425. Payment for Undelivered Goods

The statement of receipts and payments reflects an expenditure of Kshs.764,867,560 under acquisition of assets which, as disclosed in Note 9 to the financial statements, includes an amount of Kshs.81,864,400 relating to purchase of certified seeds, breeding stock and live animals. The latter balance includes an amount of Kshs.16,590,010 paid to a Trading Corporation for supply of 13,063 bags of coffee fertilizers which was not delivered. Further, review of Issue and Receipt Vouchers (S12) provided for audit revealed an unexplained balance of 11,116 bags of fertilisers worth Kshs.14,117,320 which were not issued and was not in store.

Further, the County procured semen, liquid nitrogen, plastic socks, hand gloves and paper towels from Kenya Animal Genetic Resources Center in March and June, 2020 through Government to Government partnership and paid an amount of Kshs.11,204,000. However, only goods worth Kshs.5,481,670 were supplied leaving a balance of Kshs.5,722,330 worth of goods not delivered. The County also procured maize seeds valued at Kshs.34,783,000 from Kenya National Trading Corporation. However, the County Government received goods amounting to Kshs.20,323,600 as per counter receipt vouchers which was Kshs.14,459,400 less than the ordered quantity.

In addition, based on a local purchase order issued on 15 March, 2023 for supply and delivery of 60,000 chicks, delivery for 12,000 and 10,500 chicks was done in July and August, 2023 respectively totalling 22,500 chicks. No explanation was provided as to why the supplier did not supply the remaining 37,500 chicks. The invoice was also not issued by the supplier although the total contract price of Kshs.18,000,000 for the supply and delivery of one-month old chicks was fully paid on 23rd March, 2023 through payment voucher No.3154 including the undelivered 37,500 chicks amounting to Kshs.11,250,000. Further, a review of payment voucher No.3383 amounting to Kshs.18,000,000 for supply and delivery of one-month old chicks revealed that the amount was fully paid on 20 April, 2023, however, the respective 60,000 chicks had not been delivered as at the time of audit.

In the circumstances, the regularity and completeness of the payment made for undelivered goods amounting to Kshs.80,139,060 could not be confirmed.

Emphasis of Matter

426. Budgetary Control and Performance

The statement of comparison of budget and actual amounts - recurrent and development combined reflects final budgeted receipts of and actual on comparable basis of Kshs.16,034,027,199 and Kshs.12,983,549,247 respectively resulting to an under collection of Kshs.3,050,477,952 or 19%. Similarly, the statement reflects approved budgeted expenditure of Kshs.16,034,027,199 and actual on comparable basis of Kshs.12,873,689,229 resulting to an under-expenditure of Kshs.3,160,337,970 or 20%.

The under collection and under absorption of approved budget is an indication that all activities and projects in the annual work-plan were not implemented by the County Executive which may have negatively impacted on the delivery of services to the public.

427. Late Exchequer Releases

The statement of receipts and payments reflects transfers from County Revenue Fund in form of Exchequer Releases amounting to Kshs.11,695,560,079. Review of revenue records provided for audit revealed that funds amounting to Kshs.2,987,969,059 or 26% of the Exchequer releases were received during the month of June, 2023. Late disbursement of Exchequer releases by The National Treasury impacted negatively on service delivery to the citizens of Kiambu County.

428. Non-Payment for Development of County Integrated Financial Management Systems

A contract for supply and installation of a revenue collection and management system was awarded to a consultancy firm for a contract price of Kshs.60,025,000 with payments of Kshs.117,500,000 or 6.4% of total revenue collected annually as recurrent costs. Review of the pending bills' report for the year ended 30 June, 2023 revealed that the County owed the service provider a total amount of Kshs.281,184,403 which excludes the recurrent cost of Kshs.235,000,000 for the two years of the contract that was not disclosed in the pending bills report. The service provider has been offering the services to enhance revenue collection in the County and the contract is still in force despite the fact that no payments were made in the year under review. Failure to settle pending bills in relation to the revenue management system may affect the revenue collection in the County.

My opinion is not modified in respect of these matters.

Other Matter

429. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under Report on the Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, the Management had not resolved the issues or given any explanation for failure to adhere to the provisions of the Public Sector Accounting Standards Board templates.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

430. Issuance of Multiple Imprest and Unsurrendered Imprest

The statement of assets and liabilities reflects a balance of Kshs.10,630,360 in respect of outstanding imprests and advances as disclosed in Note 14 to the financial statements. Review of domestic and subsistence allowances payments revealed that an amount of Kshs.1,002,800 was paid to a State Corporation as allowance to officers who participated

in activation of satellite store centers for distribution of subsidized fertilizer. However, the imprest was not recorded in the imprest register and was not surrendered.

Further, review of the imprest register revealed that imprest amounting to Kshs.977,400 issued on 13 March, 2023 had not been surrendered as at the time of audit. Further, there were instances of staff members issued with multiple imprests and imprests not surrendered within the specified time. This was contrary to Regulation 93(4)(b) and Regulation 93(5) of the Public Finance Management (County Governments) Regulations, 2015 which requires that before issuing temporary imprests, the Accounting Officer shall ensure that the applicant has no outstanding imprests and a holder of a temporary imprest shall account or surrender the imprest within 7 working days after returning to duty station.

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

431. Over-Expenditure on Appropriations-In-Aid

The statement of comparison of budget and actual amounts - recurrent and development combined reflects budgeted expenditure for Appropriations-In-Aid – Facilities Improvement Fund (FIF) amounting to Kshs.987,123,668 against the actual expenditure of Kshs.1,182,161,856 resulting to an over-expenditure of Kshs.195,038,188 or approximately 20% which was not authorized. This was contrary to Section 43(2) of the Public Finance Management (County Governments) Regulations, 2015 on budget execution which requires County Government entities to execute their approved budgets based on the annual appropriation legislation and the approved annual cash flow plan.

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

432. Irregularities in the Provision of Wide Area Network Connectivity and Internet Services

During the year, an amount of Kshs.29,437,780 was paid to a telecommunication company for supply of internet services. The contract was signed on 1 January, 2016 for a period of one year at a contract price of Kshs.16,717,920 and was automatically renewable for a further period of one year. The amount of Kshs.16,717,920 was payable in equal installments quarterly in advance on or before 10 day of the month which the quarter falls due. However, the contract expired on 1 January, 2018 and there was no evidence provided for an extension or renewal of the contract binding to date.

Further, the service provider charged the County on a monthly basis instead of per year which within a period of 11 months from 1 July, 2022 to May, 2023, the County had been billed and paid a total of Kshs.29,437,780. The monthly payments made amounted to Kshs.12,719,860 over and above the contract amount of Kshs.16,717,920.

In the circumstances, value for money for the payment amounting to Kshs.12,719,780 could not be confirmed.

433. Irregular Use of Imprest to Train Coaches

The County Government through an initiative programme to improve the capacity of individuals interested in pursuing a career in coaching budgeted and issued imprest amounting Kshs.1,125,000 for the program. Review of the surrender vouchers revealed that the amount of Kshs.554,000 was used as allowance to facilitate the activity while an

amount of Kshs.205,000 was used to directly procure approved coaching and training kits. This was contrary to Regulation 90(6) of the Public Procurement and Asset Disposal Regulations, 2020 which requires that any direct procurement shall require the prior approval by the Accounting Officer in writing.

Further, it was observed that there was no commitment or agreement between the County Executive and the trainees that they were to participate in the County programmes after the training hence the County may not benefit from training the coaches and there was no documentary evidence that the training took place.

In the circumstances, Management was in breach of the law and the value for money for the expenditure amounting to Kshs.1,125,000 could not be confirmed.

434. Irregular Use of Direct Procurement Method for Facilitation of Huduma Mashinani Initiative

The CECM Finance, ICT and Economic Planning through a memorandum dated 31 May, 2023 to Chief Officer Revenue, ICT and Supply Chain Management requested for facilitation for revenue enhancement initiative titled Huduma Mashinani from 12 June, 2023 to 30 June, 2023. Temporary imprest totalling Kshs.4,914,000 was issued to all sub- county finance officers at Kshs.409,500 each for hire of various services.

Audit of the imprest surrender documents revealed that all the services were directly procured and paid using the temporary imprest contrary to Regulation 90(6) of the Public Procurement and Asset Disposal Regulations, 2020 which requires that any direct procurement shall require prior approval by the Accounting Officer in writing. Further, all payment receipts were not supported by electronic tax register receipts.

In addition, the goods were not inspected and taken on charge contrary to Section 48 of the Public Procurement and Asset Disposal Act, 2015 and details on how the data bundles were utilized were not provided for audit. It was further observed that an amount of Kshs.900,000 was used as lunch allowance for officers who participated in the initiative. However, attendance registers for the 15 days were not provided for review.

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

435. Irregular Payment of Subsistence Allowances

Review of payments under other operating expenses revealed that Management irregularly paid meal allowances amounting to Kshs.1,080,320 to officers for working beyond normal working hours that is early morning, lunch hour and late in the evening without necessary supporting authority from the Accounting Officer. However, the duties performed and for which the allowances were based on are the ordinary duties for which the officers are employed to carry out and for which staff draw a monthly salary. Further, an amount of Kshs.2,495,800 was paid to Task Force Committee Members carrying out various activities based on post facto approval. However, the duties performed and for which the allowances were based on are the ordinary duties for which the officers are employed to carry out and for which staff draw a monthly salary and no reports were provided for audit review.

In addition, an amount of Kshs.905,720 was paid as allowances to youth officers attending a training workshop at a local hotel from 27 September, 2023 to 1 October, 2023. However, an approved list of participants or evidence of the training

taking place was not provided, contrary to Section 104(1) of the Public Finance Management (County Government) Regulation, 2015 which requires all payment vouchers to be supported by appropriate authority and documentation.

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

436. Irregular Procurement of Goods

The County Government procured 8,000 fertilizer bags of 50kgs worth Kshs.26,200,000, maize seeds amounting to Kshs.34,783,000, and sixty thousand (60,000) one-month old chicks through LPO No. 4116706 dated 15 March, 2023 worth Kshs.18,000,000 from various State Corporations in the year under audit using the direct procurement method. However, there was no evidence that Management reported to the Public Procurement Regulatory Authority the direct procurement within fourteen days after the notification of the award of the contract exceeding Kshs.500,000 contrary to Regulation 90(1)(b) of Public Procurement and Asset Regulations of 2020.

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

437. Irregular Payment for Conference Facilities

During the year under review, an amount of Kshs.1,150,000 was paid to a local hotel for provision of conference facilities held in December, 2021. Review of documents provided for audit revealed that a requisition was raised on 9 December, 2021 for the budget committee meeting and the request for quotations were sent to 3 prequalified service providers but the date for issue of the request for quotation was not indicated. Further, the quotations were not signed, dated or stamped.

In addition, the date the Tender Opening Committee opened the quotations was not indicated in the quotations, and recommendation from the Committee to either award the service provider with a contract or reject was not approved by the Accounting Officer contrary to Section 106(5)(c) of Public Procurement and Asset Disposal Act, 2015. Further, the County Government placed a local purchase order to the successful bidder on 10 December, 2021. However, there was no confirmation in writing from the service provider contrary to Section 106(5)(b) of the Public Procurement and Asset Disposal Act, 2015. It was further observed that the County Government had procured a full day conference for 115 persons but the attendance list indicated that only 52 persons attended the budget committee conference leading to an overpayment of Kshs.630,000 since 63 persons did not attend the conference.

Furthermore, the County Government paid an amount of Kshs.343,000 to a local hotel for full day conference for a multi-sectoral committee workshop in February, 2022. However, the procurement documents were not provided for audit verification, contrary to Regulation 104(1) of the Public Finance (County Government) Regulation, 2015 which requires payment vouchers to be supported by appropriate documentation.

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

438. Irregular Cash Purchases of Airtime

During the year under review, the County Government incurred expenditures of Kshs.5,521,000 and Kshs.992,187 on purchase of airtime and internet subscriptions respectively. However, the respective payments were not supported with acknowledgement from beneficiaries including electronic tax register receipts issued by the respective vendors, imprest warrants and a memorandum cash book to support the expenditure.

Further, the airtime was purchased using cash and exceeded the threshold for cash purchases or low value procurement set at a maximum of Kshs.50,000. This was contrary to Section 107(a) of the Public Procurement and Disposal Act, 2015 which states that a procuring entity may use a low-value procurement procedure if the entity is procuring low-value items which are not procured on a regular or frequent basis and are not covered in framework agreement; maximum level of expenditure under this method is Kshs.50,000 and Kshs.100,000 for goods and services respectively per financial year. Further, Management used the direct method of procurement for internet subscription services without justification contrary to the provisions of Section 103 of the Public Procurement and Asset Disposal Act, 2015 on when direct procurement may be used.

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

439. Irregular Procurement Using Imprest

Review of sampled payment vouchers under routine maintenance-vehicles and other transport equipment and hospitality supplies and services expenditure revealed that Management issued standing imprests totalling Kshs.6,292,317 to five (5) officers for repair and maintenance of motor vehicles and Kshs.2,244,536 to various officers for procurement of toners and printing materials contrary to Regulation 91(1) of the Public Finance Management (County Governments) Regulations, 2015 which provides that for the purposes of this regulation and Regulations 92, 93, and 94, an imprest means a form of cash advance or a float which the Accounting Officer may authorize to be issued to officers who in the course of duty are required to make payments which cannot conveniently be made through the cash office of a Government entity or bank account.

Further, review of the surrender documents revealed that the imprest holders did not maintain an updated memorandum cash book and the receipts were not supported by electronic tax register receipts. In addition, some imprests were replenished without fully surrendering the previously issued imprests. It was further noted that there were no requisitions for toners and printing materials and requisitions for the motor vehicle repairs and mechanical inspection reports were not provided for audit. In addition, items bought for the repairs and maintenance were not received in the store hence it was not possible to confirm if the items were bought. It was further observed that the post mechanical inspection report and inspection and acceptance certificate for toners and printing materials was not provided for audit. This was contrary to Section 48 of the Public Procurement and Asset Disposal Act, 2015.

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

440. Irregular Issue of Standing Imprests

Review of other operating expenses and sampled payment vouchers provided for audit revealed that standing imprests amounting to Kshs.2,522,174 were issued for office operations in various departments. However, the imprests were issued for office operations without controls as there were no authorized floats and a detailed memorandum cash book for accountability purposes which was contrary to the Public Finance Management Regulations, 2015, Regulations 93(14) and (15) hence it was not possible to establish the frequency of reimbursements.

Further, no register was provided in respect of standing imprest as required by Regulation 93(11) and (13) of the Public Finance Management (County Governments) Regulations, 2015. In addition, the expenditures were not adequately supported with ETR receipts.

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

441. Non-Compliance with Fiscal Responsibility Principles on Development Expenditure

The statement of receipts and payments reflects total payments amounting to Kshs.12,873,689,229 and the summary statement of appropriation - development reflects actual development expenditure amounting to Kshs.1,462,905,257 which represents 11% of the total expenditure for the year contrary to Regulation 25(1)(g) of the Public Finance Management (County Governments) Regulations, 2015 which requires the County Government to spend at least 30% of the actual expenditure for development purposes.

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

442. Non-Compliance with Effectiveness of Citizen Participation in County Government Planning and Budgeting

Review of sampled payment records revealed that the County Executive issued a temporary imprest of Kshs.1,500,000 and Kshs.750,000 for public participation on 2023 County financial strategy paper and medium-term budget 2023/24-2025/26 respectively. Review of imprest surrender documents revealed that the County Government selected only fifty (50) representatives from each ward to participate in the process despite Management indicating that public participation in budget process was open to all residents of the County. The surrender vouchers were not supported by documents on how the representatives were selected to take part in the process.

Further, there were no invitations to public participation or mechanisms to facilitate public communications and information access to the residents of Kiambu County. In addition, an interview with Management revealed that no allowance or facilitation is paid to the residents of the County to participate in the process, however, the temporary imprest of Kshs.1,500,000 was used to facilitate the selected participants which was irregular. This was contrary to Article 174(c) of the Constitution of Kenya, 2010, which lays down the participation of people in the exercise of powers of the state and in making decisions affecting them as one of the objects of devolution of Government.

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

443. Irregular Payment of Allowances to Members of County Assembly

During the year under review, the County Government paid an amount of Kshs.1,083,600 to twenty-one (21) Members of the Kiambu County Assembly as subsistence and travel allowance to attend a consultative workshop for County Planning and Urbanization Committee held in Nakuru from 18 April, 2023 to 20 April, 2023.

Further, the County Government paid a total amount of Kshs.637,000 to a local hotel for the provision of conference facilities to Members of the County Assembly Budget and Appropriation Committee to discuss the budget estimates for the 2023/2024 financial year. There was no explanation on why the activities of the County Assembly were funded by the County Executive, yet they have their own budget contrary to Section 104(1) of the Public Finance Management (County Government) Regulation, 2015 which requires all payment vouchers are supported by appropriate authority and documentation. It was further noted that the allowances amounting to Kshs.1,720,600 were not recorded as imprest or surrendered hence the payment was irregular as the County Assembly has its own budget.

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

444. Irregular Payment of Foreign Travel Allowance Claim

During the year under review, the County Government paid an amount of Kshs.429,000 to an officer as a claim for quarter per diem for attending a training on 'Next Generation Network Technologies and Future Trends' at the Centre of Excellence in Telecom Technology and Management in Mumbai, India between 18 August, 2018 and 13 October, 2018 without supporting documents/evidence. The Government of India catered for the cost of airfare, course fees, accommodation and study tours. The participants were required to carry with them only Kshs.50,000 for miscellaneous expenditures as per the approval attached. However, the payment of Kshs.429,000 exceeded the estimated limit in the approval and invitation letter by Kshs.379,000. The claim was made on 20 November, 2018 but paid on 20 June, 2023, four (4) years later without explanation. Further, the foreign travel was not approved by the State Department of Devolution.

In addition, review of a payment amounting to Kshs.261,672 made on 25 October, 2022 to an officer as claim for travel costs to Dubai between 4 February, 2019 to 6 February, 2019 to attend International Dental Conference and Arabs Exhibition revealed that the travel was not supported by stamped visa card for entry in both countries. Further, the request and invitation letter for the conference and accommodation documents were not provided for audit. The imprest was approved on 5 February, 2019 a day after travel but later cancelled without justification and the claim was not included in the pending bills for the financial years 2019-2020, 2020/2021 and 2021/2022. This was contrary to Regulation 104(1) of the Public Finance Management (County Governments) Regulations, 2015 which requires all receipts and payment vouchers of public monies to be properly supported by pre-numbered receipts and payment vouchers and be supported by appropriate authority and documentation.

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

445. Irregular Payment of Claims

The statement of receipts and payments and Note 4 to the financial statements reflect use of goods and services expenditure amounting to Kshs.2,005,432,642 which includes other operating expenses amounting to Kshs.142,010,080. Review of records provided for audit revealed that the County Executive made payments amounting to Kshs.1,371,621 to various members of staff through refunds/claims of expenditure spent on domestic travel and subsistence allowances contrary to the provisions of Regulation 91(2) and 93(4) of the Public Finance Management (County Governments) Regulations, 2015, on the management of temporary imprest. No explanation was given as to why the concerned staff did not apply for the imprest before undertaking various journeys.

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

446. Irregular Payment to Council of Governors

During the year under review, the County Government paid an amount of Kshs.3,400,000 to the Council of Governors out of which an amount of Kshs.2,000,000 was for the annual intergovernmental contribution to the Council, Kshs.1,000,000 for annual contributions towards legal fees and Kshs.400,000 for eight prominent booths during the development conference. This was contrary to Section 37 of the Intergovernmental Relations Act, 2012 which provides for funding of operations of the Council of Governors by the National Government.

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

447. Non-Compliance with Fiscal Responsibility Principles on Wages

The statement of receipts and payments reflects total revenue amounting to Kshs.12,879,518,422 and compensation of employees amounting to Kshs.7,864,014,565. The wage bill constituted sixty-one percent (61%) of the total revenue which was contrary to Regulation 25(1)(a) of the Public Finance Management (County Governments) Regulations, 2015 which requires the County Government's expenditure on wages and benefits for public officers not to exceed thirty-five percent (35%) of the total County revenue.

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

448. Non-Compliance with Law on Ethnic Composition

Review of employee records revealed that the dominant ethnic community constituted 86% (5,667) of the total population of 6,621 staff members. This was 53% above the provision of the National Cohesion and Integration Act, 2008 which provides that no public establishment shall have more than one-third of its staff from the same ethnic community.

Further, examination of master data and payroll records and list of recruits for the year ended 30 June, 2023 revealed that the County Government recruited twenty-two (22) new staff members. However, the dominant ethnic community employed by the County constituted 18 persons out of the 22 which is equivalent to 81% of the recruits. This was contrary to Section 7(1) of the National Cohesion and Integration Act, 2008, which requires that all public establishments shall seek to represent the diversity of the people of Kenya in the employment of staff.

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

449. Non-Adherence to the One-Third Basic Salary Rule

Review of payroll data for the year ended 30 June, 2023 revealed that a total of 2,250 employees were paid a net salary that is less than a third (1/3) of their basic pay between July, 2022 and June, 2023. The excessive deductions resulted from Management allowing the staff to incur loans and other liabilities whose repayments deduction put the officers at risk of pecuniary embarrassment. Further, it was observed that some staff members had total deductions equal to their gross pay thus having a zero-net pay. This was contrary to Part C.1 (3) of the Human Resource Policies and Procedures Manual for the Public Service, 2016 which stipulates that public officers shall not over-commit their salaries beyond two-thirds (2/3) of their basic salaries and Heads of Human Resource Units should ensure compliance.

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

450. Irregular Payment of Non-Practicing Allowance

Analysis of Kiambu County Government payroll data revealed that one staff member was paid non-practicing allowance of Kshs.12,000 per month totalling Kshs.144,000 in the year under audit. Examination of personal files revealed that the officer was not qualified to earn the allowance due to lack of professional skills.

In addition, personal files for three officers paid a total of Kshs.145,000 for non-practicing allowance were not provided for audit contrary to Section 104(1) of the Public Finance Management (County Government) Regulation, 2015 which requires that payment vouchers are supported with appropriate authority and documentation.

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

451. Irregular Refund of Imprest Recovered

During the year under review, the County Government issued and recovered unsurrendered imprest from officers who had not surrendered within timelines specified as per Regulations 93(10) of Public Finance Management (County Governments) Regulations, 2015. However, it was observed that the County Government refunded an amount of Kshs.917,875 which was part of the recovered salary deducted from the employees due to unsurrendered imprest contrary to Regulation 92(10) of the Public Finance Management (County Governments) Regulations which provides that; If an imprest is to be recovered from any public officer by installments, the Accounting Officer shall personally authorize such recovery and such moneys shall no longer be an imprest but an unauthorized advance from Government Funds, and in addition to the interest charged under paragraph (6), the Accounting Officer shall take appropriate disciplinary action against the officer concerned for the abuse of the imprest.

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

452. Irregularities on Payment of Leave Allowances

Analysis of payroll data for the year under audit revealed that two officers were paid leave allowance twice amounting to Kshs.87,739. In addition, analysis of payroll data revealed

that 756 officers were paid a total of Kshs.29,911,339 as leave allowance above the required rates set by the Salaries and Remuneration Commission.

In the circumstances, Management was in breach of the Salaries and Remuneration Commission guidelines.

453. Irregular Recruitment of Casuals

The County Government through the County Public Service Board recruited casuals who were posted in various Departments during the year under audit. However, details of how the casuals were identified and recruited were not provided for audit and there was no staff rationalization report showing any vacancy or shortage in any department to justify the need to hire casuals.

Further, there were no annual recruitment plans from any department forwarded to the County Public Service Board at the beginning of the financial year indicating any need of casuals. However, there were no attendance registers signed by casuals when they checked in and checked out from work. This was contrary to Section B.2 (2) of Public Service Commission-Human Resource Policies, May, 2016 which states that on the basis of these Human Resource plans, Ministries/State Departments shall be required to develop annual recruitment plans which will be forwarded to the Public Service Commission at the beginning of each financial year to enable it plan to fill the vacancies.

In addition, review of the casual's payments records provided for audit revealed that the County Government engaged casuals who were contracted for one year as casual workers in revenue collection activities which include parking revenue collectors, revenue collectors in sub-counties and revenue accountants. There was no authority from the collector of revenue authorizing the casuals to be involved in revenue collection. This was contrary to Section 62(1) of the Public Audit Act, 2015 which states that the receiver of revenue shall, in accordance with Section 158 of the Act, authorize a public officer or any of the County Government entities to be a collector of revenue for County Government for the collection of, and accounting for, such items of revenue as the receiver of revenue may specify.

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

454. Irregular Engagement of Casual Workers

During the year under review, the County Government engaged casual workers on a contract of service for a period of one year renewable as per sample of contract letters provided. However, a list of all casuals engaged by the County Public Service Board was not provided thus it was not possible to confirm the number of casual workers engaged by the County Government. Further, casuals' personal records were not maintained by the Human Resource Directorate to show how they were recruited and on boarded contrary to Sections 66, 67 and 68 of the County Governments Act, 2012 which requires all appointment or assignment of any duty in a County Public Service to be in writing and the County Public Service Board to maintain a record of all applications received in response to advertisements inviting applications.

In addition, there were no casual payroll data at the payroll department. All payment of casuals was done monthly through payment vouchers addressed to the head of

departments or sub county officers casting doubt on whether payments of casual wages were paid to the right persons and at the correct rate.

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

455. Irregular Procurement of Goods, Works and Services

Review of procurement records and other supporting documents for use of goods and services and acquisition of assets totalling Kshs.194,760,224 revealed among others several irregularities and non-compliance with the Public Procurement and Asset Disposal Act, 2015 as outlined below:

- i) Professional opinions not issued contrary to Section 106(5) (b)
- ii) Signing of contracts before lapse of fourteen (14) days contrary to Section 135(3)
- iii) Appointment to tender opening, evaluation or inspection and acceptance committee after relevant process is complete or minutes not provided for audit
- iv) Professional opinion issued before opening of tender or quotations
- v) No approvals for extensions of contracts

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

456. Irregularities in Supply and Delivery of Staff Uniforms

A contract for supply and delivery of staff uniforms through quotation No. KCG/QTN/005/2020/2021 was awarded at a contract price of Kshs.1,614,000 on 21 July, 2020. Review of the procurement documents revealed that the contract agreement was not prepared, the successful bidder did not present a letter of acceptance to the offer, the professional opinion was not prepared and the supplier was not on the list of prequalified suppliers. In addition, evaluation minutes were not signed page by page by all the evaluation committee members and evaluation of the bidders did not involve preliminary examinations on the suitability of the companies to supply goods which include legal, ownership and compliance to tax payment. Further, the contract was awarded without confirmation of the budget and procurement plan.

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

457. Irregularities in Supply and Delivery of Revenue Uniforms; Gumboots and Branded Umbrellas

A contract for the supply and delivery of revenue uniforms-gumboots and branded umbrellas of quotation No. KCG/QTN/154/2021/2022 was awarded at a contract price of Kshs.2,629,368 on 10 December, 2021. Review of the procurement documents revealed that appointment letters for the opening and evaluation committee, tender evaluation committee minutes and contract agreement were not provided for audit. In addition, the successful bidder did not present a letter of acceptance to the offer, professional opinion was not prepared and the supplier was not in the list of prequalified suppliers.

In addition, the recommendation to award the contract was done at the quotation opening stage without proceeding to the evaluation stage, where the contract was awarded to a bidder at a contract price of Kshs.2,629,368. Review of the request for quotation

documents submitted by the awarded bidder on 1 December, 2021 revealed that CR12 submitted was for 1 September, 2020 hence more than twelve (12) months of issue and Tax Compliance Certificate submitted expired on 31 August, 2021. Further, a local purchase order was issued to the bidder on 10 December, 2021 to supply gumboots and umbrellas and delivered on 4 April, 2022 which is fourteen (14) weeks later contrary to Regulation 52(1) of the Public Finance Management (County Government) Regulation, 2015 which stipulates validity period of one (1) month on issuance of a purchase order for the supply of goods. It was further observed that the contract was awarded without confirmation of the budget and procurement plan.

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

458. Irregularities in Supply and Delivery of Dry Storage Containers

Review of payment voucher numbered 3069 amounting to Kshs.2,600,000 revealed that the contract for supply and delivery of dry storage containers of 20ft by 40ft was awarded to a company under request for quotation No: CGK/QTN/OO06/2022/2023. However, the winning bidder was notified of the award on 1 February, 2023, while the contract was signed on 7 February, 2023 which was approximately 6 days after the notification of the award. This was contrary to Section 135(3) of the Public Procurement and Asset Disposal Act, 2015 which states that the written contract shall be entered into within the period specified in the notification but not before fourteen days have elapsed following the giving of that notification provided that the contract is within the tender validity period.

Further, requests for quotation documents were issued on 30 January, 2023 and they were to be returned by 6 February, 2023 at 12pm. However, the quotations were opened and evaluated on 1 February, 2023 which was before the quotations were officially closed.

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

459. Irregularities in Procurement of Consultancy Services for Mapping of all Cooperatives in Kiambu County and Creation of an Online Register

Review of a payment voucher number 4722 amounting to Kshs.2,992,800 for consultancy services for mapping of all cooperatives in Kiambu County and creation of an online register under Negotiation No: 860471-2020/2021 awarded to a local company revealed that the contract was entered into on 27 May, 2021 for a duration of six months and a local service order issued on 18 June, 2021. However, the invoice was issued on 16 May, 2022 which indicates that the consultancy services were completed after 12 months. There was no evidence that the supplier sought for contract extension and that approval was granted. Further, the contractor's detailed work plan and deliverables set were not provided for audit hence it was not possible to determine whether the intended purpose was achieved and if there was value for money.

In addition, the appointment letter for the inspection and acceptance committee and the report showing whether the contract was executed as intended were not provided for audit.

In the circumstances, the value for money for the Kshs.2,992,800 in respect of the contract could not be confirmed.

460. Irregularities in Procurement for Repackaging and Branding of Fertilizer in Bags of 50kg to 10kg Bags

Review of payment details for a payment voucher numbered 3895/2 amounting to Kshs.1,136,800 for repackaging and branding of fertilizer in bags of 50kg to 10kg bags which was awarded to a local supplier revealed that the County used direct procurement method in sourcing the supplier. However, Management did not report the direct procurement to the Public Procurement Regulatory Authority (PPRA) within fourteen (14) days after the notification of the award of the contract contrary to Regulation 9(1)(b).

In addition, the local service order issued on 31 May, 2023 was not acknowledged by the supplier in writing. Further, invoice for the repackaged fertilizers were not provided for review hence it was not possible to confirm how the payments were approved.

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

461. Irregular Procurement of Event Management and Logistical Support Services

Review of a payment voucher number 3823 amounting to Kshs.5,300,040 for event management and logistical support for the Kiambu Innovation Week and Business Awards was awarded under request for proposal no: RFP/YAS/003/2020/2021. However, the following irregularities were noted;

- i. The winning bidder was notified of the award on 29 April, 2021, however the contract was signed on 7 May, 2021 which was approximately 9 days after the notification of the award contrary to Section 135(3) of the Public Procurement and Asset Disposal Act, 2015 which states that the written contract shall be entered in to within the period specified in the notification but not before fourteen days have elapsed following the giving of that notification provided that the contract is within the tender validity period. In addition, the Local Service Order was approved by the Accounting Officer on 7 May, 2021, however the Local Service Order was not acknowledged by the supplier in writing.
- ii. Review of the procurement documents provided for audit revealed that request for proposal was done through advertisement in the daily newspaper and only one supplier submitted the bid and was evaluated. This was contrary to Section 124(1) of the Public Procurement and Asset Disposal Act, 2015 which states that the Procuring Entity shall select Quality and Cost Based Selection (QCBS) method as the preferred method to be used to evaluate proposals and shall state the selection procedure in the Request for Proposals.
- iii. Review of the request for proposal documents revealed that Quality and Cost Based Selection method which uses a competitive process was stated. However, only one bidder was evaluated and awarded the contract hence there was no competitive process in evaluating the technical and financial proposals.
- iv. Review of the tender evaluation report dated 23 April, 2021 recommended the contract to be awarded to the bidder with a price bid of Kshs.14,116,000 and be considered for negotiation. The negotiation meeting held on 28 April, 2021 revealed that the bidder was the only one with a tender price of Kshs.14,116,000. The winning bidder had quoted a price above the set budget of Kshs.6,000,000 by

Kshs.8,116,000. However, the bidder was awarded the contract at a negotiated price of Kshs.5,300,040 despite having quoted a price higher than the budgeted amount.

- v. There was no written justification for the single-source selection by the Accounting Officer in the context of the overall interests of the procuring entity and the criteria for single source selection was not met since the event management services are not available only from a particular supplier.

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

462. Irregular Payments for Emergency Medical Services Ambulance using Expired Contract

The County Government of Kiambu entered into a contract under negotiation number 819755-1 on October, 2020 with Kenya Red Cross- Emergency Plus Medical Services for the provision of advanced pre-hospital emergency medical services. The contract was valid for one year subject to renewal upon expression through writing, it expired in October, 2021 and was extended for one year up to October, 2022. The County Government of Kiambu through a letter dated 23 March, 2023 titled intention to renew the contract to E Plus by the Management revealed a proposed extension from 20 October, 2022 to 31 May, 2023. However, there was no evidence that the contract was renewed during the year under review.

Further, the County Government made payments of Kshs.32,143,437 for the provision of advanced pre-hospital emergency medical services during the year under review. Review of payment records revealed that an amount of Kshs.18,476,571 was paid from the month of October, 2022 to March, 2023 using the expired contract.

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

463. Irregularities on Project Management

463.1 Bibirioni Level IV Hospital

Review of documents provided for audit revealed that, a contract for the construction of a four-storey hospital block at Bibirioni Level IV Hospital under tender No. CGK/T/020/2017/2018 was awarded to a construction company at a contract price of Kshs.285,999,364 on 9 April, 2018 for a period of 104 weeks (2 years and 2 months). The 6th Interim certificate of payments of Kshs.35,473,948 was issued by the County Architect on 12 June, 2019 and the invoice of the same amount was issued on 14 June, 2019 but the last payment of Kshs.11,415,498 on the 6th Interim payment certificate was made to the contractor on 5 May, 2023 of Kshs.11,415,498 hence delay in payment. Further, no works were certified up to the time of audit in November, 2023 as having been completed since the last 6th interim certificate of payment on 12 June, 2019, an indication of discontinuity of the work.

Review of the contract document signed on 9 April, 2018 revealed that the project was to be completed within one hundred and four (104) weeks, however, as at the time of audit on 20 September, 2023 the project was at 70% completion and time progress was two hundred and sixty-one (261) weeks hence an extension period of 157 days without approval by the Tender Evaluation Committee. Total payments made as at the time of audit was Kshs.126,257,472 or 44%. Audit inspection carried out in the month of

October, 2023 revealed that the project was incomplete and works were ongoing and the land where the project was built did not have a title deed as evidence of ownership by Kiambu County.

463.2 Tigoni Sub District Hospital

A contract for the construction of a three (3) storeyed medical ward block at Tigoni Sub District Hospital of Tender No. KCG/Health Services/025/2014-2015 was awarded to a local construction company on 15 June, 2015 for a period of 104 weeks at a contract price of Kshs.160,740,400. The last interim certificate was issued on 10 June, 2021 however, as at the time of audit on 20 September, 2023 the time progress was 396 days hence behind time schedule by 292 days (10 months) without approval of the extension of the contract.

It was noted that the contract was awarded on 27 May, 2015 at a contract price of Kshs.160,740,400 for a period of 104 weeks of contract No. KCG/Health Services/025/2014-2015. The last payment of Kshs.3,226,486 was made on 15 May, 2023 for certificate No. 14 which was not budgeted for during the year of payment and not supported by an invoice and pending bill committee report. Further, the contract variation of Kshs.40,259,600 was not supported by a request for contract variation by the contractor and Tender Evaluation Committee recommendations. In addition, the variation amount exceeded Kshs.40,185,100 (25%) and was not tendered separately.

Audit inspection carried out in the month of October, 2023 revealed leakages on the walls of the building and the theatre halls, faulty sinks and poor drainages in the first and second floors of the building, there was also wall washing from the gutters by rain waters and there were cracks on the walls and along the columns in all the floors of the building. The rain waters could not be contained by the concrete gutters which were inappropriately constructed leading to overflow of the water down to the ramp.

Further, the four (4) theatre rooms could not be used since the height of the room could not allow installation of the theatre machines to the height of the patients hence remaining idle. There was also poor workmanship of electrical works, plumbing works and door fixing in the whole building.

In addition, the lift had not been installed and the solar system provided in the Bill of Quantities of Kshs.5,700,000 had also not been installed at the time of project inspection. Further, the provisional sum of Kshs.6,500,000 for the project manager's administration expenses and fluctuations was not supported by invoices and receipts.

463.3 Proposed Construction of Four Storeyed Medical Ward Block at Lari Sub-District Hospital

The contract was awarded to a local construction company on 15 May, 2015 for a contract period of 104 weeks at a contract price of Kshs.191,807,805 under tender no. KCG/HEALTH SERVICES/028/2014/2015. The last payment of Kshs.10,368,968 for certificate No.18 was made on 11 May, 2023 and the total payments made as at the time of audit in October, 2023 amounted to Kshs.151,370,753 (79%) against works of 56% done at the time of field verification

Audit inspection carried out in the month of October, 2023 revealed poor workmanship of the structural works as evidenced by cracks along the walls and pillars. The pillars joined

on the second floor to the fourth storey were bending and clearly showed separation from the second floor hence the pillars were not properly aligned. Further, the concrete troughs and gutters were poorly done and could not hold and direct rainwater while the toilets for the disabled had narrow doors and limited space which could not allow easy movement of the disabled persons.

In addition, the workforce for the last 3 weeks from the date of field verification was only two (2) workers and there were no materials on site. The last approval for the extension of time was done on 14 October, 2021 for a further 52 weeks to 31 October, 2022 but as at the time of audit, the project was incomplete having taken 101 months.

463.4 Construction of Four Storeyed Medical Ward Block at Wangige Sub District Hospital

The County Government of Kiambu entered into a contract with a local construction company to construct a four-storeyed type II medical ward at Wangige Health Centre at a contract price of Kshs.220,283,842 under Tender No. KCG/HEALTHSERVICES/27/2014-2015. The contract was signed on 1 July, 2015 for a contract duration of 104 calendar weeks. A contract variation of Kshs.50,442,000 was approved resulting to the total project cost of Kshs.270,725,815 due to the non-involvement of the user department in the preliminary stage of the project design.

Project verification carried out on the month of October, 2023 revealed the following anomalies;

- i. The project was incomplete and approximately 85% done as per the project supervisor. The contractor had not been on site since March, 2023 and no reason was given as to why he had abandoned the site. Further, the building was incomplete and was not commissioned however it was put in use in March, 2023.
- ii. A total of Kshs.231,417,730 was certified for payment as at 8 February, 2023 and the certificates were however all paid as at 30 June, 2023.
- iii. Audit inspection revealed that the project was incomplete since the X-ray unit and ultrasound rooms were not completed and all the cabinets in the building and curtain rods were not fitted. Further, the drainage in the building was not complete and, in some rooms, the drainage had been blocked.
- iv. All the windows had no grills and the outpatient center and the soak pit had not been done. It was further observed that electrical works were poorly done and the switch and sockets had no wiring which led to non-functioning of lights.
- v. The building roof top guard rail was not fixed and the lift had not been fitted. It was observed that the maternity doors were not tinted which invaded the privacy of the patients.

463.5 Construction of Ruiru Level IV Hospital Central Commodity Stores

The County Government awarded a contract for the construction of Ruiru Level IV hospital central commodity stores to a local construction company at a contract sum of Kshs.41,973,140 under contract No:870079/2021/2022 for a contract period of 52 weeks on 26 October, 2021. The total certified works done amounted to Kshs.32,415,709.

Field verification carried out in the month of October, 2023 revealed that the project was 85% complete as per the project supervisor. However, paint works, electrical fittings, and mechanical fittings, that is washrooms and shelves installation had not been done. As at the time of the audit, the contractor was not on site but there were construction materials present. Further, there was no evidence that the contractor sought for extension of the contract.

463.6 Proposed Construction of Sub County Office Block at Juja Sub County

The contract for the proposed construction of sub-county office block at Juja sub county was awarded to a local construction company on 16 June, 2015 for a contract price of Kshs.49,459,500 under tender No. KCG/PSA/001/2014-2015, for a duration of forty (40) weeks. The last payment for certificate No. 8 of Kshs.7,297,048 was paid on 30 June, 2023. Field verification carried out on 18 October, 2023 revealed that the project was incomplete yet payments of Kshs.40,477,330 (82%) had been made. The project has taken a duration of one hundred (100) months which is ninety (90) months beyond the completion date. Further, approval for contract extension was not provided for audit.

463.7 Proposed Construction of Market Shed at Kiganjo Market

The contract was awarded to a local construction company on 26 October, 2021 for a contract price of Kshs.24,377,710 for a period of eighteen (18) weeks under negotiation No. 860662. The last payment of Kshs.4,069,350 was made on 22 May, 2023 for certificate No. 3. Field verification carried out on 18 October, 2023 revealed that the project was not complete and finishing works on the ablution blocks were on going. Further, the provision of the foul water drainage for water from the gutters had not been erected and the floor had cracks which had not been factored in the snag list for correction by the contractor.

The project had taken a period of 24 months (96 weeks) contrary to the completion period of 18 weeks from the date of commencement. Management did not provide approvals for the extension of the contract period. Further, the provisional sum of Kshs.1,248,000 for stationery and office equipment, clerk of works and project manager allowances and airtime for eight officers was not supported by invoices, receipts and inspection minutes.

463.8 Construction of Sheds at Gitaru Market

The County Government of Kiambu entered into a contract agreement with a construction company for the construction of Gitaru market shed at a contract price of Kshs.22,912,210 under Tender No.860628-2020/2021. Project verification carried out in the month of October, 2023 revealed that the project was incomplete, approximately 95% done as per the project supervisor. The contractor was on site however, the gutters were not fully fitted or connected to the underground tank. Further, part of the roof was not properly fitted and the floor had developed some cracks.

463.9 Proposed Construction of Fire Station at Limuru

The contract for construction of a fire station was awarded to a construction company at a contract price of Kshs.24,249,933 under contract No. CGK/RTPW&U/115/2014/2015. The project activities included the construction of an office block, hostel block, workshop block, ablution block, parking bay, boundary wall and water tank stand. Field verification carried out in the month of October, 2023 revealed that a water tank was not placed,

plumbing works for water connection from the tank were not done, the workshop and the parking bay were not complete and landscaping had not been done. The boundary wall also had cracks along the columns which were not in the snag list.

Further, the last extension of contract period was done on 19 April, 2023 with a completion date to be 17 July, 2023. However, field verification revealed that the project was not complete and there was no evidence of approval of the contract extension period. In addition, the roofing for the workshop as per the bill of quantity was meant to be timber but changed to steel rods and the window sizes also changed from nine in number to ten (10) big size. There were no approvals for the variations in the materials used.

463.10 Construction of Perimeter Wall at Thika Slaughterhouse

The County Government of Kiambu entered into a contract agreement with a local construction company at a contract price of Kshs.13,455,640 under tender number KCG/T/ALI/005/2019-2020 on 6 May, 2020 to construct a perimeter wall at Thika slaughterhouse. The contract period was 12 weeks. Audit verification carried out on 12 October, 2023 revealed that the project was incomplete, approximately 60% done as per the project supervisor. The contractor was not on site and left in 2021 due to unpaid certificates. A total of Kshs.9,101,650 was certified for payment as at 30 June, 2020. However, only Kshs.3,598,020 had been paid to the contractor as at 30 June, 2023. Further, the main gate and one out of the two access gates to be done were not installed and keying was not done on part of the perimeter wall constructed.

463.11 Construction of a Perimeter wall and Drainage at Gachororo Health Centre

The contract was awarded to a local construction company on 4 May, 2022 at a contract price of Kshs.13,331,380 for excavation and earthworks, superstructure and walling meant to be completed within ninety (90) days from the commencement date. The first interim certificate of Kshs.4,195,665 was raised on 1 December, 2022 and paid on 12 May, 2022. Field verification of the project revealed that the project was 98% complete but the plinth of the wall had not been plastered and the wall had cracks majorly along the columns which had not been included in the snag list.

Further, field verification carried out in the month of October, 2023 revealed that the project had not been completed and handed over and it had taken seventeen (17) months from the date of contract. In addition, the provisional sum of Kshs.700,000 for project administration expenses and contingencies were not supported by receipts, minutes and invoices.

463.12 Proposed Spot Improvement of Thika Town Entrance Garissa Junction at Gatitu and Kenyatta Road

Review of a payment voucher number 2161/3 amounting to Kshs.5,000,000 for the proposed spot improvement of Thika Town entrance Garissa Junction at Gatitu and Kenyatta Road under contract No: CGK/RTPW&U/161/2014-2015 revealed that the works were awarded to a construction company at a contract sum of Kshs.221,005,870 on 25 June, 2015 and the contractor commenced works on July, 2015 for a contract period of 18 months. Review of payment certificate number 11 of Kshs.18,910,385 which was valued on 12 June, 2020 showed that the works certified to date amounted to Kshs.201,341,981 and it was indicated in the payment certificate that the contract was

varied by Kshs.57,900,391 though no evidence was provided to confirm whether a competent authority had approved variations in the scope of works. The project inspection reports and the bill of quantities were not made available for audit and therefore the scope of works could not be confirmed. Further, there was no evidence that the contractor sought for contract extension and whether the contractor furnished the County with a renewed price bid.

In addition, a prime cost sum of Kshs.617,500 for administration cost had not been accounted for and the invoice for the payment was not provided for audit. Review of the measured works as per the bill of quantities revealed that Bill No.25 for the the implementation of HIV AIDS awareness campaign had not been done despite Kshs.100,000 having been allocated every month for 18 months totalling Kshs.1,800,000 and Kshs.380,000 having been allocated for preparation of monthly reports on HIV/Aids awareness in which the reports were to be tabled at site meetings and also erecting of environmental billboards. It was not clear why the bill had not been done as stated in the bill of quantities.

Furthermore, the progress of work completed as at the time was 62% as reported in the previous certificate and no works were certified as at the time of audit since the last interim certificate of payment was done on 12 June, 2020. It was further observed that although the contract period had expired, no liquidated damages had been recovered from the contractor and the pending bill of Kshs.13,410,385 relating to the current payment certificate was not included in the pending bill list for 2022/2023.

Audit verification carried out in October, 2023 revealed that the project had stalled while at approximately 80% of the works done as per the project supervisor. Further, the contractor had abandoned the site due to challenges in payment and some parts of the road had developed potholes. In addition, drainage works were not done in some parts of the road and the walkway was not done.

463.13 Proposed Construction of Thogoto-Ndaire Dagoretti Road in Kikuyu Sub County

The County Government of Kiambu entered into a contract agreement with a local construction company at a contract price of Kshs.181,452,509 under Contract No. CGK/RT&PW&U/038/2016-2017 for construction of Thogoto-Ndaire Dagoretti road in Kikuyu sub county. The contract was signed on 2 May, 2017 and the contract period was 18 months. Field verification carried out in the month of October, 2023 revealed that the project was incomplete and approximately 90% of works was done as per the project supervisor.

Further, it was noted that the contractor had abandoned the site since 2020 due to unpaid certificates and a total of Kshs.152,537,611 was certified for payment as at 10 June, 2020. However, only Kshs.147,537,611 was paid as at 30 June, 2023. In addition, project verification revealed that all the drainage works were completed however, 400m of the 2.5km to be tarmacked was not done.

463.14 Improvement to Bitumen Standards of JCT A2 (KIMBO) - Matangini Road (4.7km)

Review of a payment voucher number 4713 amounting to Kshs.25,596,502 for improvement to bitumen standards of JCT A2 (KIMBO) - Matangini road (4.7km) under

contract No: CGK/RTPW&U/45/2016/2017 revealed that, the works were awarded to a construction company at a contract sum of Kshs.170,552,896 on 11 May, 2017 for a contract duration of 18 months. Review of the payment certificate number 8 of Kshs.35,569,502 which was valued on 16 March, 2020 showed that the works certified to date amounted to Kshs.168,124,676. The contract was varied by 24.9% on 14 November, 2019 leading to a revised contract sum of Kshs.213,021,263. However, there was no evidence that the contract variation was approved.

Further, the project inspection reports and the bill of quantities were not made available for audit and therefore the scope of works could not be confirmed. In addition, there was no evidence that the contractor sought for contract extension and whether the contractor furnished the County with a renewed price bid. Review of the project records revealed that no works were certified as at the time of audit since the last interim certificate of payment was done on 16 March, 2020, an indication that the project had stalled and the works discontinued. It was further observed that although the contract period had expired, no liquidated damages had been recovered from the contractor.

Field verification carried out in the month of October, 2023 revealed that the contractor had abandoned the site and the road was impassable due to potholes. Further, road signs and road furniture had not been erected.

463.15 Spot Patching and Culverts Installation in Gitothua Ward in Ruiru Sub County in Kiuu Ward and Tinganga Ward in Kiambu Sub County

The County Government awarded the contract to a construction company at a contract price of Kshs.2,505,720 for spot patching and culvert installation in Gitothua ward under contract number 836879-2020/2021. Review of the documents provided for audit revealed that the project was completed and paid as per the completion certificate.

Field verification carried out in the month of October, 2023 in Gitothua ward revealed that the road could not be traced hence it was not possible to confirm its existence.

463.16 Rehabilitation of Kahuguini Secondary-Githima-Karoha Access Road

The contract was awarded to a construction company on 21 May, 2021 at a contract price of Kshs.4,425,800 to rehabilitate the 2.6 Km access road. Field verification and measurement of the rehabilitated road carried out in October, 2023 revealed that the works done covered a distance of 2.0 Km instead of the 2.6Km provided in the bill of quantities for the project. Further, there was no signage for the project.

463.17 Rehabilitation of Thegetieni Access Roads

The contract was awarded to a construction company on 1 March, 2022 for a contract sum of Kshs.3,838,788 for a period of three months under negotiation No. 904228/2021-2022 for grading and drainage of 1.5 km. Audit inspection carried out in the month of October, 2023 revealed that the road was being rehabilitated by Kenya Rural Roads Authority (KERRA) and there was no signage to identify works done by the County Government hence it was not possible to confirm whether the road was implemented by the County Government of Kiambu or KERRA.

In the circumstances, Management was in breach of the law and value for money was not obtained from the incomplete, non-existing and poorly done projects.

464. Abandoned Hospital Revenue Collection System

A Contract to install Hospital Management Information System was awarded to a company to manage all the hospital activities in the County Government. However, the system was not operationalized due to failure by the County to pay 10% of the contract price causing the vendor to reduce users in the system.

Further, Management resorted to the installation of the same system in various hospitals individually to manage their operations. However, Management did not provide reports highlighting the reasons for the abandonment of the system and how the infrastructure related to the system was utilized.

In the circumstances, value for money was not obtained from the abandoned project.

465. Irregularities in Stores Records Management

465.1 Supply and Delivery of Staff Uniforms - Finance and Economic Planning

The supply of staff uniforms was done by a company at a cost of Kshs.1,614,000 through quotation numbered KCG/QTN/005/2020-2021 to supply dustcoats, raincoats, umbrellas and helmets. Review of bin card records revealed that 49 dust coats of Kshs.71,050 and 16 raincoats of Kshs.23,840 were included in the bin cards but not issued and not in the stores. Further, there was a total balance of 81 helmets amounting to Kshs.51,030 as at 14 December, 2021 in the bin card but not in the store.

465.2 Supply and Delivery of Desktop Computers- Finance and Economic Planning

Supply of desktop computers was done by a company for a contract sum of Kshs.1,737,996 under negotiation No. 1217882 on 18 April, 2023. Review of the bin cards for desktop computers revealed that the balance was four (4) computers of Kshs.534,768 which were not in the store and had not been issued from the store.

Further, the awarded bidder supplied laptops and tonners amounting to Kshs.1,445,000 under negotiation No. 1295293 on 26 June, 2023. Review of the store records revealed that the bin card for the laptops had a balance of two (2) amounting to Kshs.378,000 which were not in the store and not issued. In addition, 7 Tonner 59A of Kshs.203,000, 10 Tonner 80A of Kshs.175,000, 14 Tonner 26A of Kshs.420,000 and 2 Tonner 55A of Kshs.60,000 totalling Kshs.858,000 were not recorded in the bin card and had not been issued.

465.3 Supply and Delivery of Stationery and Tonners - Finance and Economic Planning

The supply and delivery of stationery and tonners was done by a company at a cost of Kshs.1,422,500 under negotiation No. 1217884 on 17 April, 2023. Review of store records revealed that one piece of tonner 80A was issued as per bin card but not supported by the counter receipts and issue voucher (S11) for issuance. Further, spring files STP27 had a balance of 270 pieces amounting to Kshs.54,000 and 75 reams of printing papers amounting to Kshs.78,750 as per the bin card which were not in the store during the time of field verification.

In the circumstances, value for money was not obtained from the goods supplied and not traced in the store.

466. Irregularities in Management of Payables

Other important disclosures to the financial statements under Section 20 reflect pending payable balance of Kshs.6,002,623,881 which includes pending accounts payable, pending staff payable and other pending payables balances of Kshs.3,999,661,490, Kshs.21,396,440 and Kshs.1,981,565,951 respectively.

Review of the sampled pending bills amounting to Kshs.172,893,412 revealed that pending bills totalling Kshs.38,608,031 relating to the 2022/2023 financial year arose due to commitments for supply of goods and services done after 31 May, 2023. Further, review of the sampled pending bills provided for audit revealed that invoices and delivery notes for pending bills amounting to Kshs.20,836,081 were issued in the month of July, 2023 which was after the end of the 2022/2023 financial year hence the bills did not qualify to be recognized as pending bills in the year under review. It was not clear why the County recognized bills incurred after the lapse of the financial year as pending bills which resulted in an overstatement of the pending bills by the same amount. However, there was no written approval by the Accounting Officer for commitments of the local purchase orders/local service orders done after 31 May, 2023 contrary to the Public Finance Management (County Governments) Regulations which requires that, all commitments for the supply of goods or services shall be done not later than the 31st May each year except with the express approval of the accounting officer in writing.

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

467. Irregularities in Procurement for Supply and Delivery of Communication Equipment

Review of the payment voucher number 304 amounting to Kshs.2,618,600 for supply and delivery of audio-visual sound equipment under contract No: CGK/YASC/Q/002/2022/2023 revealed that the contract was issued to a supplier on 25 May, 2023. Review of the procurement documents provided for audit revealed that the local purchase order was not dated by the Accounting Officer and accountant in charge of Vote book control and the local purchase order was not acknowledged by the supplier. Further, the awarded bidder was issued with the business registration certificate/CR 12 on 13 June, 2023 which was after the contract was awarded on 24 May, 2023 and quotations were submitted on 28 April, 2023.

Further, review of the tender evaluation report dated 9 May, 2023 revealed that under preliminary evaluation criteria, the awarded bidder did not have CR 12/CR 13 yet was found to be responsive and awarded the quotation. This was contrary to Regulation 75 (1) of the Public Procurement and Assets Disposal Regulations, 2020 which provides that, a procuring entity shall reject all tenders, which are not in conformity to the requirements of section 79 of the Act and Regulation 74 of these Regulations.

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

468. Inefficiencies in Management of Motor Vehicles

The County Government through the Department of Livestock, fisheries and Veterinary Services intended to procure a 4x4 double cab for the use in artificial insemination project and extension services in the year 2018. The County through the Ministry of Transport contract no.SB/26/2017 for the purchase of vehicle issued a local purchase order to a local company ordering three (3) Mitsubishi L200 double cab confirming that funds are available and commitments have been noted in the vote book dated 14 of May, 2018. The company registered the three (3) vehicles and transferred their log books in the name of the County in the year 2019. However, the County since 2019 did not pick the motor vehicles from the supplier's storage facility as per payment demand letter issued by the company on 30 July, 2021.

The County Government paid for the vehicles on 8 March, 2023 and were delivered to the County premises. However, records kept by the County showed that the vehicles were not allocated to the Department of Livestock, Fisheries & Veterinary Services for the intended use as per the requisition by the department rather, the motor vehicles were assigned to the County Executive Committee Member for health services for official transport and to the County Government Executive convoy.

In the circumstances, there was no value for money expended on the purchase of the motor vehicles because they were not used for the intended purpose.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

469. Land Without Ownership Documents

Review of the asset register provided for audit revealed that 2,762 parcels of land were indicated as owned by the Kiambu County Government. However, land title deeds to prove ownership of the parcels of land were not provided for audit. In addition, 29 title deeds provided for audit were not in the name of the County, 4 title deeds were in the name of individuals while 25 title deeds were under municipalities. No explanation was provided on why the land title deeds had not been transferred to the County.

In the circumstances, the ownership of 2,762 parcels of land in the asset register could not be confirmed.

470. Weaknesses in Garbage Collection Management

Garbage Management in the County is centrally done at Kang'oki dumpsite which stands on land size of 200 acres. Currently, the dumpsite is encroached and only 100 acres of land is left for the dumpsite and the County has not made any effort to reclaim the land for the dumpsite. Further, the County Management decommissioned all dumpsites in the County except Kang'oki putting pressure on the dumpsite as the only dumpsite in the County. In addition, the dumpsite is not fenced and the trucks are tipping at any point without control in the dumpsite making the County lose revenue related to dumping and littering the surrounding leading to health hazards of the inhabitants around the area.

Further, the County Government had not installed a weighbridge at the Kangoki dumpsite hence there was no basis for determining the weights of the lorries which should be commensurate with the amount charged. This may greatly affect the revenue collected from the dumpsite.

In the circumstances, effectiveness of garbage collection management could not be confirmed.

471. Use of Personal Email Address for Official Government Communication

Analysis of the Kiambu pay system users revealed that the system was configured to use personal email addresses for official communication within the system. The use of personal email addresses contravenes the directive given by the Head of Public Service and exposes the County Government to data leakage and misuse by disgruntled employees for their gain. Further, the County Government does not have control over information and data held in the personal emails even in the event the employee exits the County.

In the circumstances, information security may be compromised by the use of personal email for official communication.

472. Weak Internal Controls on Revenue Management System

During the year under review, the County Government migrated revenue collection systems to one centralized system. However, review of the centralized system revealed various internal control weakness that could affect the reliability of the system to generate accurate and complete revenue reports.

473. Unapproved ICT Policy

Review of the Information Communication Technology (ICT) environment revealed that Kiambu County did not have an approved ICT Policy in place. The County Executive also lacked an ICT Steering Committee and an ICT Strategic Plan to formulate policies and advice on ICT investment priorities.

In the circumstances, the adequacy of the ICT governance structures to safeguard public resources could not be confirmed.

474. Assets Management

474.1 Failure to Identify, Verify and Validate Assets of Defunct Local Authorities

The County constituted the Assets and Liabilities Committee on 3 April, 2023 for the identification, verification and validation of the assets and liabilities of the County Government. However, there was no evidence that the committee had carried out the process of identifying, verifying and validating the assets since assets inspection reports were not provided for audit. Further, committee minutes showing deliberations made towards execution of the committee mandate were not provided for review. This was contrary to gazette notice No.2701 of the Intergovernmental Relations Act, 2012 which states that (1) each County Assets and Liabilities Committee shall be responsible for the identification, verification and validation of the assets and liabilities of the defunct local authorities as on the 27 March, 2013.

In the circumstances, the existence of effective internal controls to safeguard the assets from Defunct Local Authorities could not be confirmed.

474.2 Lack of Assets Management Unit in the County

Review of County operations revealed that there was no asset management unit within the County charged with the responsibility of ensuring that there are adequate systems and processes to plan, procure, account, maintain, store and dispose of assets, including an asset register that is current, accurate and available to the relevant County Treasury or the Auditor-General contrary to Section 149(2)(o) of Public Finance Management Act, 2012.

In the absence of the assets management unit, it may not be possible to confirm the different categories of assets in the County and whether appropriate officers are tasked with asset movement monitoring and control. This may result to procurement of assets not needed, loss of assets through theft or mismanagement by assigned staff/officers and keeping of assets not in usable condition.

In the circumstances, optimal asset management may not be achieved.

474.3 Lack of Fleet Management System

Interviews carried out with the Management revealed that the County did not have a fleet management system to plan the usage of fleets within the County and monitor and track the movement. Review of procurement documents provided for audit revealed that an advertisement was made in the local dailies in the month of September, 2022 for the procurement of a County fleet management system. However, no explanation was provided as to why the County had not procured a fleet management system.

In the absence of the fleet management system, it may not be possible to plan and monitor the usage of the fleet within the County.

475. Weaknesses in Fuel Management

475.1 Irregularities on Motor Vehicle Fuel

Review of the documents provided for audit in respect of fuel consumption revealed that the County did not provide motor vehicle Logbook GP.55. Further, review of sampled work tickets and fuel statements revealed the following anomalies;

- (i) The fuel drawn by various motor vehicles was not updated in the work tickets. In addition, various County vehicles drew fuel on various dates however fuel drawn on the work ticket did not tally with what was indicated as drawn fuel by the supplier on the fuel statement.
- (ii) Review of fuel drawn by various County motor vehicle revealed that various motor vehicle drew high amount of fuel against the number of kilometres covered.
- (iii) Review of the work tickets provided for audit revealed that Management was fueling vehicles whose speedometers were defective. Due to the defect, it was not possible to ascertain the fuel consumption by the vehicles. Further, there was no evidence

that the vehicles were repaired yet there was an allocation for repair and maintenance of motor vehicles.

- (iv) Review of fuel statements for various motor vehicles revealed that some vehicles drew fuel more than once in a single day on various dates and the work tickets were not updated.

475.2 Lack of Generator Fuel Records

During the year under review, the County Government had five (5) Generators. However, records in respect of fuel consumption were not provided for audit and therefore it was not possible to ascertain which Generator and how much fuel each consumed during the year under review.

In the circumstances, the existence of effective internal controls to ensure proper fuel management and value for money on the fuel expenditure could not be confirmed.

476. Decommissioning of Electronic Development Application and Management System (e-DAMS)

During the year under review, the County Government decommissioned the Electronic Development Application and Management System (e-DAMS) in favour of the manual process. The e-DAMS was used to automate the planning department approval process and billing of house plan drawings. In the absence of the system, the County reverted to manual submission, approval and billing of house plan drawings. Once the drawing is approved a manual bill is raised to the customer who submits it to the revenue department for system billing, payment and receipting. The manual process of approval and billing is bound to human error and the inherent risk of human collusion.

In the circumstances, the benefits of the decommissioning without impacting the gains and controls could not be confirmed.

477. Failure to Check and Confirm Payroll Data

The County Government maintains both an Integrated Personnel and Payroll Database (IPPD) and a manual payroll for employees not yet included in the database. Interview with the Management revealed that payroll data was not reviewed and approved by the accounting Officers for the various departments before the salary payments were processed.

In the circumstances, the existence of effective controls on the payroll could not be confirmed.

COUNTY EXECUTIVE OF TURKANA - NO.23

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

478. Unconfirmed Employees Cost

The statement of receipts and payments reflects employee compensation amount of Kshs.4,176,058,819 as disclosed in Note 3 to the financial statements. However, the monthly payroll provided for audit indicates gross salary of Kshs.3,708,197,235 resulting to unexplained or unreconciled variance of Kshs.467,861,584

In addition, records of payroll payments made outside IPPD and monthly summary of pension contributions per scheme for the year were not provided for audit review.

In the circumstances, the accuracy and completeness of employee compensation amount of Kshs.4,176,058,819 could not be confirmed.

479. Non-Inclusion of Assets of Defunct Local Authorities

Annex 6- summary of non-current asset register reflects cumulative historical cost of non-current assets balance of Kshs.8,138,461,262 as at 30 June, 2023. However, the balance excludes assets inherited from defunct local authorities including land, buildings, motor vehicles, computers and other office furniture and equipment. The process of assets verification and valuation is yet to be concluded for inclusion in the assets register.

In the circumstances, the accuracy and completeness of non-current assets balance of Kshs.8,138,461,262 could not be confirmed.

480. Unsupported Pending Bills

Note 20 to the financial statements- other important disclosures reflects pending account payables of Kshs.402,970,454 as at 30 June, 2023 in respect of construction of buildings, construction of civil works and supply of goods and supply of services. However, the amount includes Kshs.18,191,001 which was not supported by invoices, delivery notes, S13, purchase orders, Contracts, inspection and acceptance reports and completion certificates.

In the circumstances, the accuracy and completeness of pending accounts payables balance of Kshs.18,191,001 could not be ascertained.

481. Late Exchequer Releases

Turkana County Government equitable share for the year ended 30 June, 2023 amounted to Kshs.12,609,305,994. The County received its full allocation of Kshs.12,609,305,994 into the county revenue fund bank account from the National Treasury during the year.

However, the funds were not transferred to the county revenue fund in accordance with a payment schedule approved by the senate and published in the gazette by the Cabinet

Secretary. There was under-disbursement of Kshs.2,080,535,494, Kshs.1,008,744,473 and Kshs.63,046,530 in quarter 1, 2 and 3 respectively and over-disbursement of Kshs.3,152,326,497 in quarter 4 contrary to Section 4(2) of the County Allocation of Revenue Act, 2022 which states that each county government's allocation under sub Section (1) shall be transferred to the respective County Revenue Fund in accordance with a payment schedule approved by the Senate and published in the gazette by the Cabinet Secretary in accordance with Section 17 of the Public Finance Management Act, 2012.

The late disbursement of exchequer affects timely implementation of approved projects/activities which may impact negatively on service delivery to the citizens.

482. Under Funding of Conditional Allocation to the County

During the year under review, the County was allocated grants amounting to Kshs.570,438,214 but received Kshs.303,062,062 or 53% resulting into an under-funding of Kshs.267,376,152 or 47% of the budgeted funds. Further, there was no evidence to show that the County received Kshs.93,109,022 from Drought Resilience Programme in Northern Kenya (DRPNK) and Kshs.33,903,563 from DANIDA.

Delay or under disbursement of budgeted funds affects timely implementation of approved projects/activities in the County therefore denying services to the public.

483. Under Absorption of Other Grants and Transfers

During the year, payments amounting to Kshs.638,785,549 or 63% of available funds of Kshs.1,021,411,648 under other grants and transfers were made resulting to unutilized funds of Kshs.382,626,098 or 37%.

Delay/non-disbursement of budgeted donor funds causes delay or non-implementation of approved projects/activities/programmes therefore denying the county residents the services or benefits accruing from such completed projects. Further, non-utilization of donor funds may deny the County future donor funding.

484. Local Revenue Under-Collection

County Executive of Turkana local revenue collections from various revenue streams for the year ended 30 June 2023 amounted to Kshs.177,717,811. However, the collections of Kshs.177,717,811 represents a 90% performance against the 2023 budgeted amount of Kshs.198,000,00 resulting in under collection of Kshs.20,282,189 or 10% of budgeted amount. Further, local revenue collections of Kshs.177,717,811 for the year reduced by Kshs.26,632,033 from Kshs.204,349,844 collected in year ended 30 June, 2022 and the management has not provided measures being put in place to ensure that local revenue targets are met to enhance service delivery to the residents of Turkana County.

In the circumstances, under-collection of local revenue negatively affects the execution of planned programs and activities and therefore results in non-delivery of services to the citizens.

Emphasis of Matter

485. Budgetary Control and Performance

The statement of comparison of budget and actual amounts (recurrent and development combined) reflects final receipts budget and actual on comparable basis amount of Kshs.17,159,661,255 and Kshs.14,729,287,895 respectively resulting to underfunding of Kshs.2,430,373,360 or 14% of the budget. Similarly, the County Executive spent Kshs.14,904,144,891 against approved budget of Kshs.17,159,661,255 resulting to an under-expenditure of Kshs.2,255,516,364 or 13% of the budget.

The underfunding and underperformance affect implementation of planned activities and may have impacted negatively on service delivery to the citizens.

486. Unresolved Prior Year Matters

In the audit report of the 2021/2022 financial year, several issues raised in the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, Management had the issues or given explanation for failure to resolve them.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

487. Compensation of Employees

The statement of receipts and payments reflects compensation of employees' amount of Kshs.4,176,058,819 for the year ended 30 June 2023 as disclosed in Note 3 to the financial statements. Audit review of compensation of employees' records revealed the following unsatisfactory matters:

487.1 Failure to Set Expenditure Limit on Salaries and Wages

During the year ended 30 June 2023, County Executive of Turkana incurred salaries and wages amount of Kshs.4,176,058,819. However, there was no evidence to show that County Executive Committee Member with the approval of the County Executive set a limit on the county government's expenditure on wages and benefits for its public officers'. This was contrary to Regulation 25(1)(a) 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 County Executive Committee Member with the approval of the County Executive shall set a limit on the county government's expenditure on wages and benefits for its public officers pursuant to section 107(2) of the Act.

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

487.2 Non-Adherence to One Third Basic Salary Requirement

Review of the payroll for the year ended 30 June, 2023 revealed instances where employees were receiving net salaries which were less than a third of their respective basic salaries while other staff members received negative salaries. This was contrary to Section 19 (3) of the Employment Act, 2007 which states that the total amount of all deductions which under the provisions of sub Section (1), may be made by an employer from the wages of his employee at any one time shall not exceed two-thirds of such wages or such additional or other amount as may be prescribed by the Minister either generally or in relation to a specified employer or employee or class of employers or employees or any trade or industry.

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

487.3 Un-Approved Staff Establishment

The County Executive had a total of three thousand seven hundred and forty-six (3,746) members of staff as at 30 June, 2023. However, there was no evidence to show that the Turkana County Public Service Board approved the draft staff establishment in accordance with Section B.2 (1) of Human Resource Policies and Procedures Manual for the Public Service of May, 2016.

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

487.4 Late Payment of Statutory Deductions

Compensation of employees' amount of Kshs.4,176,058,819 for the year ended 30 June, 2023 includes July, 2022 statutory deduction of Kshs.56,492,444 to Kenya Revenue Authority whose due payment date was on or before 9 August, 2022 but was paid on 1 September, 2022. This was contrary to Section 37(1) of the Income Tax Act, 1973 (revised 2012) which requires that an employer paying emoluments to an employee shall deduct therefrom, and account for tax thereon, to such extent and in such manner as may be prescribed.

In the circumstances, Management was in breach of the law and County Executive is likely to lose funds due to fines and penalties.

488. Construction of Parking Lots -Phase II in Lodwar Municipality

The statement of receipts and payments reflects other grants and transfers amount of Kshs.2,020,688,388 as disclosed in Note 7 to the financial statements. The amount includes Kenya Urban Support Programme (KUSP) payments of Kshs.60,920,251 which includes payment of Kshs.12,310,125 for the proposed construction of parking Lots – phase II in Lodwar Town, whose contract sum was Kshs.28,834,084.

However, contract agreement, completion certificates, monthly and quarterly progress reports from the Project Implementation Committee, site meeting minutes and project file were not provided for audit. This was contrary to Regulation 104 of the Public Finance Management (County Government) Regulations, 2015 which requires that all receipts and payment vouchers of public moneys to be properly supported by pre-numbered

receipts and payment vouchers and shall be supported by the appropriate authority and documentation.

In addition, there was no evidence to show that monthly progress reports were submitted to the accounting officer contrary to regulation 140(1) of the Public Procurement and Asset Disposal Regulations, 2020 which requires that the head of procurement function shall prepare a monthly progress report of all procurement contracts and submit the same to the accounting officer in accordance with section 152 of the Act. (2) The report referred to in paragraph (1) shall include— (a) contract description; (b) contract number; (c) value of contract; (d) commencement date; (e) current status; (f) the amount of money paid; and (g) the expected completion date.

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

489. Acquisition of Assets

489.1 Delay in Completion of Turkana County Headquarters Building

The statement of receipts and payments reflects acquisition of assets balance of Kshs.2,484,656,370 for the year ended 30 June 2023 which includes construction of buildings amount of Kshs.397,413,630 as disclosed in Note 9 to the financial statements. The amount of Kshs.397,413,630 includes contract variation amount of Kshs.156,562,939 due to cost escalation and interest charges paid in respect of Governor's office.

489.2 Proposed Construction of Governor's Office

As previously reported, tender No. CGT/GR/2013-2014 for construction of the governors' office was awarded to a holding company at contract sum of Kshs.695,854,432. The contract was signed in May, 2015 for contract period of thirty-six (36) months commencing 15 May, 2015 with an expected completion date of 30 June, 2017 which was extended to 31 December, 2020.

The contract sum of Kshs.695,854,432 included provisional contingency amount of Kshs.73,400,000 in respect of purchase and installation of lifts, air conditioning, plumbing, builders work connection, electrical works and project managers expenses and project managers stationary. However, these works were subcontracted through tender No. TCG/F& P/3/2017-2018 for supply, delivery, installation, testing and commissioning of three (3) lifts at a contract sum of Kshs.29,497,845 while payments made amounted to Kshs.32,447,629 therefore exceeding the contract sum by Kshs.2,949,784 which was not supported by approved contract variation.

Further, another firm was subcontracted through tender No. TCG/CA/23/2017-2018 for the supply, installation and commissioning of air conditioning in county headquarters at a contract sum of Ksh.82,588,770 and Kshs.14,085,657 paid although the air conditioners were yet to be installed.

In addition, contract agreement, performance bond, record of payments to the contractors and monthly project progress reports were not provided for audit review while physical

inspection on 17 November, 2023 revealed that the contractor was on site and the project was still ongoing.

In the circumstances, the County is exposed to loss of funds through contract variations, interest charges and cost escalations and value for money on the expenditure incurred could not be confirmed.

489.3 Proposed Construction of Governor's Residence

The contract for construction of Governor's residence which included construction of a one-storey residential house and erecting a perimeter wall was awarded vide contract Ref TCGVN/01/2013-2014. However, this contract was terminated in the financial year 2014/2015 when the contractor had been paid Kshs.120,500,965 whose amount was not supported by contract agreement and actual measured works.

A new contract No TCG/OOG/6/2018-2019 was awarded on 24 April, 2019 at a sum of Kshs.90,563,900 for a period of 52 weeks ending 31 October, 2021. However, tender documents were not sequentially serialized and the recommendation letter, evidence of supply of goods, letter of commitment were not provided for audit. Review of certified works revealed that Kshs.17,917,599 had not been paid by November, 2023 and was not included as pending bills. In addition, the expenditure incurred to date exceeds the limit of Kshs.45,000,000 set by the Salaries and Remuneration Commission for a Governor's residence. Further, purchase orders amounting to Kshs.14,514,160 were issued after the expiry of the contract period and the performance bond.

Project inspection on 14 November, 2023 revealed that the project was incomplete and the contractor was not on site.

The Governor and his Deputy irregularly earned Kshs.2,280,000 as housing allowance after the period for such allowance being paid of 30 June, 2022 had passed.

In the circumstances, it was not possible to ascertain propriety of the expenditure and whether value for money on the construction of Governor's residence was achieved.

489.4 Failure to Complete the Construction of Kalokol Resource Centre

As reported in the previous year, the tender for construction of Kalokol Resource Centre at Kalokol was awarded at a contract sum of Kshs.25,104,510 and the contract agreement signed on 12 January, 2021 for a period of sixteen (16) weeks commencing 27 January, 2021. Review of records revealed that the contractor was paid an amount of Kshs.11,678,590 on 28 June, 2021 but physical verification in August, 2023 confirmed that the works were approximately 50% complete, more than eighteen (18) months after lapse of the contract period and the contractor was not on site. Further, project progress reports, renewal of performance bond, records of the payments made up to 30 June, 2023 and measured works or payment certificates were not provided for audit.

In the circumstances, value for money incurred on the project of Kshs.11,678,590 could not be incurred on the project.

489.5 Failure to Complete the Construction of Plastic Re-Use Facility

As previously reported, the contract for construction of plastic re-use facility was awarded to a local contractor through tender No. TCG /MEE-NR/208/2016-2017 at contract sum of Kshs.13,626,320. The contract agreement was signed on 13 January, 2017 and works were expected to be completed within twelve (12) weeks. The contractor was paid an amount of Kshs.4,895,620 on 15 April, 2021. However, the project progress reports, renewal of performance bond, records of additional payments during the year ended 30 June, 2023, completion certificates and other previous payments were not provided for audit review. Further, physical verification in August, 2023 revealed that the project was not complete and the contractor was not on site.

In the circumstances, value for money on expenditure of Kshs.4,895,620 project could not be confirmed.

489.6 Failure to Complete the Construction of Kataboi Eco Lodge

As previously reported, the contract for construction of Kataboi Eco Lodge was awarded in the financial year 2014-2015 at a sum of Kshs.66,389,746 to be completed in December, 2015 which was varied by Kshs.9,958,464 to Kshs.76,340,210. However, the contract was terminated vide a letter dated 26 March, 2019 with full payment of the contract sum having been made.

Further, summary of payments made to the contractor before termination of the contract was not provided to determine the total amount so far spent on the project. Also, a project status report as well as pre-inspection report from the department of infrastructure to confirm the remaining works to be done before issuing of new tender was not provided.

In addition, another contract No. TCG/TC & NR/103/2020-2021 was awarded at a contract sum of Kshs.60,016,621 and an amount of Kshs.18,269,805 paid. However, bills of quantities for this contract, payment vouchers, interim payments certificate of works and statement for valuation were not provided for audit. This contract did not specify the period under which the contract was to be valid and the works completed.

In addition, project progress reports, renewal of performance bond, records of additional payments, completion certificates and other previous payments were not provided for audit. Project inspection in August, 2023 revealed the project is incomplete and has not been put into intended use.

In the circumstances, value for money on the expenditure incurred on the project could not be confirmed.

490. Incomplete and Stalled Projects

During the month of August 2023, nine (9) projects with cumulative payments of Kshs.42,065,411 were verified. Two (2) projects with cumulative payments of Kshs.4,977,300 were found to be complete and in use, four (4) with cumulative payments of Kshs.16,082,954 were complete but not in use, two projects with cumulative payments of Kshs.11,292,857 were ongoing while one project with payment of Kshs.9,712,300 had stalled.

In the circumstances, the public has not received value for money from the incomplete and stalled projects.

491. Un-surrendered Imprest

The statement of assets and liabilities reflects accounts receivable- outstanding imprest balance of Kshs.119,216,466 as at 30 June, 2023 and as disclosed in Note 14 to the financial statements. However, included in this balance is imprest totalling Kshs.49,400,772 issued to officers holding more than one imprest. This was contrary to Regulation 93(8) of the Public Finance and Management (County Governments) Regulations, 2015 which states that in order to effectively and efficiently manage and control the issue of temporary imprests, an Accounting Officer or AIE holder shall ensure that no second imprest is issued to any officer before the first imprest is surrendered or recovered in full the salary.

Further, the outstanding imprest amount of Kshs.119,216,466 includes Kshs.98,012,276 which was due for surrender on or before 30 June, 2023 and had not been surrendered. This was contrary to Regulation 93(5) of the Public Finance and Management (County Governments) Regulations, 2015 which requires holder of temporary imprest to account for or surrender the imprest within seven working days after returning to the duty station.

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

492. Effectiveness in Implementation of the Recommendations of Legislative Oversight Committees

The report of the Auditor-General for the year ended 30 June, 2020 was tabled and discussed by senate County Public Accounts and Investment committee (CPIC) on 04 of May, 2022. However, the management has not provided County Public Accounts and Investment committee (CPIC) recommendations and evidence to show that the senate recommendations have been implemented. This was contrary to Section 31(1)(a) of the Audit Act, 2015 which states that within three months after Parliament or the County Assembly has debated and considered the final report of the Auditor General and made recommendations, a State Organ or a public entity that had been audited shall, as a preliminary step, submit a report on how it has addressed the recommendations and findings of the previous year's audit.

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

493. Delayed in Transfer of Own Source Revenue to CRF

The statement of receipts and payments reflects own source revenue amount of Kshs.174,374,614 for the year ended 30 June, 2023 as analyzed in note 6 to the financial statements. However, this amount was transferred into the county revenue fund in eighteen (18) tranches instead of weekly. This was contrary to Regulation 81(2) of the Public Finance Management (County Governments) Regulations, 2015 which states that the receivers of revenue shall promptly pay the revenue received into the County Revenue Fund, as soon as possible and in any case not later than five (5) working days after receipt thereof.

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

494. Failure to Maintain a Non-current Assets Register

Annex 6 - summary of non-current asset register reflects cumulative historical asset amount of Kshs.8,138,461,262 as at 30 June, 2023. However, the County Executive had not kept and maintained an asset register. This was contrary to Section 149(2)(0) of the Public Finance Management Act, 2012 which states that in carrying out responsibility imposed by sub-section (1), an Accounting Officer shall, in respect of the entity concerned—ensure that the respective County Government entity has adequate systems and processes in place to plan for, procure, account for, maintain, store and dispose of assets, including an asset register that is current, accurate and available to the relevant County Treasury or the Auditor-General.

In the circumstances, the existence of mechanisms to safeguard assets could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

495. Lack of Risk Management Policy

During the year ended 30 June, 2023, Management did not put in place a risk management policy. This was contrary to Regulation 158(1) of the Public Finance Management County Government Regulations, 2015 which requires each County Government entity to develop risk management strategies and a system of risk management.

In the circumstances, the effectiveness of risk management could not be confirmed.

COUNTY EXECUTIVE OF WEST POKOT - NO.24

REPORT ON THE FINANCIAL STATEMENT

Basis for Qualified Opinion

496. Unsupported Motor Vehicle Insurance

The statement of receipts and payments reflects use of goods and services of Kshs.1,232,710,350 as disclosed in Note 4 to the financial statements. Included in the amount is insurance cost of Kshs.137,279,912 out of which Kshs.9,676,558 was paid for the provision of comprehensive motor vehicle insurance cover for a period of one year with effect from 15 November, 2022 to 14 November, 2023. However, the original insurance policy, the professional indemnity guarantee and the valuation report for each motor vehicle and the total number of vehicles insured were not provided for audit.

In the circumstances, the accuracy and completeness on motor vehicle insurance of Kshs.9,676,558 could not be confirmed.

497. Unsupported Rent Arrears

The statement of receipts and payments reflects use of goods and services totalling Kshs.1,232,710,350 as disclosed in Note 4 to the financial statements. Included in the amount is rental of produced assets expenditure of Kshs.9,709,000 out of which, Kshs.9,240,000 was incurred as rent arrears in respect of the County Liaison Office in Nairobi. However, Management failed to provide a valuation report from the Ministry of Lands, Public Works, Housing and Urban Development as evidence to support the prevailing rental rates chargeable per month within the locality of the property.

In the circumstances, the accuracy and completeness of the expenditure on rent arrears of Kshs.9,240,000 could not be confirmed.

498. Unsupported Acquisition of Land

The statement of receipts and payments reflects acquisition of assets of Kshs.1,521,645,141 as disclosed in Note 8 to the financial statements, out of which Kshs.3,400,000 was in respect of acquisition of land. However, the title deeds, sale agreements and valuation reports to support the acquisition of land parcel meant for construction of Nginginat Cattle Dip at Kshs.800,000 and a parcel of land amounting to Kshs.1,800,000 from Kapenguria Water Service Company (KAWASCO) was not provided for audit.

In the circumstances, accuracy and completeness in the acquisition of land amounting to Kshs.3,400,000 could not be confirmed.

Emphasis of Matter

499. Pending Bills

Annex 2 to the financial statements reflects total pending accounts payables of Kshs.174,205,835 out of which Kshs.1,917,744 relates to the year 2016 and prior. No satisfactory explanation was provided for continued accumulation of pending bills contrary to Regulation 41(2) of the Public Finance Management (County Governments) Regulations, 2015 which states that debt service payments should be a first charge on the County Revenue Fund and the Accounting Officer should ensure this is done to the extent possible that the County Government does not default on debt obligations.

In addition, according to data from Kenya Revenue Authority records, the County Executive had an accumulated outstanding tax of Kshs.249,034,672 which was not disclosed as pending accounts payables.

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. This further exposes the County Executive to risk of avoidable litigation costs, penalties and interest.

My opinion is not modified in respect of these matters.

Other Matter

500. Prior Year Unresolved Issues

In the report of the previous year, several audit matters were raised under report on the financial statements and report on lawfulness and effectiveness in use of public resources. However, review of the progress on follow up of auditor's recommendations showed that the Management had not resolved the issues or provided satisfactory explanation for the delay in resolving the issues.

501. Project Implementation Status

The County Executive approved a budget of Kshs.1,818,639,970 to implement seven hundred and ninety-eight (798) projects during the year. The analysis of the project implementation status report (PIS) revealed seven hundred and seventy-four (774) projects with a budget of Kshs.1,757,169,960 were implemented. However, twenty-four (24) projects with a budget of Kshs.61,470,010 had not started.

The non-implimentation of these projects affected the planned activities and may have impacted negatively on service delivery to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

502. Non- Compliance with Fiscal Responsibility on Wage Bill

The statement of receipts and payments reflects compensation of employees expenditure of Kshs.2,471,619,899 which accounts for 39% of the total receipts of Kshs.6,322,620,939. This was contrary to Regulation 25(1) (b) of the Public Finance Management (County Governments) Regulations, 2015 which states that compensation of employees including benefits shall not exceed 35% of the County Government's total revenue.

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

503. Non-Compliance with One-Third of Basic Salary Rule

Review of payroll revealed that twenty-two (22) employees earned a net salary less than a third (1/3) of the basic salary contrary to Section C.1(3) of the Public Service Commission (PSC) Human Resource Policies, 2016 which provides that public officers shall not over-commit their salaries beyond two thirds (2/3) of their basic salaries as this may expose the staff to pecuniary embarrassment. The Management has not given explanation for the failure to comply with the policy.

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

504. Irregular Recruitment of Staff

Review of human resource records, revealed that the County Public Service Board had recruited one hundred and two (102) officers in the months of April and May, 2022. The new employees were not immediately put in the payroll due to budgetary constraints. Further, the positions filled by the officers had not been declared vacant and applications invited through advertisement contrary to Section 66 of County Governments Act no.17 of 2012, which states that, If a public office is to be filled, the County Public Service Board shall invite applications through advertisement and other modes of communication so as to reach as wide a population of potential applicants as possible and especially persons who for any reason have been or may be disadvantaged.

On 6 June, 2023, the County Public Service Board terminated the contracts of employment for the officers. Data from Integrated Payroll and Personnel Database (IPPD) for the month of June 2023 revealed that eighty-nine (89) of the officers were paid Kshs.44,806,650 being arrears for the twelve months and as a golden handshake for termination of the contracts. However, no minutes were provided for audit to show how the Board arrived at termination of the contracts and payment of the amount thereof.

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

505. Non-Remittance of Gratuity

Review of Payroll records revealed that the County Executive had a balance carried forward of Kshs.92,543,131 as gratuity due to officers still in service and those who had

since exited the service and not remitted to Local Authority Pension Trust (LAP TRUST/Local Authorities Pension Fund (LAP FUND). Management did not provide satisfactory explanation on why the amount has remained outstanding contrary to Section 53A (1) and (3) of the Retirement Benefits Act, Revised Edition 2022 (1997) which states that where an employer, made a deduction from the employee's emoluments for remittance to an agreed pension scheme and fails to remit the deduction within fifteen days, the scheme may, after giving such employer not less than seven days' notice, institute proceedings for the recovery of the deduction and recover at a compound interest rate of three percent per month

In the circumstance, non-remittance of gratuity may attract huge interest and penalties.

506. Non-Establishment of West Pokot County Disaster Management Fund

Management incurred Kshs.35,807,940 for emergency relief and refugee assistance under other grants and transfers. However, despite the gazette of West Pokot County Disaster Management Act, 2016 through gazette Notice No 14, the County Executive failed to operationalize the Fund. There was also no evidence that the expenditure complied with the conditions set out in Section 110 (2) of the Public Finance Management Act, 2012 that states the purpose of the emergency fund is to enable payments to be made in respect of a county when an urgent and unforeseen need for expenditure for which there is no specific legislative authority arises.

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

507. Improvement and Maintenance Works at Paul Kide Koturuk River

The contract for the proposed improvement and maintenance of Paul Kide Kotoruk River Road was awarded on 07 April, 2023 to a local contractor at a cost of Kshs.997,516 for earth works, grading and gravelling works on two (2) Km of road length. Physical inspection of the project, carried out on 07 August, 2023 revealed that only five hundred meters (500m) of the entire works of two (2) Km was graded and graveled of gullies had already developed due to erosion.

In the circumstances, value for money on the project could not be confirmed

508. Construction of Borehole at Poto-Weiwei Ward

Management awarded a contract to a local contractor for the construction of a borehole at Poto - Weiwei Ward on 17 June, 2022 at a contract sum of Kshs.2,319,960. However, detailed design reports, hydro-geological test survey and environmental impact assessment reports for drilling of a borehole were not provided for audit. In addition, the Water Resources Authority permit/licenses to guarantee the quality and quantity of water and the ownership documentation of the land on which the borehole was constructed were not provided for audit.

Physical inspection conducted on 17 August, 2023 revealed that the borehole did not yield water although full payment of the contract sum had been made, which included the retention and hydrological survey costs.

In the circumstances, value for money on the project could not be confirmed.

509. Renovation and Maintenance Works at Kasetiang - Akiriamet Road

Management awarded a contract on 10 March, 2023 to a local contractor for the renovation and maintenance work at Kasetiang-Akiriamet Road and made a payment of Kshs.3,933,270. However, the signed contract agreement did not provide for the contract period indicating commencement and end date while the requisition documents for renovation of the road did not provide for the distance in Kilometer (KM) to be excavated and graveled. Also, no report was provided of the material testing for the gravel to be used was on the road.

Further, physical inspection conducted on 17 August, 2023 revealed that, contrary to the signed inspection and acceptance report dated 05 April, 2023; that the gravel material used on the road, was of poor quality, loose and easily swept away by heavy rains. In addition, the progress report dated on 21 April, 2023 instructed the contractor to improve on the drainage system on the road, however, this had not been done as at the time of audit.

In the circumstances, value for money was not obtained from the expenditure on the project.

510. Construction of Ortum Mission Footbridge

Management awarded a contract of Kshs.9,946,014 for the construction of Ortum Mission Footbridge. However, review of documentation provided on the project revealed that the requisition for the construction of the footbridge did not provide for the estimated length of the footbridge in meters (m) while the signed contract agreement did not provide for the contract period indicating the commencement and completion dates for the project.

In addition, physical inspection conducted on 07 August, 2023 revealed that the contractor constructed only forty-two (42) meters steel trusses fabrication instead of forty-eight (48) meters span hoisted with approximately 4 Meters above river valley all valued at Kshs.5,052,500 as provided in the bills of quantities. This resulted in an unaccounted length of 6 meters per steel truss totalling approximately Kshs.631,572.

In the circumstances, value for money could not be confirmed from the implementation of the project.

511. Supply and Delivery of ECDE Supplies

Management procured through request for quotation for the supply of three thousand nine hundred and thirty-four (3,934) kindergarten chairs and subsequently made payments to various suppliers amounting to Kshs.5,898,204. However, market surveys done by the procurement unit indicated the price per chair as Kshs.900 but the actual average procurement price for the supplies was Kshs.1,499 per chair leading to an excess of Kshs.599 per chair which translates to approximately 67% above the market survey pricing resulting to possible loss of public funds amounting to Kshs.2,356,466. This was contrary to Section 54 (2) of the Public Procurement and Asset Disposal Act, 2015 which provides that standard goods, services and works with known market prices shall be procured at the prevailing market price.

In the circumstances, value for money from the supply and delivery of ECDE supplies could not be confirmed.

512. Procurement of Rig and Truck for Borehole Drilling

Management procured a rig and truck from a supplier at contract sum of Kshs.41,884,000. However, Management did not provide the original logbook for the truck as evidence of ownership. Further, there was no post-delivery inspection report from county public works department to confirm the suitability of rig and truck.

In total, there were two (2) drilling rigs which are fully functional. However, Management continued to award contracts for the provision of drilling services to twenty-five (25) private companies with a total expenditure of Kshs.56,416,210 during the financial year. No justification or explanation was provided for awarding the contracts while the drilling rigs were fully operational.

In addition, a cost benefit analysis indicated that Management incurred a cost of Kshs.37,002,500 when it deployed the rigs to drill nineteen (19) boreholes at an estimated cost of Kshs.1,947,500 for each borehole. Comparatively, the cost matched closely the amount incurred for drilling a borehole using private contractors and therefore the County Executive was not benefiting from owning the rigs.

In the circumstances, value for money may not have been achieved from owning and using the drilling machines.

513. Grounded Motor Vehicles

The County Executive had one hundred and eighty-five (185) motor vehicles out of which fifty-one (51) were unserviceable and had remained grounded for a long period of time. Further, no explanation was given why those grounded vehicles had not been disposed despite continuously depreciating and losing their value due to wear and tear. Physical inspection conducted on 24 August, 2023 on the grounded vehicles, confirmed that the vehicles had degenerated due to vandalism of mechanical and body parts which made it difficult for possible rehabilitation.

In the circumstances, the values of the grounded motor vehicles included in the records of the County Executive could not be confirmed.

REPORT ON THE EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

514. Weak IT Internal Controls

Review of the Information Technology environment revealed that the County Executive of West Pokot uses Revenue Management System, Hospital Integrated Management System, E-mail Management System, Integrated Financial Management Information System and Integrated Payroll and Personnel Data to manage its operations.

However, the County Executive did not have an ICT Policy, Business Continuity Plan, Disaster Recovery Plan, IT Security/risk Management Policy and approved IT Steering Committee in place to ensure proper functionality and security of IT systems and

equipment. In addition, the Data Centre had no fire suppressors and cooling systems despite a contract signed on the 10 January, 2019 between the County Executive and a service provider for installation of the items.

In the circumstances, the effectiveness and assurance of the security of IT resources and sustainability of the systems could not be confirmed.

515. Supply of Drugs

Kenya Medical Supplies Authority (KEMSA) were paid an amount of Kshs.45,301,516 for the supply and delivery of medical drugs to various facilities within the county. Included in the payments were supplies made to County Medical stores and Kapenguria District Hospital of Kshs.6,770,356 and Kshs.5,110,076 respectively for which review of the stores records for the deliveries revealed the following unsatisfactory matters;

- i. The Kapenguria District Hospital had a hospital management system in place but the receiving functionality of the pharmacy module was not operational. In addition, the system could dispense drugs to negative balances.
- ii. The Kapenguria District Hospital's bin card balances in same instances did not match the balances that were in the shelves as the physical count reflected balances were very low compared with the bin card balances.
- iii. The head of pharmacy at the hospital at the time of audit did not have user credentials to operate the system and had to rely on another staff to access the system which breached confidentiality of user login details and responsibility of accountability.
- iv. Internal control system in place was weak as the store could be accessed by any staff and no CCTV cameras existed for security purposes.
- v. The county store bin cards were not properly maintained as some deliveries could not be traced to the bin cards and the information in them was not up to date hence it was not possible to confirm the correctness of the balances in the store.
- vi. No current or prior year stock-take reports existed.

In the circumstances, the effectiveness of the internal controls in the management of medical drugs could not be confirmed.

516. County Budget and Economic Forum (CBEF)

The County Executive constituted a County Budget and Economic Forum (CBEF) on 29 June, 2018 in line with Section 137 of the Public Finance Management Act, 2012 for with the main role being preparation of the County Plans, the County Fiscal Strategy Paper and the Budget Review and Outlook Paper. However, there was no evidence that the County Budget and Economic Forum played their role as envisaged as no forum meeting minutes, attendance registers and reports were provided for audit.

In the circumstances, the effectiveness of budget making process and the internal controls could not be confirmed.

517. Failure to Establish the Public Finance Management Standing Committee

The Management failed to establish Public Finance Management Standing Committee to provide strategic guidance on public finance management matters as required by Regulation 18(1) of the Public Finance Management (County Government) Regulations, 2015.

In the circumstances, the provision of strategic guidance on public finance Management in the County Executive could not be confirmed.

COUNTY EXECUTIVE OF SAMBURU - NO.25

REPORT ON THE FINANCIAL STATEMENT

Basis for Qualified Opinion

518. Misclassification of Expenditure

Note 4 to the financial statements reflects other operating expenses amount of Kshs.869,329,942 out of which an amount of Kshs.150,226,038 was misclassified expenditure spent on various items including construction of market buildings, purchase of computers, payment for the construction of water pans, purchase of solar panels, tyres, laptops and printers and daily subsistence allowance.

In addition, Note 9 to the financial statements reflects rehabilitation of civil works amount of Kshs.106,723,914 which includes misclassified expenditure of Kshs.2,399,985 on purchase of fingerlings.

In the circumstances, the accuracy and completeness of other operating expenses of Kshs.150,226,038 and rehabilitation of civil works of Kshs.2,399,983 could not be confirmed.

519. Inaccuracies in Cash and Cash Equivalentents

The statement of assets and liabilities reflects cash and cash equivalentents balance of Kshs.295,953,028 as disclosed in Note 13A to the financial statements. However, analysis of bank statements revealed receipts and payments of Kshs.3,536,530 and Kshs.21,110,761, respectively which were not recorded in the deposits cashbook account. The unrecorded receipts remained unposted since financial year 2016/2017.

In the circumstances, the accuracy and completeness of the cash and cash equivalentents balance of Kshs.295,953,028 could not be confirmed.

520. Over Payment of Salaries

The statement of receipts and payments and as disclosed in Note 3 to the financial statements reflects compensation to employees amount of Kshs.1,965,732,294. The amount includes basic salaries to permanent employees of Kshs.1,068,675,917 out of which Kshs.1,701,276 was overpayment made to five (5) County Public Service Board (CPSB) members.

In the circumstances, the accuracy and completeness of employee cost amount of Kshs.1,701,276 could not be confirmed.

Other Matter

521. Prior Year Unresolved Issues

In the report of the previous year, several issues were raised under Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Controls, Risk management and

Governance. However, the Management had not resolved the issues or given any explanations for failure to implement the recommendations.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

522. Compensation of Employees

522.1 Non-Compliance with Law on Staff Ethnic Composition

During the year under review, the total number of employees was two thousand four hundred and forty-six (2,446) out of whom two thousand and thirty-two (2,032) or 83% of the total number were members of the dominant ethnic community in the County.

This was contrary to Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 which states that, “all public offices shall seek to represent the diversity of the people of Kenya in employment of staff and that no public institution shall have more than one third of its staff establishment from the same ethnic community”.

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

522.2 Irregular Engagement of Casuals

The statement of receipts and payments reflects compensation of employees amount of Kshs.1,965,732,294 as disclosed in Note 3 to the financial statements. Included in the amount is Kshs.36,441,690 paid to casuals working in the department of Health. However, there was no formal engagement of casuals including approval by the County Public Service Board, letters of temporary employment and other personal credentials. Further, details such as date of hire, period served, duties performed, and qualifications of the casuals were not provided for audit review.

In addition, the casuals were engaged for more than three months without review of their terms contrary to Section 37(1)(b) of the Employment Act, 2007 which provides that where a casual employee performs work for more than three months, the contract of service of the casual employee shall be deemed to be one where wages are paid monthly and section 35(1)(c) shall apply to that contract of service.

In the circumstances, Management was in breach of the Public Service Commission guidelines.

522.3 Employees in Service Beyond Mandatory Retirement Age

Review of employees' records revealed that four (4) employees were still in the payroll despite having attained the mandatory retirement age of sixty (60) years. This contravened the provisions of the Public Service Commission Circular Ref No: PSC/ADMI13(7) dated 19 November, 2020 on Mandatory Retirement Age of Public Officers that provides the mandatory retirement age to be sixty (60) years and sixty-five (65) years for people living with disability.

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

522.4 Payment of Special House Allowance

The statement of receipts and payments reflects compensation of employees amount of Kshs.1,965,732,294 as disclosed in Note 3 to the financial statements. The amount includes personal allowances paid as part of salary amounting to Kshs.740,417,618 out of which an amount of Kshs.10,412,203 was paid to two hundred and forty-nine (249) employees as special house allowance in addition to the normal house allowance. This was contrary to the Salaries and Remuneration Commission Circular Ref. No. SRC/ADM/1/13 Vol. III (126) of 10 December, 2014 which provides rates of house allowances payable to public officers.

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

523. Emergency Relief Expenditure

Note 7 to the financial statements reflects other grants and transfers amount of Kshs.313,889,246 which includes an amount of Ksh.197,589,246 incurred on emergency relief and refugee assistance. However, review of the expenditure records revealed the following anomalies; -

523.1 Non-Establishment of County Emergency Fund

During the year under review, Management did not establish and operate a County Emergency Fund contrary to Section 110 (2) of the Public Finance Management Act, 2012 which provides that a County Executive may establish an Emergency Fund to enable payments to be made when an urgent and unforeseen need for expenditure arises for which there is no specific legislative authority.

In addition, Management did not establish a Disaster Management Committee contrary to Section 4(1)-(3) of the Samburu County Emergency and Disaster Management Act, 2015 which provides that there should be a Disaster Management Committee which should be responsible for setting relevant policies, approve plans and oversee the implementation of risk reduction, preparedness, response and recovery activities by all County agencies and other agencies performing roles related to disaster management.

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

523.2 Expenditure in Excess of Regulatory Thresholds

The payment of Kshs.197,589,246 was approximately 4% of the total county government revenue of Kshs.4,961,253,008 reported in the previous year. This was contrary to Section 113 of the Public Finance Management Act, 2012 which states that the County Executive Committee Member for Finance may not, during a financial year, make a payment from the Emergency Fund exceeding two per cent of the total county government revenue as shown in that county government's audited financial statements for the previous financial year.

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

524. Lack of Training Needs Assessment

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflect use of goods and service amount of Kshs.1,719,399,588. Included in

the component is training expenses amounting to Kshs.66,676,217 which was incurred without training needs assessment and training projections for the year. Further, there were no training impact assessment reports for the trainings that took place during the financial year.

In the circumstances, the value for money from the training expense of Kshs.66,676,217 could not be confirmed.

525. Irregular Procurement for Fuel, Oil and Lubricants

Note 4 to the financial statements reflects use of goods and services expenditure of Kshs.1,719,399,588 which includes an amount of Kshs.43,006,778 in respect of purchase of fuel, oil and lubricants out of which Kshs.5,600,000 was paid to one supplier. However, the supplier was awarded through request for quotation instead of open tender as required by Section 96(2) of the Public Procurement and Asset Disposal Act, 2015. Further, fuel consumption could not be traced to the fuel statements, fuel registers and motor vehicle work tickets. In addition, the motor vehicle work tickets lacked key details such as receipts and detail order numbers for the supplied fuel.

In the circumstances, value for money of the expenditure of Kshs.5,600,000 on purchase of fuel, oil and lubricants could not be confirmed and Management was in breach of the law.

526. Irregular Subscriptions

Note 4 to the financial statements reflects use of goods and services expenditure of Kshs.1,719,399,588 which includes Kshs.66,676,217 on training expenses out of which Kshs.2,000,000 was paid to the Council of Governors. However, the payment was not included in the approved budget and Management did not explain reasons for funding the operations of the Council of Governors which had its own budget allocation in line with Section 37 of the Intergovernmental Relations Act, 2012.

Further, included in operating expenses is Kshs.1,500,000 being contribution to Frontier Development Council, a regional bloc which is a private organization that is not anchored in law. This was contrary to Section 162 of the Public Finance Management Act, 2012 which requires a public officer to ensure that resources within the officer's area of responsibility are used in a way that is lawful and authorized, effective, efficient, economical and transparent.

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

527. Irregular Procurement of Motor Vehicle Repairs and Maintenance Services

Note 4 to the financial statement reflects use of goods and services expenditure of Kshs.1,719,399,588 which includes Kshs.19,990,132 spent on routine maintenance of motor vehicles out of which Kshs.7,095,172 was paid to five (5) suppliers. However, there was no requisition for the repairs contrary to Regulation 71(1) the Public Procurement and Asset Disposal Regulations, 2020 which require the head of the user department to initiate the procurement process through a requisition.

Further, there was no evidence of competitive procurement process contrary to Regulation 158 of the Public Procurement and Asset Disposal Regulations, 2020 which requires all the procurement of goods, works, and services to be competitively procured.

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

528. Construction of Governor's and Deputy Governor's Official Residence

The statement of receipts and payment reflects acquisition of assets amount of Kshs.1,381,600,923 as disclosed in Note 9 to the financial statements. It was noted that on 17 January, 2022, the contract for construction of the Governor's official residence was awarded at a contract sum of Kshs.87,586,528 which was Kshs.42,585,528 above the ceiling of Kshs.45,000,000 set by the Salaries and Remuneration Commission (SRC) and whose evidence of approval was not provided for audit.

As at 17 August, 2023, Kshs.60,440,153 had been paid and the project had not been completed despite the lapse of 30 June, 2022 completion deadline.

In addition, Management had not allocated funds and prioritized construction of the official residence for the Deputy Governor before the SRC set deadline of 30 June, 2022. This was contrary to the Salaries and Remuneration Commission (SRC) Circular Ref. No. SRC/TS/COG/6/61/48 VOL.II (64) of 20 May, 2019 requiring County Governments to hasten the construction of the Governor's and Deputy Governor's residences.

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

529. Pending Bills

529.1 Pending Bills Not Paid as First Charge

Note 1 and 3 under other important disclosures to the financial statements reflects pending accounts payable balance of Kshs.465,119,508 and other pending payables of Kshs.134,884,756. Review of the pending bills revealed that some of these bills date back to 2018 and no explanation was given for non-payment as they should have been paid as a first charge in 2022/2023 financial year. 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. Further, the creditors ledger was not provided for audit and pending bills incurred during the year were not supported with relevant records including invoices and payment vouchers.

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

530. Un-Balanced Budget

The statement of comparison of budget and actual amounts reflects final budgeted receipts of Kshs.5,776,006,230 and budgeted expenditure of Kshs.6,262,198,006 resulting in un- balanced budget by Kshs.486,191,776. This was contrary to Regulation 31(c) of the Public Finance Management (County Governments) Regulations, 2015 that require budgeted revenues and expenditure to be balanced.

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

REPORT ON THE EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

531. Lack of Information Communication Technology (ICT) Strategic Plan, Approved Policy and ICT Steering Committee

As previously reported, review of the information technology systems revealed that the Management did not have an approved ICT policy and strategic plan for governance and management of its ICT resources. In addition, there was no ICT steering committee to assist in the development of ICT policy framework to enable the County Executive realize long-term ICT strategic goals.

In the circumstance, the effectiveness of the ICT internal control processes could not be confirmed.

532. Lack of a Risk Management Policy

As previously reported, the Management did not provide evidence of the existence of a Risk Management Policy to guide on management of risk assessment and formulation of risk mitigation strategies. This was contrary to the Regulation 158(1) (a) and (b) of the Public Finance Management (County Governments) Regulations, 2015 that requires accounting officer to develop risk management strategies, which include fraud prevention mechanisms, and internal control that builds robust business operation.

In the circumstances, the effectiveness of risk management could not be confirmed.

533. Lack of a Functional Audit Committee and Independence of Internal Audit

The internal audit department did not have an approved internal audit charter and although the county had established an Audit Committee, minutes, resolutions and reports of the Audit Committee were not provided for audit verification.

Further, there were no internal audit performance assessment, appraisal reports, competency reports and professional assessment of its effectiveness.

In the circumstances, the effectiveness of an appraisal system on internal controls and overall governance could not be confirmed.

534. Lack of Non-Current Assets Register and Ownership Documents

Annex 6 to the financial statements on summary of non-current assets register reflects total assets (Historical Cost) balance of Kshs.7,601,065,479 which omitted land balance. However, the County Executive owns several parcels of land including those that were inherited from the defunct local authorities but an updated register for land and buildings was not maintained. Further, land ownership documents where the county headquarters and the official governor's residence are situated were not provide for audit.

In addition, the assets were not tagged and six (6) motor vehicles and (2) two motor cycles were grounded and not bonded for disposal.

In the circumstances, the existence of an effective mechanism to safeguard the assets could not be confirmed.

535. Salaries Paid Outside the Integrated Personnel and Payroll Database (IPPD)

The statement of receipts and payments reflects compensation of employees amount of Kshs.1,965,732,294 as disclosed in Note 3 to the financial statements. Review of salary records revealed wages totalling Kshs.355,522,201 which were paid through a manual payroll system, which is prone to errors and misstatements.

In the circumstances, the effectiveness of internal controls on processing of wages through manual payroll could not be confirmed.

536. Irregular Recruitment, Selection and Appointments of Governor's Service Delivery Unit

The statement of receipts and payments reflects compensation of employees amount of Kshs.1,965,732,294 as disclosed in Note 3 to the financial statements. The amount includes payment of Kshs.8,902,310 to twelve (12) newly recruited staff members under the newly created "Governors Delivery Unit" which was not approved in the staff establishment.

In addition, the duties and responsibilities of the establishment, approval from County Public Service Board (CPSB), advertisement, applications, shortlisting, interviews and selection of successful candidates was not provided for audit review.

In the circumstances, the effectiveness of internal controls on recruitment selection and appointment of governors staff could not be confirmed.

COUNTY EXECUTIVE OF TRANS NZOIA - NO.26

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

537. Inaccuracies in the Cash and Cash Equivalents Balance

The statement of assets and liabilities reflects bank balances of Kshs.250,580,997 as disclosed in Note 8A to the financial statements. However, the bank balances reflected in the cash book varied with those reflected in the financial statements for the following accounts:

Account Name	Balance as per Cash Book (Kshs.)	Balance as per Financial Statements (Kshs.)	Variance (Kshs.)
Trans Nzoia County Development A/C	60,362,584	938	60,361,646
Trans Nzoia County Climate Change	17,830,000	28,830,000	(11,000,000)
Trans Nzoia County Deposit A/C	54,413,166	32,752,825	21,660,341

No reconciliations were provided for the variances between the cashbook balances and the amounts reported in the financial statements. Further, the bank reconciliation statement for the Trans Nzoia County KDSP Account reflected bank certificate balance of Kshs.162,224,508 while the certificate of bank balances provided to support the reconciliation reflected Kshs.137,734,716 resulting to an unreconciled variance of Kshs.24,489,792.

In the circumstances, the accuracy and completeness of the bank balance of Kshs.250,580,997 could not be confirmed.

538. Variances in Fund Balance Brought Forward

The statement of assets and liabilities reflects fund balance brought forward of Kshs.32,952,338, which varies with the previous year's net financial position balance of Kshs.93,938,158 resulting to an unreconciled variance of Kshs.60,985,820. No explanation or reconciliation was provided for the variance.

In the circumstances, the accuracy and completeness of the fund balance brought forward of Kshs.32,952,338 could not be confirmed.

539. Unsupported Pending Accounts Payables

- (i) Note 15 on other important disclosures reflects pending accounts payable, pending staff payables and other pending payables of Kshs.681,761,278, Kshs.431,078,078 and Kshs.50,064,782 respectively all totalling Kshs.1,162,904,138. However, pending payables dating back to 2017 have not been settled and no reason has been provided for the failure to pay the bills contrary to Regulation 139(7) of the Public Procurement

and Asset Disposal Regulations, 2020 that requires that on receipt of an invoice or a fee note, a procuring entity shall make payment on first come first paid basis.

- (ii) Pending bills amounting to Kshs.51,487,274 related to supplies for 2021/2022 and prior years for the Department of Health Corporate Services which were not recorded and taken on charge in the Stores Ledger Card (S3) as having been received. Also, Counter Requisition and Issue vouchers (S11) supporting issuing of the supplies were not presented for audit yet the supplies were not in the store.
- (iii) The amount also include a total of Kshs.439,853,360 relating to staff pension deductions, taxes, union dues and Kitale Municipality Board which had specific budgets from which they ought to have been settled but funds were diverted for other purposes.
- (iv) The balance also excludes Kshs.3,344,715,318 in respect of tax obligations outstanding as confirmed by the Kenya Revenue Authority.

In the circumstances, the regularity, accuracy and completeness of the pending payables balance of Kshs.1,162,904,138 could not be confirmed.

Emphasis of Matter

540. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.9,116,682,520 and Kshs.7,752,954,391 respectively resulting to an under-funding of Kshs.1,363,728,129 or 15% of the budget. Similarly, the County Executive spent Kshs.7,568,553,995 against an approved budget of Kshs.9,116,682,520 resulting to an under-absorption of Kshs.1,548,128,526 or 17 % of the budget.

Further, analysis of monthly revenue summary reports and the budget revealed that, own source revenue collected during the year amounted to Kshs.486,097,902 against a budgeted amount of Kshs.629,500,000 resulting to an unrealized revenue of Kshs.142,402,098, or 23% of the budget.

The under-funding and under-performance affected the planned activities and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

Other Matter

541. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Controls, Risk Management and Governance. Although Management has indicated that the issues have been resolved, the matters remain unresolved as the Senate has not deliberated and issued recommendations on them.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

542. Own Source Revenue Collection

542.1 Outdated Valuation Roll

The County Executive maintained a valuation roll that dated back to the year 2006 contrary to Part II (3) of the Valuation for Rating Act Chapter 266 which provides that every local authority shall from time to time, but at least once in every ten (10) years or such longer period as the Minister may approve, cause a valuation to be made of every ratable property within the area of the local authority in respect of which a rate on the value of land is, or is to be imposed, and the values to be entered in a valuation roll. The property rates are based on historical property values which are lower and do not represent the current market values which are higher resulting to loss of revenue.

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

542.2 Long Outstanding Property Rates

Review of records revealed that the County Executive had long outstanding property rates amounting to Kshs.20,020,184,186 as at 30 June, 2023. However, there was no evidence of measures put in place by Management to collect the rates contrary to Regulation 63(b) of the Public Finance Management (County Governments) Regulations, 2015 which provides that adequate measures, including legal action where appropriate, are taken to obtain payment.

In the circumstances, the County Executive stands to lose the funds.

543. Proposed Rehabilitation and Modernization of Kenyatta Stadium Phase 1A - Kitale

The contract for the rehabilitation and modernization of Kenyatta Stadium Phase 1A was awarded at a sum of Kshs.657,305,895 on 31 January, 2023 and an amount totalling Kshs.143,193,500 paid during the year. Though the construction works were still ongoing as observed during physical inspection in August, 2023, it was not possible to review the contract award as all procurement records and documents were not presented for audit. The Management explained that the records and documents were submitted to the Director of Criminal Investigation-Kitale. However, no documentary evidence was presented to confirm the claim.

In the circumstances, it was not possible to confirm if the contract was awarded in accordance with Section 91(1) of the Public Procurement and Asset Disposal Act, 2015 and if the public obtained value in the contract award.

544. Construction of Office Space at the Bus Park

A contract was awarded on 7 April, 2023 for construction of offices at the bus park at a contract sum of Kshs.6,958,000. An amount of Kshs.3,443,300 was paid while an

invoiced amount of Kshs.2,935,661 remains unpaid and was not supported by a certificate of completion. Physical inspection carried out in the month of August, 2023 revealed that the project had stalled and the contractor was not on site. The following unsatisfactory matters were noted:

- i. Two (2) of the units do not have the steel casement windows fixed;
- ii. There was visible poor workmanship on the floor finishes and not all the units had celotex ceiling board, fascial and barge board as required in the bill of quantities; and
- iii. The project was in use even though there were some undone works and had not been handed over by the contractor.

This was contrary to Section 150 (3) of the Public Procurement and Asset Disposal Act, 2015 which provides that, where goods, works and services under sub-section (2), are of technical nature and the specifications were provided by a technical department or professionals engaged to work on behalf of the accounting officer, that technical department or professionals engaged to work on behalf of the accounting officer shall be responsible for confirming the right quality and quantity of goods, works or services have been delivered and issue a certificate to the recipient accounting officer.

In the circumstances, the regularity of the expenditure could not be confirmed and the public may not have obtained value for money invested in the project.

545. Delayed Completion of Construction of Kitale Multi-Storey Business Complex

The County Executive planned to construct a Multi Storey Business Complex Building in Kitale at a contract sum of Kshs.874,280,383. The contract was awarded on 7 June, 2018 to be implemented within twenty-five (25) months to end on 7 July, 2020. However, physical inspection carried out in the month of August, 2023 revealed that the project was incomplete, thirty-seven (37) months after the estimated completion date though the contractor was on site. Although contract period extensions were requested by the contractor and approved, with the last extension done up to 30 September, 2023, it was clear the project has taken a long time to complete.

In the circumstances, value for the money may not be obtained from the funds invested in the project.

546. Delayed Completion of Construction of Trans Nzoia Teaching and Referral Hospital

The contract for the construction of Trans Nzoia Teaching and Referral Hospital was awarded at a contract sum of Kshs.1,602,528,713 to be implemented in two (2) phases, with an estimated completion period of Phase 1 of fifty-two (52) weeks and Phase 2 sixty-two (62) weeks. The 350-bed facility was aimed at providing specialized medical services to the public.

Review of project records revealed that Phase 1 of the project was completed on 23 July, 2016 and Phase 2 of the project commenced on 15 December, 2018 with a projected completion date of 30 September, 2020. However, as at July, 2023, one

hundred and forty-one (141) weeks after the lapse of the proposed completion date; the project was still incomplete and Kshs.1,577,689,119 or 98% of the contract amount had been paid and the contractor was not on site.

In the circumstances, completion of this project is doubtful despite large amounts of public resources invested for which no value has been derived.

547. Construction of Trans Nzoia County Headquarters

The County Executive awarded a contract for construction of Trans Nzoia County Headquarters at a contract sum of Kshs.498,835,545 on 29 June, 2023 for a contract period of one hundred and fifty-six (156) weeks. During the year ended 30 June, 2023, Kshs.99,767,109 was paid being 20% advance payment as per the special conditions to the contract. However, the following unsatisfactory matters were noted: The tender evaluation committee did not conduct due diligence to confirm the qualifications of the contractor before the award of the tender contrary to Section 83 (1) of the Public Procurement and Asset Disposal Act, 2015. The contractor did not submit an advance payment guarantee equivalent to the advance payment contrary to Section 147(1) of the Public Procurement and Asset Disposal Act, 2015, and the advance payment of Kshs.99,767,109 was paid without an advance payment interim certificate contrary to condition of the contract number 14.2.3.

In the circumstances, Management was in breach of the law and the suitability of the contractor and the regularity of the advance payment could not be confirmed.

548. Human Resource Management

548.1 Employees Earning Net Pay of Less Than a Third of their Basic Salaries

Review of payroll records revealed that in the month of June, 2023 eighty-one (81) employees received net salaries which were less than a third of their basic pay contrary to Section D.1.0 (3) of Human Resource Policies and Procedures Manual for the County Public Service, 2017 which provides that public officers shall not over-commit their salaries beyond two thirds (2/3) of their basic salaries and Heads of Human Resource Units should ensure compliance.

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

548.2 Excessive Expenditure on Wages and Benefits

The statement of receipts and payments reflects compensation of employees amount of Kshs.3,259,544,723, which accounts for approximately 42% of the total revenue of Kshs.7,752,954,391. This ratio exceeds the statutory limit of thirty-five (35%), allowed by Regulation 25 (1)(b) of the Public Finance Management (County Governments) Regulations 2015 which provides a limit of thirty-five (35) percent of the County Government's total revenue.

In the circumstances, Management was in breach of the law, and this hindered planned programs and service delivery to the public.

548.3 Lack of Annual Recruitment Plan and Human Resource Plan

Review of personnel records revealed that, two hundred and ninety-five (295) persons were recruited during the year. However, the departments to which the employees were deployed did not prepare human resource plans and annual recruitment plans contrary to Section C.1.0(1) of Human Resource Policies and Procedures Manual for the County Public Service, 2017. The basis on which the Board recruited the employees could therefore not be confirmed.

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

548.4 Irregular Recruitment Process

During the year under review, the County Public Service Board advertised for County Executive Committee Members, County Secretary and County Chief Officers positions. However, the advertisements however were valid for thirteen (13) days instead of the required twenty-one (21) days as per Section C.1.2 (1) of the Human Resource Policies and Procedures Manual for the County Public Service, 2017.

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

548.5 Recruitment of Excess Security Warden

The County Public Service Board recruited two hundred (200) security wardens. However, review of the approved staff establishment revealed that the optimum staffing level allowed for this position was two hundred and five (205) wardens, out of which one hundred (100) of the positions were already in service resulting to an excess of ninety-five (95) wardens.

This was contrary to Section B 5(2) of the County Public Service Human Resource Manual, 2013 which states that all vacancies shall be declared in a prescribed format which shall include the number of vacancies; when the vacancy occurred; whether the vacancy is within the authorized establishment and other relevant details; and Section B 6(3) which states that in the recruitment process, due consideration will be given to appropriate organizational structure in each Department, optimal staffing levels, schemes of service and career progression guidelines.

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

548.6 Irregularities in Payroll Management

Review of payroll for the year ended 30 June, 2023 revealed the following;

- (i) Seventy-six (76) employees of the County Executive moved job groups by more than one level within a single financial year.
- (ii) Multiple payment of arrears ranging from one (1) to twelve (12) times per employee within a year, totalling Kshs.136,420,125. The absence of proper documentation and explanations for these high-frequency arrears payments casts doubt on the legality and accuracy of the payments.

- (iii) Four (4) employees had their dates of birth changed to a later date. These changes were not supported by any documentation casting doubt on the accuracy and integrity of the payroll.
- (iv) Twenty-four (24) employees received overpayments of leave allowances totalling Kshs.1,210,194.

In the circumstances, Management was in breach of human resources guidelines and the public may not have not obtained value on variances spent on payment of arrears.

548.7 Salaries Paid Outside IPPD Payroll

The County Executive paid salaries totalling Kshs.103,341,955.75 outside the Integrated Payroll and Personnel Database payroll during the year. It was not clear why employees who have been in service for long periods of time were excluded in the Integrated Payroll and Personnel Database (IPPD). Further, the non-IPPD payrolls were in Excel spread sheets which is susceptible to manipulation.

In the circumstances, the County Executive may have lost funds due to doubtful integrity of the payroll.

548.8 Irregular Engagement of Casuals

Review of records revealed engagement of seven hundred and two (702) casual laborers who were deployed to departments. However, six hundred and eighty-two (682) were engaged for more than the prescribed period of three (3) months and no evidence was provided to confirm that the casuals were approved by County Public Service Board contrary to the provisions of Section 37(3) of the Employment Act, 2007 and Part B16 of County Human Resource Manual 2013.

Further, five hundred and fifteen (515) casual laborers were paid Kshs.95,827,225 which were wages for more than twelve (12) months.

In the circumstances, Management was in breach of law.

549. Late Remittance of Statutory Deductions

Analysis of the i-Tax general ledger report obtained from the County Executive's KRA portal revealed that tax obligations, made of principal, penalties and interest amounts totalling Kshs.3,344,715,318 were outstanding as at 30 June, 2023 against the provisions of the Income Tax Act on remittance of taxes. Further, Kshs.334,841,172 in respect of pension contributions to the LAPFUND had not been remitted contrary to Section 53A (1) (3) of the Retirement Benefits Act, Revised Edition 2022 (1997) which states that where an employer, made a deduction from the employee's emoluments for remittance to an agreed pension scheme and fails to remit the deduction within fifteen (15) days, the scheme may, after giving such employer not less than seven (7) days' notice, institute proceedings for the recovery of the deduction and recover at a compound interest rate of three percent per month. The County Executive did not meet its tax and pension obligations as required by the law and is therefore prone to avoidable additional costs in form of penalties and interests.

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

550. Irregular Procurement of Goods Vide Invalid Purchase Orders

The Department of Gender, Youth, Sports, Culture and Tourism received goods valued at Kshs.43,057,107 after the validity of respective purchase orders had lapsed and remained un-serviced for a period exceeding thirty (30) days. This was contrary to Section 52 of the Public Finance Management (County Governments) Regulations, 2015. Management has not explained why the invalid and expired purchase orders were not cancelled as required by law.

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

REPORT ON THE EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

551. Voided Payments

Analysis of the system payments indicated that one thousand and sixty (1,060) transactions with a value of Kshs.812,635,285 were voided during the year. Management did not explain by way of a reconciliation to confirm when the voided transactions were subsequently paid. Available information also indicates that the Controller of Budget (CoB) may have approved payment of the voided transactions as no evidence of notification to the Controller of Budget was provided. There was therefore possibility of voiding transactions that had been approved by CoB for payment and replacing them with un-approved payments.

In the circumstances, controls in place to authorize and void transactions and later approve for payment could not be confirmed.

552. Lack of Budget Allocation for Internal Audit Department

The County Executive did not have a budget allocation for the internal audit function. This was contrary to Standard 2030 of International Standards for the Professional Practice of Internal Auditing that requires that the Chief Audit Executive Officers must ensure that internal audit resources are appropriate, sufficient, and effectively deployed to achieve the approved plan. In the absence of funding, the County Executive did not benefit from the oversight role of good corporate governance on review of the effectiveness of risk management, internal control and governance processes, as well as the evaluation and improvements made by the internal audit function.

In the circumstances, effectiveness of good governance, risk management and internal control could not be confirmed.

553. Lack of Adequate Internal Controls in Revenue Collection

Review of internal controls revealed weaknesses on revenue collection as noted:

- (i) There was no evidence provided to confirm whether the County Executive has mapped out all of its potential revenue sources so as to ensure maximum collections of all revenue streams
- (ii) Revenue reports did not outline the challenges faced in revenue collections yet the revenue targets were not met; and
- (iii) The department of revenue did not have an enforcement unit in place but depended on the enforcement unit under the Department of Governance which was not adequate and reliable.

In the circumstances, assurance that revenue collection by the County Executive was effective and efficient could not be confirmed.

554. Unconfirmed Distribution of Sports Items

The statement of financial performance reflects expenditure on acquisition of assets of Kshs.1,398,729,368 as disclosed in Note 6 to the financial statements. Included in this amount is Kshs.644,874,097 in respect of construction and civil works out of which Kshs.97,120,233 was spent by the Department of Gender, Youth, Sports, Culture and Tourism on purchase of sports equipment and items, household goods and construction materials for distribution to individual and group beneficiaries. However, the department did not have in place approved guidelines and procedures on identification of beneficiaries, establishment of a distribution approach and system, determination and formation of distribution teams, pre-distribution reporting and post-distribution monitoring.

In the circumstances, the basis for distribution of the items for individuals and groups and whether they reached the intended beneficiaries could not be confirmed.

COUNTY EXECUTIVE OF UASIN GISHU - NO.27

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

555. Variances Between Financial Statements Balances and IFMIS Reports

The statement of receipts and payments reflects total revenue and total expenditure of Kshs.9,302,865,638 and Kshs.9,375,316,608 respectively. However, the balances differ with the Integrated Financial Management Information System (IFMIS) ledger balances as shown below:

	Financial Statements Amounts (Kshs.)	Amounts in IFMIS Reports (Kshs.)	Variance (Kshs.)
Receipts			
Receipts	9,302,865,638	9,957,582,794	(654,717,156)
Payments			
Use of Goods and Services	2,004,580,235	2,014,272,305	(9,692,070)
Transfers to Other Government Units	445,974,500	1,495,053,344	(1,049,078,844)
Other Grants and Transfers	1,419,967,140	184,500,000	1,235,467,140
Social Security Benefits	-	1,739,800	(1,739,800)
Acquisition of Assets	1,601,596,966	1,769,606,346	(168,009,380)
Finance Costs, including Loan Interest	150,254	7,097,300	(6,947,046)

Management has explained that the variances between the financial statements and IFMIS receipts was because the financial statements amounts captured only requisitions made through the office of the Controller of Budget while the IFMIS amounts captured all the revenues collected or received from National Government and donor support funds. Further, Management explained that the overall expenditure totals in the financial statements and IFMIS are the same and the variance between the various line items was due to classification in the financial reporting template which varies with classification in IFMIS. However, Management did not provide the reconciliations for the variances.

In the circumstances, the accuracy of the balances reflected in the statement of receipts and payments could not be confirmed.

556. Use of Goods and Services

556.1 Unsupported Legal Services

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects use of goods and services amount of Kshs.2,004,580,235 which includes other operating expenses amount of Kshs.195,780,721 out of which an amount of Kshs.6,220,000 was incurred on hire of a private legal consultant. However, procurement records confirming that the legal services were competitively sourced,

details of the cases handled, the status of the cases, outstanding balances, evidence of court attendance and case files showing the value of the cases were not provided for audit review.

In the circumstances, the accuracy and completeness of the legal services expenses amount of Kshs.6,220,000 could not be confirmed.

556.2 Unsupported Payments for Insurance

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects use of goods and services amount of Kshs.2,004,580,235 which includes insurance costs amount of Kshs.321,797,248 . However, review of records provided for audit revealed the following anomalies;

- i. An insurance brokerage firm was paid Kshs.216,000,000 for provision of staff medical insurance cover. The contract was signed between the County Government and the Insurance broker on 12 July, 2022 for a period of two (2) years from July, 2022 to July, 2024. However, the insurance policy document was not provided for audit review;
- ii. Clause 6 of the contract states that the scheme shall cover two thousand nine hundred and four (2,904) members of staff and their dependants. However, Management did not provide the list of members of staff covered under the scheme for audit review. Further, Management did not provide evidence of how the two thousand nine hundred and four (2,904) members of staff were identified;
- iii. The County Executive had a total of four thousand nine hundred and nineteen (4,919) employees. This translates to approximately 41% of the total county members of staff not being covered under the scheme;
- iv. Clause 6 of contract further states that, for any additional employees, calculation for extra payments shall be agreed upon by the parties and done on pro-rata basis. However, there was no evidence to show that the newly recruited members of staff, totalling one thousand eight hundred and forty- nine (1,849) during the year under review were included in the insurance medical cover;
- v. Review of the records provided showed that, the County Executive made payments totalling Kshs.61,451,370 to various health service providers within the County. No explanation was given on why the County Government engaged the various hospitals while there was an insurance policy in place;
- vi. The payments totalling Kshs.61,451,370 were not supported by invoices to the County Executive to show amounts due to the various hospitals;
- vii. Records available indicated that the insurance services were procured using direct procurement method while the procurement plan for the year under review indicated the medical insurance would be procured using open national tender method;

- viii. The County Executive and the various hospitals had entered into a framework contract running for seven (7) months. However, Management did not provide the price schedule as indicated in the various contracts;
- ix. The County Executive only engaged the hospitals around Uasin Gishu County municipality and therefore the members of staff who get treated outside the Municipality were excluded.
- x. An insurance company was paid Kshs.23,964,786 for comprehensive insurance cover for motor vehicles, plant and equipment. However, the insurance policy document and a list of the insured motor vehicles, plant and equipment were not provided for audit review.
- xi. Another insurance company was paid Kshs.18,737,543 for county vehicles and machinery insurance premiums. However, the insurance policy document was not provided for audit review.

In the circumstances, the accuracy and completeness of expenditure on insurance services of Kshs.321,797,248 could not be confirmed.

557. Other Grants and Transfers

557.1 Unsupported Domestic Travel and Subsistence Allowance

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflects other grants and transfers amount of Kshs.1,419,967,140 which includes other current transfers amount of Kshs.1,368,484,418. Included in the amount is Kshs.5,660,000 incurred under Transforming Health Systems for Universal Care Project (THS-UCP), on daily subsistence allowances to facilitate various officers in respect of Annual Performance Review Development meeting, Annual Work Plan Consolidation meeting and development of completion report of THS-UCP project that were all held in locations outside of the County Government of Uasin Gishu headquarters. This was contrary to the National Treasury Circular No 20/2015 of 4 November, 2015 on curtailing domestic travel and related expenditure that suspended with immediate effect staff moving from their headquarters to other towns for the purpose of discussing strategy documents, consultant's reports, or even other assignments that would ordinarily be done in the offices at the headquarters.

In addition, no evidence of travel by the participants was contrary to Regulation 104(1) of the Public Finance Management (County Governments) Regulations, 2015, which states that, all receipts and payments vouchers of public moneys shall be properly supported by pre-numbered receipt and payment vouchers and shall be supported by the appropriate authority and documentation.

In the circumstances, the accuracy and completeness of domestic travel and subsistence allowances of Kshs.5,660,000 could not be confirmed.

557.2 Unsupported Purchase of Land

Note 9 to the financial statements reflects acquisition of land amount of Kshs.24,484,000. Included in the balance is an amount of Kshs.23,684,000 incurred on purchase of thirteen (13) parcels of land. However, no documentary evidence was provided for audit verification to show successful registration of the said land in favor of the County Government. Further, physical verification of the parcels of land revealed that the owners/vendors were still using the parcels, already acquired by the County Government.

In the circumstances, the completeness and ownership of the land and expenditure of Kshs.23,684,000 on acquisition of land could not be confirmed.

Emphasis of Matter

558. Budgetary Control and Performance

The statement of comparison of budget and actual amounts - recurrent and development combined amounts reflects final receipts budget and actual on comparable basis amount of Kshs.10,609,121,995 and Kshs.9,302,865,638 respectively resulting to an under-funding of Kshs.1,306,256,357 or 12% of the budget. Similarly, the County Executive expended Kshs.9,375,316,607 against an approved budget Kshs.10,609,121,995 resulting to an under-expenditure of Kshs.1,233,805,388 or 12% of the budget.

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

559. Pending Bills

Note 20 to the financial statements discloses pending accounts payables, pending staff payables and other pending payables balances of Kshs.138,975,949, Kshs.126,341,238 and Kshs.13,708,411 respectively, all totalling Kshs.279,025,599. However, the analysis of pending staff payables at Annex 3 to the financial statements did not indicate names of staff, job group, date contracted and comments on the pending staff payables totalling Kshs.126,341,238. In addition, the analysis of other pending payables at Annex 4 to the financial statements did not indicate the names of the third parties with pending payables totalling Kshs.13,708,411 as required under the Public Sector Accounting Standards Board financial reporting template. Further, Management did not maintain a permanent ledger for the pending bills, containing a movement schedule showing individual creditor's opening balance, additions, the specific amount settled during the year and closing balances. In addition, an ageing analysis of the pending bills was not provided therefore making it difficult to determine the priority in the order of settlement of the pending bills.

Moreover, the schedule of pending bills provided for audit includes an amount of Kshs.97,000,000 owed to a vendor who on 14 June, 2023, entered into an agreement to sell a parcel of land to the County Government of Uasin Gishu for Kshs.97,000,000. However, the name of the registered owner shown in the certificate of lease for the parcel of land differ from the name of the registered owner as per the valuation report issued by county valuer Ref: UGC/LHP/VALU/VOL.2/44 dated 31 May, 2023. Further, the valuation

report issued by the county valuer does not give details of the improvements and structures currently developed within the parcel of land.

In the circumstances, the accuracy and completeness of pending staff payables and other pending payables balances of Kshs.126,341,238 and Kshs.13,708,411 respectively totalling Kshs.140,049,649 could not be confirmed.

My opinion is not modified in respect of these matters.

Other Matter

560. Unresolved Prior Year Matters

In the audit report of the previous year, several paragraphs were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, the issues remain unresolved contrary to Section 149(2)(l) of the Public Finance Management Act, 2012 which require Accounting Officers designated for County Government entities to try to resolve any issues resulting from an audit that remain outstanding.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

561. Irregularities in Public Participation in Budget Making Process

The statement of comparison of budget and actual amounts - recurrent and development combined reflects final budget of Kshs.10,609,121,995. However, review of public participation records maintained by the County Government of Uasin Gishu revealed the following instances of non-compliance with laws and regulations on public participation:

- i. There was no evidence that the County Executive had constituted the Uasin Gishu County Budget and Economic Forum (CBEF) to involve the public in budget making process through public forum meetings and have minutes and attendance registers of public participation. This was contrary to Section 137(1) of the Public Finance Management Act, 2012 which states that as soon as practicable after the commencement of this Act, a County Government shall establish a forum to be known as the Uasin Gishu County Budget and Economic Forum.
- ii. Management did not provide evidence to confirm that an annual report on citizen participation in the affairs of the County Government was submitted to the County Assembly as required by Section 92(2) of the County Governments Act, 2012 which states that the Governor shall submit an annual report to the County Assembly on citizen participation in the affairs of the County Government.

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

562. Compensation of Employees

562.1 Retention of Officers who have Attained Mandatory Retirement Age

Review of the Integrated Personnel and Payroll Database (IPPD) for the financial year under review, revealed that fifty-four (54) officers had attained the mandatory retirement age but were still in the payroll. In addition, eighty-two (82) casual employees who had also attained the mandatory retirement age of sixty (60) years were in service during the year under review.

This was contrary to paragraph D.21 of the Human Resource Policies and Procedures Manual for the Public Service, 2016 which states that all officers shall retire from service on attaining the mandatory retirement age of sixty (60) years, sixty-five (65) years for persons with disabilities and/or as may be prescribed by the government from time to time.

562.2 Irregularities in Acting Capacity Appointments

Review of the human resource records provided revealed that twenty-nine (29) members of staff had been appointed in acting capacity. The members of staff had acted for more than six (6) months, earning Kshs.3,116,808 in allowances.

This was in contravention of paragraph C.14(1) of the Human Resource Policies and Procedures Manual for the Public Service, 2016 which requires that when an officer is eligible for appointment to a higher post and is called upon to act in that post pending advertisement of the post, he is eligible for payment of acting allowance at the rate of twenty percent (20%) of his substantive basic salary and that acting allowance will not be payable to an officer for more than six (6) months.

562.3 Non-Compliance with the Law on Staff Ethnic Diversity

Review of staff payroll data for June, 2023 indicated that the County Executive had 4,707 permanent employees out of whom four thousand and thirty (4,030) or eighty six percent (86%) were from the dominant ethnic community in the County and that 1,258 employees were recruited during the year out of which 1,176 (93%) were from the dominant community. This was contrary to Section 7(2) of the National Cohesion and Integration Act, 2008 which states that, “all public offices shall seek to represent the diversity of the people of Kenya in employment of staff and that no public institution shall have more than one third of its staff establishment from the same ethnic community”.

562.4 Non-Compliance with the One Third of Basic Salary Rule

Analysis of the payrolls for the financial year ended 30 June, 2023 revealed that 45 employees received net pay of less than a third of their basic salary. This was 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.

562.5 Non-Compliance with Fiscal Responsibilities Principles on Wage Bill

The statement of receipts and payments reflects compensation of employees amount of Kshs.3,903,047,513 representing 42% of the total revenue of the County Government

totalling Kshs.9,302,865,638. This was contrary to Regulation 25(1)(b) of the Public Finance Management (County Governments) Regulations, 2015 which states that the County Executive Committee Member with the approval of the County Assembly shall set a limit on the County Government's expenditure on wages and benefits for its public officers pursuant to Section 107(2) of the Act and the limit shall not exceed thirty-five (35) percent of the County Government 's total revenue.

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

563. Excessive Budgetary Allocation to County Assembly of Uasin Gishu

Annex 7 to the financial statements discloses transfers of Kshs.942,000,494 to County Assembly of Uasin Gishu. However, this exceeded the lower of seven percent of the total revenues of the County Government of Kshs.651,200,595 or twice the personnel emoluments of that County Assembly of Kshs.339,925,460. This was contrary to Regulation 25(1)(f) of the Public Finance Management (County Governments) Regulations, 2015 which states that the approved expenditures of a county assembly shall not exceed seven per cent of the total revenues of the County Government or twice the personnel emoluments of that County Assembly, whichever is lower.

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

564. Acquisition of Assets

The statement of receipts and payments and Note 9 to the financial statements reflects acquisition of assets amount of Kshs.1,601,596,966. However, review of records provided for audit verification and inspections carried out revealed the following anomalies;

564.1 Delay in Upgrading of 64-Stadium in Eldoret Municipality

Note No. 9 to the financial statements reflects construction and civil works amount of Kshs.350,683,225. Included in the balance is an amount of Kshs.213,779,647 paid to a contractor towards upgrading of 64-Stadium in Eldoret Municipality. The contract was signed on 9 April, 2021 at a contract sum of Kshs.1,163,563,925.50 for a period of sixty (60) weeks commencing on 14 June, 2021 to 9 August, 2022. The contractor sought extensions with the current revised completion date of March, 2024.

Physical inspection of the project conducted in August, 2023 revealed that the contractor was on site, terraces were being constructed and grass which had been planted was being watered. However, the rerouting of electricity lines and water pipelines in the boundary of the stadium had not been done as per the bill of quantities.

In addition, there was no documentary evidence provided for audit review by the project implementation committee on the contract management plan and a risk register. This was contrary to Regulation 138(1) and (2) of Public Procurement and Asset Disposal Regulations, 2020 which states that in performance of its functions under Section 151(2) of the Act, the contract implementation team shall have a contract management plan that shall provide for review meetings. Review meetings referred to in paragraph (1) shall be held periodically as deemed necessary for the purpose of contract performance review, charting the way forward and preparing status reports. The contract review shall consider

the timeliness of contract performance; cost and quality performance; risk analysis; operational effectiveness; appropriateness of the procedure of delivery; and any other relevant information. However, Management did not provide minutes of the project implementation committee for review.

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

564.2 Irregularities in the Construction of Masonry Perimeter Fence at Rescue Centre

Note 9 to the financial statements reflects construction of buildings amount of Kshs.428,850,834. Included in the balance is an amount of Kshs.9,955,320 being part payment to a contractor in respect of construction of masonry perimeter fence at rescue centre in Uasin Gishu County. The contract was signed on 5 January, 2022 at a contract sum of Kshs.13,228,520 for a period of twenty-four (24). The contractor requested for an extension of contract period and was granted ninety (90) days up to June, 2023. However, physical inspection of the project on 30 August, 2023 revealed that the project had not been completed. Further, the performance security had expired on 30 June, 2023. In addition, Management did not provide evidence that the contract period variation was approved by the evaluation committee as required by the provisions of Regulation 132 (2)(b) of Public Procurement and Asset Disposal Regulations, 2020 which states that any variation request shall be reviewed by an evaluation committee envisaged under Section 139(2) of the Act for other contracts, before they are submitted through the head of a procurement function to accounting officer for approval.

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

564.3 Irregularities in the Construction of Shoe Shine Sheds

Note 9 to the financial statements reflects construction and civil works amount of Kshs.350,683,225 . Included in the balance is an amount of Kshs.12,224,920 being part payment towards three (3) contracts for construction of shoe shine sheds in three different parts of Eldoret town, at a total contract price of Kshs.12,581,500. The following anomalies were however noted;

- i. Element No. 1 in the Bills of Quantities was to cater for substructure works, at a cost of Kshs.1,866,100. However, physical verification of the shoe shine sheds on 30 August, 2023 revealed that the substructure works including excavation, hardcore fillings, damp proofing, concrete works were not done.
- ii. There was no report provided to confirm that the shoe shine sheds met safety requirements as required by the Kenya National Highways Authority (KeNHA) authority letter Ref. No: KeNHA/06. A/R3/OG/VOL.7 dated 17 April, 2023 on approving the putting up of the shoeshine sheds.
- iii. Retention money from the three (3) contractors was not deposited in the retention bank account.

In the circumstances, Management was in breach of the law and the value for money on the expenditure of Kshs.12,224,920 on the shoe shine sheds could not be confirmed.

564.4 Stalled Ziwa Level (V) Hospital Project

The statement of receipts and payment and Note 9 to the financial statements reflects acquisition of assets amount of Kshs.1,601,596,966 which includes construction of buildings amount of Kshs.428,850,834. The amount includes Kshs.33,105,975 paid to a contractor in respect of upgrading Ziwa Level (V) Hospital. The contract was signed on 2 January, 2020, at a contract sum of Kshs.806,562,179 and a contract period of one hundred and four (104) weeks to 2 January, 2022. The contractor requested and was awarded an extension period of eight (8) months which elapsed on 31 August, 2022. Physical inspection of the project in August, 2023 revealed that the building had points of dampness, being an indication of substandard works as damp proofing materials were not used on the floor as required in the bills of quantities. Further, there was no contractor on site despite another extension that was granted by the Chief Officer Health Services for nine (9) months up to 31 May, 2023 from the initial extension of 31 August, 2022. In addition, there was no signage for the project whose completion was estimated at forty-five (45%) and cumulative payments of Kshs.282,213,621.

In the circumstances, value for money on expenditure totalling Kshs.282,213,621 could not be confirmed.

564.5 Delay in Supply and Delivery, Installation Testing and Commissioning of an Integrated Revenue Management System

The statement of receipts and payment and as disclosed in Note 9 to the financial statements reflects acquisition of assets amount of Kshs.1,601,596,966 which includes purchase of specialized plant, equipment and machinery amount of Kshs.174,971,689. Included in the balance is an amount of Kshs.4,340,000 paid to a company being 30% of contract sum for supply and delivery, installation testing and commissioning of a revenue management system. Review of financial records revealed the following issues;

- i. Clause 4 of the contract signed between the County Government and the Company on deliverables indicated that the service provider was expected to deliver on twenty-four (24) modules on revenue collection. Further, clause 5 of the contract relating to schedule of payments indicates that the County Government of Uasin Gishu was to pay 30% of the contract sum upon submission and acceptance of the inception report. The inception report dated 12 June, 2023 indicated that the service provider collected data requirements of thirteen (13) modules representing revenue streams. However, perusal of the report showed that only nine (9) modules had been analyzed by the service provider;
- ii. The inception report indicated that data migration and deployment of all revenue streams, testing –user acceptance testing signoffs and training of individuals would be completed by 31 July, 2023. However, as at the time of the audit in August, 2023, the project milestones had not been accomplished;
- iii. Although an inspection and acceptance committee was appointed vide a letter dated 27 June, 2023, an inspection and acceptance report was not provided for audit review;

- iv. The terms of reference for the revenue system to be supplied, delivered, installed, tested and commissioned were not provided for audit review.

In the circumstances, it was not possible to confirm whether the value for money on expenditure of Kshs.4,340,000 on the supply and delivery, installation, testing and commissioning of an integrated revenue collection management system was obtained.

564.6 Irregularities in Construction of Various Hospital Blocks

Review of records in respect of the construction of various hospital blocks by the County Government revealed that certificates of payment were raised before the inspection of works was done to certify that the works carried out by the contractor were satisfactory. In the circumstances, payments totalling Kshs.154,484,839 may have been made for projects which had not been inspected by the inspection and acceptance committee in contravention to Section 48(3) of the Public Procurement and Assets Disposal Act, 2015 which states that the inspection and acceptance committee shall immediately after the delivery of the goods, works or services, inspect and review the goods, works or services in order to ensure compliance with the terms and specifications of the contract; and accept or reject, on behalf of the procuring entity, the delivered goods, works or services. It was also contrary to Section 48(4) of the of Public Procurement and Assets Disposal Act, 2015 which states that the inspection and acceptance committee shall ensure that the goods, works or services meet the technical standards defined in the contract and ensure that the goods, works or services have been delivered or completed on time, or that any delay has been noted.

564.7 Lack of Operational Autonomy at the Municipality of Eldoret

During the year under review, the County Government incurred expenditure amounting to Kshs.53,443,011 on recurrent expenditure and Kshs.282,063,835 on development expenditure in respect of the Municipality of Eldoret. This was contrary to Section 46 (1) of the Urban Areas and Cities Act, 2011 which requires the Municipality of Eldoret to prepare and maintain separate books of accounts and financial statements and as such its expenditures should be reported separately from those of the County Government of Uasin Gishu. In addition, the County Government of Uasin Gishu continues to perform functions which should have been transferred to the Municipality of Eldoret contrary to Section 48(1)(a) of the County Governments Act, 2012 which states that subject to subsection (3), the functions and provision of services of each County Government shall be decentralized to the urban areas and cities within the county established in accordance with the Urban Areas and Cities Act, No. 13 of 2011.

565. Lack of Segregation of Duties in Construction of Roads

The statement of receipts and payments and Note 9 to the financial statements reflects acquisition of assets amount of Kshs.1,601,596,966 which includes construction of roads amount of Kshs.162,070,934 . Review of financial records confirmed that an amount of Kshs.48,928,587 paid to various contractors towards eleven (11) roads construction and improvement projects. However, review of records provided show that in the implementation of the eleven contracts, members of Inspection and Acceptance Committees were also members of the Contract Implementation Teams.

This implied lack of segregation of duties and is also contrary to Section 44(2)(h) of the Public Procurement and Asset Disposal Act, 2015 which states that an accounting officer of a public entity shall be primarily responsible for ensuring that the public entity complies with the Act and in the performance of the responsibility under subsection (1), an accounting officer shall ensure that the procurement processes are handled by different professional offices in respect of procurements, initiation, processing and receipt of goods, works and services.

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

566. Lack of an Updated Assets Register

Annex 6 to the financial statements - summary of non-current assets register reflects non – current assets historical cost balance carried forward of Kshs.17,261,271,176. However, the assets inherited from the defunct local authorities have been excluded. From the assets register. Management explained that although 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) for guidance and direction. Further, the summary includes land with historical cost of Kshs.315,095,733 whose ownership documents for forty-six (46) parcels of land with historical cost of Kshs.202,446,669 were not provided for audit review. This was contrary to the gazette notice No. CXXI-No.81 of 21 June, 2019 which provided that County Governments should record the assets inherited from the defunct Local Authorities on as-is-where-is basis.

In the circumstances, Management was in breach of the guidelines in the gazette notice.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

567. Lack of an Off-Sites Back - Up

Review of Information Communication Technology (ICT) environment at the County Government revealed that during the year under review, the County Government did not have an off-site back up site to provide additional security by ensuring data preservation if the primary system fails or is compromised. Although the County Government backs up its data for revenue applications, other critical information is stored at individual officers' computers that have no back up.

In the circumstances, it was not possible to confirm existence of effective ICT disaster recovery plans.

568. Lack of Information Communication Technology (ICT) Policy

The County Executive did not have an approved ICT Policy which provides a framework for managing, securing, and optimizing the use of technology resources, ensure alignment with business goals, mitigates cyber risks, safeguards information assets and

promotes responsible and efficient use of ICT for sustained service delivery to the citizens of the County.

Lack of an ICT policy may lead to lack of accountability and poor decision-making in application, use and governance of the IT resources. This may further contribute to operational disruptions and reputational damage. In addition, failure to have ICT policy may expose the County Executive to inadequate monitoring and reporting on ICT resources and ineffective disaster recovery planning.

569. Lack of Fixed Asset Tagging

The summary of non-current assets register reflects total consolidated assets balance of Kshs.17,261,271,176 comprising of land, buildings & structures, transport equipment, office equipment, furniture & fittings, ICT equipment, machinery & equipment, heritage & cultural assets, biological assets and infrastructure assets. However, physical inspection conducted in September, 2023 revealed that most of the assets are not tagged for identification. Implementation of an efficient asset tagging system by the County Government is crucial for providing visibility, control, and accurate information about an organization's assets hence mitigating risks associated with weak asset management controls.

This was contrary to Regulation 149(2)(o) of the Public Finance Management Act, 2012 which requires Accounting Officers to ensure that the respective County Government entity has adequate systems and processes in place to plan for, procure, account for, maintain, store and dispose of assets, including an asset register that is current, accurate and available to the relevant County Treasury or the Auditor-General.

In the circumstances, the County Government's fixed assets are exposed to risk of loss or misappropriation due to weak internal controls in asset monitoring and control.

570. Salaries Paid Outside Integrated Personnel and Payroll Database (IPPD)

The statement of receipts and payments reflects compensation of employees' amount of Kshs.3,903,047,513 which include salaries amounting to Kshs.265,882,114 paid outside IPPD. This was contrary to Section 1.5.1 of the Treasury Guidelines through the Financial Accounting Recording and Reporting manual which requires that each County Government department is responsible for populating the IPPD with the information contained in these documents, issuing each appointee with a unique payroll number from the system, and providing the appointee with a letter of appointment. Further, there was a risk of unauthorized payments through manual payroll and the information are prone to errors and manipulations.

In the circumstances, the effectiveness of internal controls on payroll processing and risk mitigation on manual processing could not be confirmed.

COUNTY EXECUTIVE OF ELGEYO/MARAKWET - NO.28

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

571. Variances Between Financial Statements and IFMIS Records

The statement of receipts and payments reflects total payments of Kshs.4,583,063,544 and the statement of assets and liabilities reflects cash and bank, receivables and deposits and retention amounts of Kshs.364,126,375, Nil and Kshs.104,809,503, respectively. However, the amounts and balances differed with the Integrated Financial Management Information System (IFMIS) ledger balances of Ksh.4,563,927,652, Kshs.1,933,233,810, Kshs.1,228,764 and Kshs.678,951,150 resulting to an unexplained variances of Kshs.19,135,892, Kshs.1,569,107,435, Kshs.1,228,764 and Kshs.574,141,647, respectively.

No explanation has been provided by Management for the variances between the two sets of records.

In the circumstances, the accuracy and completeness of the financial statements could not be confirmed.

572. Irregular Payment of Special Duty Allowances

The statement of receipts and payments reflects compensation of employees amount of Kshs.2,315,122,316 as disclosed in Note 3 to the financial statements which includes special duty allowance amount of Kshs.111,672. However, the employee had been drawing this allowance for seventy-two (72) months from 17 February, 2017 contrary to Section F.6(4) of the County Government Human Resource Manual, 2013 which states that special duty allowance will not be payable to an officer for more than one year.

In the circumstances, the regularity and value for money for the special duty allowance amounting to Kshs.111,677 could not be confirmed.

Emphasis of Matter

573. Budgetary Control and Performance

The statement of comparison of budget and actual amounts: recurrent and development combined had an approved final receipts budget of Kshs.5,522,993,884 against actual receipts of Kshs.4,479,577,024 resulting in an under-receipt of Kshs.1,043,416,860 or 19% of the approved budget. Similarly, the County Executive made payments totalling Kshs.4,583,063,544 against an approved budget of Kshs.5,522,993,884 resulting to under-expenditure of Kshs.939,930,340 or 17% of the approved budget.

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

574. Pending Accounts Payables

The financial statements discloses pending accounts payables and pending staff payables balances of Kshs.13,680,176 and Kshs.4,967,513, respectively as disclosed in Notes 1 and 2 of other important disclosures. Failure to settle bills during the year which they relate to adversely affects the budgetary provisions for the subsequent year to which they have to be charged.

My opinion is not modified in respect of these matters.

Other Matter

575. Unresolved Prior Year Audit Matters

Review of the progress on follow up on prior year auditor's recommendations reveal that, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance which remained unresolved as at 30 June, 2023 contrary to Section 149(2)(l) of the Public Finance Management Act, 2012 which require Accounting Officers designated for County Government entities to resolve any issues resulting from an audit that remain outstanding.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

576. Non-Compliance with Law on Ethnic Composition

The statement of receipts and payments reflects compensation of employees amount of Kshs.2,315,122,316 as disclosed in Note 3 to the financial statements. However, analysis of the June, 2023 IPPD payroll revealed that out of a total of one thousand five hundred and fifty-nine (1559) permanent staff of the County Government, one thousand four hundred and seventy-four (1,474) were from the dominant ethnic community representing 95% of the total permanent staff.

In addition, during the year under review the County Executive employed thirty-six (36) new officers all of whom were from the dominant ethnic community. This was contrary to Section 65(1)(e) of the County Governments Act, 2012 which states 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.

577. Non-Compliance with the Fiscal Responsibility Principles - Wage Bill

The statement of receipts and payments reflects compensation of employee's payments amount of Kshs.2,315,122,316 equivalent to 52% of total revenue of Kshs.4,479,577,024. This was contrary to Regulation 25(1)(b) of the Public Finance Management (County Governments) Regulations, 2015 which states that the limit set for the County

Government's expenditure on wages and benefits for its public officers pursuant to Section 107(2) of the Act shall not exceed thirty-five percent (35%) of the County Government's total revenue.

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

578. Unremitted Retirement Benefits

Examination of records reflects that the County Executive owed National Social Security Fund (NSSF) an amount of Kshs.9,880,400 in arrears and further subjected to a penalty amounting to Kshs.15,119,220 totalling Kshs.24,999,620. This was confirmed by a demand note issued on 5 May, 2021 for unpaid contribution and penalties. At the time of audit in the month of October, 2023, the County Executive did not provide any evidence of payments of the outstanding debts to NSSF.

This was contrary to Section 27(1) of the National Social Security Fund Act, 2013 which states that if any contribution for which a contributing employer is required to pay to the Fund is not paid within one month after the end of the month in which the last day of the contribution period to which it falls, a sum equal to five per cent of the amount of that contribution shall be added to the contribution for each month or part of a month that the amount due remains unpaid, and any such additional amount shall be recoverable at the same time and in the same manner as the contribution to which it is added.

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

579. Failure to Operationalize the Office of the County Attorney

During the year under review, the County Executive had not constituted the office of the County Attorney contrary to Section 4(1) of the Office of the County Attorney Act, 2020 which require each County to establish Office of the County Attorney and the County Attorney shall be appointed by the Governor with the approval of the County Assembly.

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

580. Unaccounted for Specialized Material and Services

The statement of receipts and payments reflects use of goods and services amount of Kshs.573,720,729 as disclosed in Note 4 to the financial statements which includes specialized materials and services amount of Kshs.159,610,275. Review of records provided show that the amount was paid to the Kenya Medical Supplies Authority (KEMSA) for the supply and delivery of medical drugs and non-pharmaceuticals to various health facilities within the County. However, review of records and physical verification of sampled Health Facilities revealed that drugs and non-pharmaceuticals supplied directly to the Health Facilities totalling Kshs.7,893,242 were not inspected and confirmed on delivery. In addition, there were no annual stock take reports.

In the circumstances, value for money for medical drugs and non-pharmaceutical amounting to Kshs.7,893,242 could not be confirmed.

581. Acquisition of Assets

581.1 Irregularities in the Proposed Opening of New Roads and Maintenance of Roads by National Youth Service (NYS)

The statement of receipts and payments reflects acquisition of assets amount of Kshs.1,069,263,687 as disclosed in Note 9 to the financial statements which includes an amount of Kshs.383,765,488 for construction of roads. Included in the expenditure is an amount of Kshs.23,328,000 paid to the National Youth Service on 15 February, 2023 for opening of new roads, rehabilitation and maintenance of roads. A memorandum of understanding between the Elgeyo Marakwet County Government and National Youth Service was signed on 13 October, 2022 at a contract sum of Kshs.26,304,000. The contract agreement was signed on 27 January, 2023 and works were expected to commence upon signing of the contract. However, the following audit observations were made;

- i. Review of the records revealed that the Management paid an amount of Kshs.23,328,000 being an advance payment as per Paragraph 2.8 of the Memorandum of Understanding. However, the advance payment exceeded twenty percent of the contract sum contrary to Section 147 of the Public Procurement and Asset Disposal Act, 2015 which states that; advance payment may be granted and shall not exceed twenty per cent (20%) of the price of the tender and shall be paid upon submission by the successful tenderer to the procuring entity of an advance payment security equivalent to the advance itself and that security shall be given by a reputable bank or any authorized Financial Institution issued by a corresponding bank in Kenya recognized by the Central Bank of Kenya, in case the successful tenderer is a foreigner;
- ii. Although review meetings were held periodically as deemed necessary for the purpose of contract performance. No documentary evidence was provided indicating that the contract implementation team had a contract management plan contrary to Regulation 138(1) of the Public Procurement and Asset Disposal Regulations, 2020 which provides that in performance of its functions under Section 151(2) of the Act, the contract implementation team shall have a contract management plan that shall provide for review meetings;
- iii. Risk register maintained by the procurement entity to monitor all identified contract risks and their 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 was not provided for audit, contrary to Regulation 138(3)(c), which requires that a risk register should be maintained to monitor all identified contract risks;
- iv. There was no documentary evidence provided for audit by the Implementation Committee to confirm that they forwarded status reports to the Accounting Officer on the outcome of the project. This was contrary to Regulation 138(1) of the 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;

- v. Further, no documentary evidence was provided indicating that a survey was carried out and survey reports form part of the procurement records. This was contrary to Regulation 66(2) of the Public Procurement and Asset Disposal Regulations, 2020 which states that; In addition to procurement records specified in Section 68(2) of the Act, the following documents shall form part of the procurement records where the procurement or the disposal requirement involves feasibility studies and surveys directly carried out or accepted by a procuring entity in order to prepare the tender document, the reports and other documents resulting from these studies and surveys.

Physical verification of the project in the month of August, 2023, revealed that about 50% works had been completed and the contractor was not on site.

In the circumstances, the public may not have obtained value for money amounting to Kshs.23,328,000 spent on the project.

581.2 Stalled Proposed Maintenance of Chepkerengoi Road in Sengwer Ward

The statement of receipts and payments reflects acquisition of assets amount of Kshs.1,069,263,687 which includes an amount of Kshs.383,765,488 for construction of roads as disclosed in Note 9 to the financial statements. In the year under review, a Company was awarded a contract for maintenance of Chepkerengoi Road in Sengwer Ward at a contract sum of Kshs.2,400,000. The contract agreement was signed on 3 May, 2023 and works expected to be completed within twelve (12) weeks commencing immediately upon signing of the agreement.

However, the managerial reports and operational plan by the implementation team for the project were not provided for review contrary to Regulation 138(1) of the 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 in the month of August, 2023, that is over three (3) months after the signing of the contract agreement revealed that approximately 40% of the works had been done and the contractor was not on site. Management explained that the project was stopped due to a court case.

In the circumstances, the objectives of the project may not have been realized and the public may not have obtained value for money on the expenditure of Kshs.2,207,600 incurred on the maintenance of the road.

581.3 Delayed Construction, Rehabilitation, Testing and Commissioning of Chepuser-Kapkobil Irrigation Scheme

The statement of receipts and payments reflects acquisition of assets amount of Kshs.1,069,263,687 which includes an amount of Kshs.250,257,076 for rehabilitation of civil works as disclosed in Note 9 to the financial statements. Included in this amount were payments totalling Kshs.35,099,070 for construction of works.

The contract agreement was signed on 10 February, 2021 at a contract sum of Kshs.40,603,675 and works expected to be completed within twelve (12) weeks

commencing 10 February, 2021. This was extended by sixty (60) days, however, the contract was terminated and the contractor paid Kshs.6,098,540.

The contract was re-advertised and eventually awarded to another contractor at a contract sum of Kshs.33,677,330. The contract agreement was signed on 8 March, 2022 and works were expected to be completed within twenty-four (24) weeks upon handing over of the site. However, there was no evidence of site handing over. The contractor was paid Kshs.29,000,530 on 20 January, 2023. In addition, at the time of audit in October, 2023, approximately 88% of the works had been done and the contractor was not on site.

In the circumstances, the public may not have obtained value for money on the expenditure totalling Kshs.35,099,070 that was paid towards the project.

581.4 Delayed Construction of X-Ray Unit, Drilling of Borehole, Covered Walkways and Ramp at Kaptarakwa Health Centre

The statement of receipts and payments reflects acquisition of assets amount of Kshs.1,069,263,687 which includes an amount of Kshs.80,481,108 for construction of civil works as disclosed in Note 9 to the financial statements. Included in this expenditure was an amount of Kshs.14,954,505 paid to a contractor in respect of the construction of x-ray unit, drilling of borehole, covered walkways and ramp at Kaptarakwa Health Centre. The contract was awarded at a contract sum of Kshs.14,954,505 for a duration of twelve (12) weeks from 28 April, 2023.

However, physical inspection of the project in August, 2023, over five (5) weeks after the signing of the contract agreement revealed that approximately 98% of the works had been done and the contractor was on site.

In the circumstances, the objectives of the project had not been realized and the public may not have obtained value for money on the expenditure amounting to Kshs.14,954,505 spent on the project.

582. Failure to Establish a County Budget and Economic Forum

Elgeyo Marakwet County Government has not established a County Budget and Economic Forum. This contravenes Section 137 of the Public Finance and Management Act, 2012 which states that as soon as practicable after the commencement of this Act, a County Government shall establish a forum to be known as the Elgeyo Marakwet County Budget and Economic Forum.

The purpose of this forum is to provide a means for consultation by the County Government on preparation of county plans, the County Fiscal Strategy Paper and the Budget Review and Outlook Paper for the County; and matters relating to budgeting, the economy and financial management at the County level.

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

583. Non-Establishment of Occupational Safety and Health Committee

Audit of Elgeyo Marakwet County Executive, as an occupier, revealed that the County Executive did not establish a Safety and Health Committee at the workplace as required under Section 9(1) of the Occupational Safety and Health Act, 2007. Further,

Management did not provide a safety and health audit report as required under Section 11(1) 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 (12) months by a safety and health advisor.

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

584. Lack of Monitoring and Evaluation Reports

During 2022/2023 financial year, Monitoring and Evaluation sub department had a budgeted amount of Kshs.9,673,179. However, no documentary evidence was provided for audit showing that the department had project status reports on non-financial performance for each individual programmes undertaken by the County Executive of Elgeyo Marakwet. Further there is no documentary evidence provided indicating development and approval of the Monitoring and Evaluation Policy.

This was contrary to chapter six (6) of the County Integrated Development Plan, 2018 which states that the County will develop a County Monitoring and Evaluation System (CMES) which will define the development initiatives and projects to be monitored and evaluated, the activities needed for monitoring and evaluation to be successfully implemented, and the roles and responsibilities of the different players in the monitoring and evaluation exercise. This was contrary to Regulation 129 of the Public Finance Management (County Governments) Regulations, 2015 (1) which states that the County Executive Committee Member responsible for matters relating to planning shall prescribe a framework for monitoring and reporting on non-financial performance for use by accounting officers in evaluation of programmes and projects by measuring, responsibility for monitoring, evaluation and reporting, financial indicators which shall capture expenditures on the implementation of programmes and projects.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

585. Employees with Similar Bank Accounts

The statement of receipts and payments reflects compensation of employees amount of Kshs.2,315,122,316 as disclosed in Note 3 to the financial statements. During the audit, it was noted that the County Executive had a separate Human Resource Information Management System (HRIMS) for human resource management and payroll for staff not in the Integrated Payroll and Personnel Data (IPPD) system. However, review of the HRIMS system revealed that fourteen (14) staff members employed as ECD teachers shared the same bank codes and bank accounts raising questions about their existence. Further, the analysis revealed that the said officers were paid salaries in the shared bank accounts for a period of one year (12 months). Review of personal files for the six (6) officers in question reveals that they filled same bank account details in the personal bio-data form which is not a requirement for all public officers.

In the circumstances, the effectiveness of controls on human resource management and payroll system could not be confirmed.

586. Lack of Operational Audit Committee

During the year under review, it was noted that the Audit Committee Members' term of office expired on 3 February, 2023 and had not been renewed as at the time of audit. Further, there was no evidence that the Audit Committee held any meeting during the year which contravened Regulation 168 of the Public Finance Management (County Governments) Regulations, 2015 which requires County Government entities to establish Audit Committee to monitor entities governance and accountability processes as well as internal control and risk management systems.

Although the process of appointing the County Executive Audit Committee was advertised on 11 July, 2023 and the shortlisted candidates scheduled for interviews on 21 August, 2023, it was noted that there was a gap of more than six (6) months since the expiry of their term.

In the circumstances, the effectiveness of the internal controls, risk management and governance could not be confirmed.

587. Understaffing of Internal Audit Department

During the year under review, the County Executive had an internal audit function in place with a total staff of six (6) officers. Review of the approved staff establishment of the County Government revealed that internal audit department was supposed to be staffed with thirty (30) officers. This resulted to understaffing of twenty-four (24) personnel contrary to Regulation 155(2)(a) of the Public Finance Management (County Governments) Regulations, 2015, which states that an Accounting Officer shall ensure that the organizational structure of the internal audit unit facilitates the entity to accomplish its internal audit responsibilities.

In the circumstances, the effectiveness of the internal controls, risk management and governance could not be confirmed.

588. Lack of Information and Communication Technology (ICT) Security Policy and Access Controls

Review of the County Executive ICT environment revealed that there was an ICT Policy in place. However, an ICT Security Policy and disaster recovery plans have neither been developed nor spelt out in the ICT Policy. Further, formally documented, and approved processes to manage system changes and upgrades made to the existing ICT systems were also not in place. The County Executive also lacks an ICT Steering Committee.

Verification of the ICT data centre room revealed lack of an access control system to restrict and monitor access to the server room, lack of smoke detector and lack of an environmental monitoring system to monitor the humidity and temperature in the data centre. Further, there is no existing Closed-Circuit Television (CCTV) system extended to the data centre. This was contrary to Regulation 110(1) of the Public Finance Management (National Government) Regulations, 2015 which states that the Accounting

Officer for a County Government entity shall institute appropriate access controls needed to minimise breaches of information confidentiality, data integrity and loss of business continuity. Paragraph (3) stipulates that users of the system under this regulation shall - (b) take all reasonable steps to maintain the integrity of passwords and other security mechanisms; (d) not do anything that damages, restricts, jeopardises, impairs or undermines the performance, usability, reliability, confidentiality or accessibility of any digital information system, programme, or other stored information data;

In the circumstances, the effectiveness of the ICT controls could not be confirmed.

589. Lack of Inventory Management and Control

In the year under review, the County Executive procured several items from different suppliers totalling Kshs.6,983,900. However, there was no inventory control which includes stores ledgers to confirm how and whether the goods were received and taken on charge.

In the circumstances, the effectiveness of inventory control measures could not be confirmed.

590. Salary Payments Processed Outside the Integrated Personnel and Payroll Database (IPPD)

The statement of receipts and payments reflects compensation of employees' amount of Kshs.2,315,122,316 as disclosed in Note 3 to the financial statements, which include salaries amounting to Kshs.171,360,135 paid outside IPPD. No explanation has been provided for the processing of the wages outside the IPPD system.

In the circumstances, the existence of an effective control in management of compensation of employees could not be confirmed.

COUNTY EXECUTIVE OF NANDI - NO.29

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

591. Variances Between Financial Statements and Integrated Financial Management Information System (IFMIS) Reports

The statement of receipts and payments reflects total revenue and expenditure amounts of Kshs.7,279,260,501 and Kshs.7,268,804,093 respectively. However, the balances differ with the Integrated Financial Management Information System (IFMIS) ledger balances as shown below:

	Amount in Financial Statements (Kshs.)	Amount in IFMIS Reports (Kshs.)	Variance (Kshs.)
Compensation of Employees	3,514,768,261	3,393,388,422	121,379,839
Use of Goods and Services	1,518,007,460	2,091,010,705	(573,003,245)
Subsidies	6,263,018	-	6,263,018
Transfer to Other Government Entities	230,000,000	-	230,000,000
Other Grant and Transfers	589,372,404	89,224,998	500,147,406
Acquisition of Assets	1,410,392,950	1,604,923,242	(194,530,292)
Cash and Cash Equivalents	216,785,559	312,951,403	(96,165,844)
Fund Balance Brought Forward	573,945,875	212,238,272	361,707,603
Prior Year Adjustments	(367,616,724)	-	(367,616,724)

In the circumstances, the accuracy and completeness of the respective financial statements amounts could not be confirmed.

592. Unsupported Payment of Salary Arrears

The statement of receipts and payments reflects compensation of employees amount of Kshs.3,514,768,261 which includes Kshs.13,702,881 in respect of salary arrears. However, the appropriate authority, supporting documentation and pay change advice were not provided for audit.

In the circumstances, the accuracy and completeness of the salary arrears amounting to Kshs.13,702,881 could not be confirmed.

593. Unsupported Payments on Use of Goods and Services

The statement of receipts and payments reflects use of goods and services amounting to Kshs.1,518,007,460 which as disclosed in Note 4 to the financial statements includes routine maintenance-vehicles and other transport equipment amounts of Kshs.20,598,471 which further includes Kshs.5,403,092 which was not supported by inspection reports, Local Service Orders and work tickets. Similarly, included in the use of goods and services amount is fuel, oil and lubricants amount of Kshs.55,075,195 which was not supported with the suppliers' fuel statements, Local Purchase Orders (LPOs)

work tickets, list of fueled vehicles, detail orders and reports of monthly reconciliations of fuel consumed.

Further, County Executive of Nandi maintains fuel terminal under the department of health. However, the fuel registers maintained do not indicate the fuel balances, which made it difficult to determine the reorder levels which could lead to misuse of fuel. In the absence of such documents, it was not possible to ascertain whether the fuel paid were drawn and utilized for the intended purposes.

In addition, the use of good and services expenditure includes Kshs.11,891,864 in respect of training expenses. However, the County Government did not carry out staff appraisals and Training Needs Assessment (TNA) to ascertain the areas of training priority during the year and there was no training committee to deal with the training approvals.

In the circumstances, the accuracy and completeness of use of goods and services amounting to Kshs.72,370,151 could not be confirmed.

594. Inaccuracy in Non-Current Assets Balance

Annex 6 to the financial statements reflects historical cost carried forward balance of Kshs.10,669,375,271 made up of historical cost brought forward balances of Kshs.9,280,286,337 and Kshs.1,410,392,950 for the year under review. However, a recast of the summary shows a historical cost carried forward of Kshs.10,690,679,287 resulting to an unexplained variance of Kshs.21,304,016.

In the circumstances, the accuracy and completeness of non-current assets balance of Kshs.10,669,375,271 could not be confirmed.

595. Unsupported Pending Bills

Note 20 to the financial statements discloses pending staff payables balance of Kshs.253,632,405. However, Annex 3 to the financial statements does not indicate the detailed analysis of the staff payables.

In the circumstances, the accuracy and completeness of the pending staff payables balance of Kshs.253,632,405 could not be confirmed.

Other Matter

596. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised. However, Management has not resolved and disclosed the status of all the prior year matters as prescribed in the reporting requirements set by the Public Sector Accounting Standards Board. Management has not provided satisfactory explanation for the delay in resolving the issues.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

597. Compensation of Employees

597.1 Payment of Salaries Outside Integrated Personnel and Payroll Database (IPPD) System

The statement of receipts and payments reflects compensation of employees' amount of Kshs.3,514,768,261 which include salaries amounting to Kshs.104,893,746 paid outside IPPD system. No explanation has been provided for the processing of the wages outside the IPPD system. This was contrary to Section 1.5.1 of the Financial Accounting Recording and Reporting Manual and The National Treasury Guidelines which requires the salaries, allowances and/or arrears of County Government staff to be processed on the IPPD at every month end.

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

597.2 Unremitted Retirement Benefits Contributions

Review of the personnel records revealed that the County Executive did not remit retirement benefits contributions totalling Kshs.252,273,334. This was contrary to Section 53A(1) of the Retirement Benefits Act, 2017 which states that where an employer, having with the agreement of an employee who is a member of a scheme, made a deduction from the employee's emoluments for remittance to the scheme, fails to remit the deduction within fifteen days of the deduction, the scheme may, after giving such employer not less than seven days' notice, institute proceedings for the recovery of the deduction.

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

597.3 Failure to Observe One-Third Rule on Staff Composition

Review of records provided for compensation of employees revealed that the County Executive had a total of three thousand seven hundred and thirty-eight (3,738) employees out of which three thousand five hundred and seventy-one (3,571) or approximately 96% were from the dominant community.

This was contrary to Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 which states that, "all public offices shall seek to represent the diversity of the people of Kenya in the employment of staff and that no public institution shall have more than one-third of its staff establishment from the same ethnic community".

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

597.4 Failure to Deduct Service Charge for Service Rendered in Processing Payroll Deduction for Third-Party Institutions

The statement of receipts and payments reflects compensation of employees of Kshs.3,514,768,261 as disclosed in Note 3 to the financial statements. However, analysis of the monthly payroll deductions revealed that service charge on various third-party deductions was not deducted. This was contrary to Ministry of Public Service, circulars Ref. No. DPM 23/5A VOLC XII/(53) dated 02 May, 2007 and MPYG/DPSM/23/5A. VOL.V(5) dated 15 August, 2019, which stipulated the charges to be paid by organizations which receive services from Ministries/Departments in form of payroll by-products.

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

597.5 Non-Compliance with One-Third of Basic Salary Rule

During the year ended 30 June, 2023, eighty-seven (87) employees earned a net salary of less than a third (1/3) of the basic salary contrary to Section C.1(3) of the Public Service Commission (PSC) Human Resource Policies, 2016. The Management has not given an explanation for the failure to comply with the policy. This may expose the staff to pecuniary embarrassment.

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

597.6 Non-Compliance with Fiscal Responsibility on Wage Bill

The statement of receipts and payments reflects an expenditure of Kshs.3,514,768,261 on compensation of employees representing 48% of the total receipts of Kshs.7,279,260,501. This was contrary to Regulation 25(1) (a) and (b) of the Public Finance Management (County Governments) Regulations, 2015 and Section 107(2)(c) of the Public Finance Management Act, 2012 which requires that the County Government's expenditure on wages and benefits for its public officers shall not exceed 35% of the County Government's total revenue.

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

598. Irregular Subscriptions to Council of Governors

The statement of receipts and payments reflects use of goods and services amounting to Kshs.1,518,007,460 which, as disclosed in Note 4 to the financial statements includes training expenses amounting to Kshs.11,891,864. Included in the training expenses amount is subscription to Council of Governors amount of Kshs.3,000,000. This was contrary to Section 37(b) of the Intergovernmental Relations Act, 2012 which states that the operational expenses in respect of the structures and institutions established in this Act shall be provided for in the annual estimates of the revenue and expenditure of the National Government to cater for the Council of County Governors.

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

599. Delayed Completion of Governor's Office

Review of records provided show that the County Government contracted a construction company to construct the Governor's office but the contract was terminated. However, the details of the project concerning the contract sum, total payments made, the percentage of completion at that time and why the contract was terminated could not be determined, because the project file containing the signed contract and certificates of work done were not provided for audit. The Contractor was paid an amount of Kshs.10,956,274 during the year under review.

Further review of records revealed that after termination of the initial contract, the County Government entered into the second contract on 08 September, 2021 at a contract sum of Kshs.45,847,895. Physical inspection conducted in August, 2023 revealed that the contractor was on site and the project was incomplete.

In the circumstances, the value for money obtained from the project could not be confirmed.

600. Delayed Installation of Milk Processing Equipment for Nandi Co-Operative Creameries Dairy Plant

Review of documents revealed that the County Executive paid Kshs.46,507,268 to a contractor for construction of buildings for the design, supply, installation and commissioning of milk processing equipment for Nandi Co-operative Creameries dairy plant at Kabiyeet, project. In addition, two letters of credit totalling Kshs.155,973,444 were issued towards procurement of equipment from an overseas supplier, under the World Bank funded National Agricultural and Rural Inclusive Growth Project (NARIGP) towards the same project. However, as reported previously, the contract did not indicate the project completion date. Physical inspection of the project in August, 2023 revealed that the project was incomplete although the contractor was on site.

In the circumstances, value for money obtained from the project could not be confirmed.

601. Stalled Kipchoge Keino Stadium

Review of documents revealed that the County Government of Nandi entered into a contract agreement for construction of track field and VIP stand at Kipchoge stadium phase 2 with a local contractor at a contract price of Kshs.95,469,450 with effect from 25 May, 2016 and Kshs.5,778,675 was paid to the contractor during the year under review. However, the project file was not provided for audit, therefore, the contract number, the date of completion of the project, the total payments made to the contractor and percentage of completed work could not be confirmed. Further, physical inspection carried out in August, 2023 revealed that the toilet had been vandalized and the project had stalled as the contractor was not on site.

Although Management has explained that the project had been taken over by the National Government which has since advertised the tender for its upgrade, no documentary evidence was provided to support the explanation.

In the circumstances, value for money on the expenditure incurred on the project could not be confirmed.

602. Delayed Completion of Nandi County Spatial Plan

Review of records provided revealed that the County Executive of Nandi issued a notice of intention to prepare a County Spatial Plan on 14 March, 2019 and signed a contract with two firms at a contract sum of Kshs.83,000,000 on 28 May, 2019 to develop a County Spatial Plan. The contract involved the identification of key spatial planning issues, mapping, zoning among others with the aim of achieving prosperity, equity and sustainable development. The contract period was eighty-eight (88) months from the date of signing of the contract. A total of Kshs.23,441,250 was paid to a contractor between December, 2022 and July, 2023 for preparation of a County Spatial Plan. However, at the time of audit exercise in August, 2023, development of the county spatial plan was incomplete.

In the circumstances, the value for money obtained from the project could not be confirmed.

603. Delayed Construction of New Hospital with Mother and Baby Unit

The County Government entered into a contract with a local contractor for construction of New Hospital with Mother and Baby Unit at Kapsabet County Referral Hospital for contract sum of Kshs.409,813,441 which was, signed on 17 April, 2019. The contract was for a duration of two years, two months and two weeks to coincide with the close of the financial year 2020-2021. During the year a total of Kshs.142,500,462 was paid to the contractor. However, physical inspection on 06 September, 2023, revealed that although the contractor was on site the project had not been completed.

In the circumstances, value for money obtained from the project could not be confirmed.

REPORT ON THE EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

604. Lack of an Independent Internal Audit Function

During the year under review, the County Executive had not established an independent internal audit function. This was contrary to Section 155 of the Public Finance Management Act, 2012 which provides for the establishment of the internal audit function. As such, the County Executive did not benefit from the assurance and advisory services from the internal audit function.

In the circumstances, the effectiveness of internal controls could not be confirmed.

605. Lack of an Approved Staff Establishment

Examination of the human resource records for the financial year under review revealed that the County Executive had a total number of 4107 staff, which included 3,738 permanent and pensionable employees and 369 employees who are on contract. However, the approved Human Resource Plan, staff establishment and approved annual recruitment plan were not provided for audit. It was therefore not possible to ascertain that the human resource requirements and establish the basis of recruitment of new County employees, both permanent and temporary, during the year under review.

In the circumstances, the effectiveness of the internal controls on staff management could not be confirmed.

606. Failure to Maintain a Non-Current Assets Register

The County Executive of Nandi did not maintain a register for the assets contrary to Regulation 149(2)(o) of the Public Finance Management Act, 2012 which requires Accounting Officers to ensure that the respective County Government entity has adequate systems and processes in place to plan for, procure, account for, maintain, store and dispose of assets, including an asset register that is current, accurate and available to the relevant County Treasury or the Auditor-General.

In the circumstances, the existence of effective internal controls on management of fixed assets could not be confirmed.

COUNTY EXECUTIVE OF BARINGO - NO.30

REPORT ON THE FINANCIAL STATEMENT

Basis for Adverse Opinion

607. Variances Between Financial Statements and Integrated Financial Management Information System (IFMIS) Reports

The financial statements reflect balances that were at variance with the IFMIS balances as summarized below:-

Item	Financial Statement Balances (Kshs.)	IFMIS Trial Balances (Kshs.)	Variance (Kshs.)
Compensation of Employees	3,055,863,290	3,403,562,290	(347,699,000)
Use of Goods and Services	1,249,718,542	1,060,502,958	189,215,584
Transfers to other Government Entities	1,030,089,442	721,450,357	308,639,085
Acquisition of Assets	1,754,488,650	844,980,051	909,508,599

In the circumstances, the accuracy and completeness of financial statements could not be confirmed.

608. Unsupported Prior Year Adjustments

The statement of assets and liabilities reflects prior year adjustments amounting to (Kshs.1,062,231,722) as disclosed in Note 17 to the financial statements. However, journal entries in support of the adjustments were not provided for audit.

In the circumstances, the accuracy and completeness of prior year adjustments of (Kshs.1,062,231,722) could not be confirmed.

609. Irregularities in Payment of Salaries

The County Executive maintains the Integrated Personnel Payroll Data (IPPD) for payment of staff salaries. However, salaries amounting to Kshs.25,525,450 were processed through MS Excel. No explanation was provided for preparing the salaries outside the IPPD. Further, summation of the staff cost on the two (2) payrolls and the employer contributions to social schemes and pensions amounted to Kshs.2,965,249,813 which differ from the compensation of employees cost in the financial statements of Kshs.3,055,863,290 resulting to an unexplained variance of Kshs.90,613,477.

In addition, the IPPD payroll for the month of July, 2022 reflects six (6) officers who were sharing bank accounts. Further, included in the basic salaries of permanent employees

amounting to Kshs.2,876,098,682 is work injury benefits amounting to Kshs.4,873,226 paid to two (2) employees which was not supported by a court award.

In the circumstances, the accuracy and completeness of the compensation of employees' amount of Kshs.3,055,863,290 could not be confirmed.

610. Unsupported Expenditure under Use of Goods and Services

The statement of receipts and payments reflects use of goods and services expenditure amounting to Kshs.1,249,718,542 as disclosed in Note 4 to the financial statements. However, the following unsatisfactory matters were noted: -

610.1 Unsupported Fuel, Oil and Lubricants Expenditure

Included in the expenditure is fuel, oil and lubricants costs of Kshs.214,671,613. However, supporting documents such as fuel registers, work tickets, detailed orders, and statements of consumption from the contracted suppliers were not provided for audit. Further, an amount of Kshs.151,979,645 spent by the Departments of Transport and Infrastructure, and Water and Irrigation to purchase bulk fuel for machinery and equipment used in road constructions and water projects were not supported by the list of specific roads/project and kilometers worked on, list of vehicles or equipment used, work tickets, equipment daily utilization schedules showing date and hours worked, detailed orders, fuel register and supplier statements.

In addition, Kshs.3,000,000 was paid on 12 April, 2023 to a supplier for bulk supply of fuel on 23 March, 2023 but was not captured in the fuel schedule provided hence the fuel expense is understated by the amount. It was also observed that the L.P.O and requisition do not reflect the amount of fuel requisitioned.

610.2 Unsupported Routine Maintenance of Vehicles and Other Transport Equipment Expenditure

The amount includes routine maintenance of vehicles and other transport equipment of Kshs.53,937,797. However, the expenditure was not supported by way of motor vehicle maintenance logbooks showing repairs, driver defects report, motor vehicle work tickets, pre and post repair inspection reports.

610.3 Unsupported Insurance Expenditure

Included in the expenditure is Kshs.134,623,680 incurred on insurance costs which includes Kshs.116,623,680 in respect of staff medical insurance cover. However, the staff medical insurance cover policy documents, and list of employees and their beneficiaries were not provided for audit. Further, the insurance costs includes Kshs.18,000,000 incurred on motor vehicle insurance which was also not supported by insurance policy documents and motor vehicle valuation reports.

In the circumstances, the accuracy and completeness of use of goods and services expenditure totalling Kshs.385,233,090 could not be confirmed.

611. Other Grants and Transfers

The statement of receipts and payments reflects other grants and transfers amounting to Kshs.518,709,482 as disclosed Note 7 to the financial statements. Review of the expenditure revealed the following unsatisfactory matters:-

611.1 Unreconciled Expenditure Scholarships and Other Educational Benefits

The amount includes scholarships and other educational benefits amounting to Kshs.42,154,400. However, the expenditure differs with the reported receipts in the Baringo County Bursary Fund of Kshs.30,154,400 resulting in an unreconciled and unexplained variance of Kshs.12,000,000.

611.2 Unsupported Current Grants and Transfers

The amount also includes other current transfers, grants of Kshs.189,132,491 out of which Kshs.25,632,437 was in respect of transfers to various hospital facilities. However, supporting schedules and expenditure returns were not provided for audit.

In the circumstances, the accuracy and completeness of other grants and transfers amounting to Kshs.67,786,837 could not be confirmed.

612. Inaccuracies in the Medical Equipment Lease Rentals

The statement of receipts and payments reflect transfers from the CRF amount of Kshs.7,396,661,429. Further, Note 8 under other important disclosures to the financial statements reflects leased medical equipment cost of Kshs.110,613,219 included in the County Allocation of Revenue Act which is deducted at source. However, the amount was not included in the transfers from CRF amounting to Kshs.7,396,661,429. In addition, review of records revealed that the County Government signed the Memorandum of Understanding with the Ministry of Health on implementation of Health Care Information Technology (HCIT) also known as Managed Equipment Services (MES) in 2015. In the eight (8) years that the MES Programme has been in operation, the County Executive has paid lease rentals amounting to Kshs.1,015,106,384. However, the lease agreements for the equipment and the register of the leased equipment indicating the location and whether the equipment is in use were not provided for audit.

In the circumstances, the completeness and accuracy of the transfer from CRF amounting to Kshs.7,396,661,429 could not be confirmed. In addition, value for money on cumulative lease rentals totalling Kshs.1,015,106,384 could not be confirmed.

613. Unsupported Construction of Roads Expenditure

The statement of receipts and payments reflects acquisition of assets amount of Kshs.1,754,488,650. As disclosed in Note 9 to the financial statements the amount includes construction of roads expenditure of Kshs.445,244,096. The cost includes County and Road Maintenance Levy funded roads of Kshs.401,798,828.60 and Kshs.43,445,267 respectively. However, the approval work plans indicating specific description of the roads to be constructed, location reference numbers, statement on account detailing (itemizing) work done as per specification, inspection and acceptance committee reports and certificates of completion indicating the road width and length improved or constructed in terms of kilometers were not provided for audit. Further, the

County Executive does not maintain an inventory of public roads specifying the roads in respect of classification, road names and length by surface. In addition, details indicating the number of kilometers of road works done could therefore not be confirmed.

In the circumstances, the accuracy and regularity of the construction of road expenditure of Kshs.445,244,096 could not be confirmed.

Emphasis of Matter

614. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final total budgeted receipts and actual on comparable basis of Kshs.9,257,421,709 and Kshs.7,396,661,429 respectively resulting to an under-funding of Kshs.1,860,760,280 or 20% of the budget. Further, the County Executive spent Kshs.7,608,869,406 against an approved budget of Kshs.9,257,421,709 resulting to an under-expenditure of Kshs.1,648,552,303 or 18% of the budget.

The budget under-performance and under expenditure affected the planned activities and may have impacted negatively on service delivery to the public.

615. Pending Bills

Other important disclosures, pending accounts payables discloses pending bills of Kshs.94,840,024 as at 30 June, 2023 which have however, not been analyzed in Annex 2. Management did not explain why the bills were not settled during the year when they occurred. Failure to settle bills during the year to which they relate adversely affects the budgetary provisions of the subsequent year to which they are charged as they form a first charge.

My opinion is not modified in respect of these matters.

Other Matter

616. 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 Effectiveness of Internal Controls, Risk Management and Governance. The Management had however, not resolved the issues or given any explanation for failure to implement the recommendations as at 30 June, 2023.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

617. Under Collection of Single Business Permit Revenue

The County Executive had projected to collect Kshs.41,544,578 in respect of single business permit during the year under review but collected Kshs.36,458,010 resulting to a revenue shortfall of Kshs.5,086,568. Review of County Executive records revealed that

the County had five thousand six hundred and sixty (5,660) registered businesses in the year under review. However, only two thousand seven hundred and forty-nine (2,749) were issued with business permits indicating that two thousand nine hundred and eleven (2,911) businesses were operating without business permits. No explanations were provided for the failure to issue business permits to all registered businesses contrary to Regulation 63 of the Public Finance Management (County Governments) Regulations, 2015.

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

618. Compensation of Employees

The statements of receipts and payments reflects compensation of employees' expenditure amounting to Kshs.3,055,863,290 as disclosed in Note 3 to the financial statements. Review of the expenditure revealed the following unsatisfactory matters.

618.1 Non-Compliance with the Law on Fiscal Responsibility on Wage Bill

The compensation of employees' cost of Kshs.3,055,863,290 or forty-seven percent (41%) of the County's total receipts amounting to Kshs.7,396,661,429 exceeded the set limit of thirty-five percent (35%) in Regulation 25(1)(b) of the Public Finance Management (County Governments) Regulations, 2015. There was also no evidence that the County Executive Committee Member for Finance had tabled a bill in the County Assembly to control the wage bill an indication that no actions were being taken to control the wage bill.

618.2 Irregular Engagement of Casual Employees

Review of casual employee records revealed the following unsatisfactory matters:

- i. There was no approved staff establishment showing deficiency of staff to be filled by the casuals nor formal requests done by the user departments on the need for engaging casuals,
- ii. There were no authorization by the County Public Services Board to the departments to recruit casual employees' contrary to Section 74 of the County Governments Act, 2012 which states that the County Public Service Board shall regulate the engagement of persons on contract, volunteer and casual workers in its public bodies and offices,
- iii. Records in respect of how temporary employees were hired, the work for which they were hired for, creteria for their recruitment, terms and conditions of services were not provided for audit,
- iv. Master rolls showing attendance of the casual workers were not provided for audit. The existence of the temporary employees and their workstations could therefore not be established,
- v. Evidence of monthly statutory deductions on wages in respect of PAYE, NHIF and NSSF and remittances were not provided for audit,

vi. Management did not maintain temporary employees' payroll but instead made the payments to other County staff for onward transmission to the respective employees in cash.

618.3 Non-adherence to the One Third Rule on Salary Deduction

Review of the Integrated Personnel Payroll Data (IPPD) payroll for the month of July, 2022 revealed that a total of seventy (70) employees earned net salary that was lower than a third of their basic salary. This was contrary to Section C.1 (3) of the Human Resource Policies and Procedures Manual for the Public Service (2016) which prohibits one from drawing a net salary lower than a third of the basic salary.

618.4 Non-Adherence with the Law on Ethnic Composition in Recruitment

Review of appointment records by County Public Service Board revealed that the Board recruited thirty-six (36) officers during the year under review. The recruits comprised of chief officers, advisors and staff in the Governor and Deputy Governor's office. Thirty-five (35) of the officers or 97% were from the dominant ethnic community in the County contrary to Section 65 of the County Government Act, 2012 which requires that at least thirty percent should be filled by candidates who are not from the dominant ethnic community in the county.

618.4.1 Lack of Staff Performance Appraisals

The County Executive has not designed a performance management plan to measure and evaluate performance of its county public service and the implementation of county policies. Further, the performance of all employees was not evaluated and a feedback on performance reported at the end of the year. This was contrary to Section 47 (1) of the County Governments Act, 2012 requires each county executive committee to design a performance management plan to evaluate performance of the county public service and the implementation of county policies.

618.5 Non-Adherence to Work Injury Benefit Act (WIBA)

The County Executive has not insured her employees against workplace injury contrary to Section 7 of the Work Injury Benefit Act, 2007. As a result, employees who get injured in the course of duty are paid from own resources and treated as employee costs.

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

619. Irregularities in Procurement

619.1 Irregular Use of Framework Agreement

Included in the expenditure for use of goods and services is an amount of Kshs.218,177,567 in respect of specialized materials and supplies, out of which Kshs.103,987,864 was incurred on purchase of pharmaceuticals, non-pharmaceuticals, vaccines and acaricides that were procured using framework agreement. However, the criteria to have a minimum of seven (7) alternative suppliers or contractors for framework agreements was not met contrary to Section 114(1)(c) of the Public Procurement and Asset Disposal Act, 2015 which states a minimum of seven vendors are included for each procurement. Further, procurements for the supply of vaccines and acaricides at a cost

of Kshs.17,332,350 was done after the expiry of the framework agreements. In addition, the distribution lists and stores issue notes of the vaccines and acaricides were not provided for audit.

619.2 Irregular Procurement of Drugs and Medical Supplies

Included in the specialized materials and services of Kshs.218,177,567 is the purchase cost of pharmaceuticals and non-pharmaceuticals of Kshs.86,655,514 incurred from different suppliers. However, there was no non-supplies notification from Kenya Medical Supplies Authority (KEMSA) confirming that they were out of stock on the pharmaceuticals and non-pharmaceuticals.

In addition, Kshs.81,651,708 was used to procure pharmaceuticals for various hospitals in the County from Kenya Medical Supplies Authority (KEMSA) without an established framework. This was contrary to Section 4(1) c of the KEMSA Act.

619.3 Irregular Procurement of Motor Vehicles

The County Executive procured fourteen (14) motor vehicles during the year under review at a cost of Kshs.120,607,449 using framework agreement method. However, the purchase of motor vehicles did not meet the criteria for the use of framework agreement as provided for in Regulation 101 of the Public Procurement and Asset Disposal Regulations, 2020. Further, procurement records such as tender advertisement, appointment letters for tender opening, evaluation, signed framework contracts and inspection and acceptance committees, bid register, inspection and acceptance report were not provided for audit. Further, only six (6) logbooks out of the fourteen (14) vehicles purchased motor vehicles were provided for audit verification.

619.4 Irregularities in Procurement of Private Law Firms

The County Executive incurred an expenditure of Kshs.11,604,259 on legal fees. However, tender advertisement, evaluation and award, signed service level agreements, evidence of court attendance, invoices indicating the services offered and certificates of appointment in respect of each case or transaction were not provided for audit. In addition, the procurement for the legal services was not approved by the County Executive Committee. This was contrary to Section 16(1) of the Office of the County Attorney Act, 2020 which states that a department or public entity established within a County Executive shall not engage the services of a consultant to render any legal services relating to the functions of the County Attorney without the approval of the County Executive Committee.

Further, the payments were not supported by evidence of court attendance and individual itemized billing to enable verification and the Management had not developed a clear system of ensuring legal fees were billed in accordance with the advocates remuneration order, avoiding lump sum billing as reflected in the fee notes from the lawyers.

In the circumstances, Management was in breach of law.

620. Unauthorized Expenditure on Electricity

The Department of Water Resources Development and Management incurred electricity expenditure of Kshs.21,340,185 against the budgeted amount of Kshs.10,273,000

resulting to unauthorized expenditure of Kshs.11,067,185 or 108% of the budget. This was contrary to Regulation 39 (9) of the Public Finance Management (County Governments) Regulations, 2015.

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

621. Irregular Transfer to Baringo Cha Coffee Mill

The County paid a Cooperative Society an amount Kshs.7,000,000 which is a private entity. The purpose of the payment was not disclosed and no returns for the expenditure were provided to confirm the lawfulness of the activities for which the funds had been applied to.

In the circumstances, it was not possible to confirm whether public funds were applied for lawful purposes.

622. Unconfirmed Expenditure on Drilling Rig Operationalization

The Department of Water and Irrigation procured fuel worth Kshs.5,000,000 for the drilling rig operations. However, tender advertisement, tender security, tender evaluation, professional opinion, letter of offer, acceptance of offer, signed contract, work plans, fuel register, detail orders, supplier statements and the list of boreholes drilled were not provided. In addition, an expenditure amounting to Kshs.6,726,950 was incurred on the purchase of borehole accessories for the rig operationalization program. However, inspection and acceptance reports were not provided for review and the accessories were not recorded in the stores counter receipt vouchers and issued through the stores issues notes.

In the circumstances, value for money on the expenditure of Kshs.511,726,950 on drilling rig could not be confirmed.

623. Stalled Projects

623.1 Idle Dispensary Facility

A contract for the construction of a 20 bed capacity dispensary at a cost of Kshs.5,927,037 at Ngubereti was awarded, completed and handed over on 28 March, 2023. However, the dispensary is yet to be equipped and be put into use for lack of water, electricity connections and the requisite personnel.

623.2 Stalled Construction of Eldama Ravine Guest House

The contract for the construction of guest house at Eldama Ravine Agricultural Training Institute at a contract sum of Kshs.19,722,320 was signed on 3 April, 2017 with the contractor having been paid Kshs.16,845,510.48 or 85% of the total project costs. However, the title deed of the land where the guest house was being constructed was not provided for audit. Further, the project completion date was extended from 17 November, 2022 to 17 April, 2023 for roofing and finishing exterior works. However, the contractor was not on site and the project had stalled. In addition, performance bond for the project issued on 23 June, 2017 for a sum of Kshs.986,118 had expired on 20 June, 2018 without renewal and hence could not be recalled.

623.3 Delayed Construction of Nachurur Footbridge

The County Executive awarded the contract for the construction of Nachurur Footbridge for a contract price of Kshs.5,081,557. The contract was signed on 9 July, 2021 for a period of 4 months with effect from 12 July, 2021 and expected completion date of 12 November, 2021. However, tender advertisement, tender security, tender evaluation minutes, professional opinion, letter of offer, performance bond, acceptance offer, inspection and acceptance reports, joint measurements and interim/ completion certificates issued by the inspection and acceptance committee were not provided for audit verification. Further, the construction has not been completed, one and half years after its commencement. No feasible explanation was provided for the delayed construction of the footbridge.

623.4 Other Stalled and Unutilized Projects

Review of project records provided for audit revealed that projects with a budget of Kshs.517,472,897 and cumulative payments of Kshs.351,332,710 as at 30 June, 2023 were either seeking stalled or complete but not in use for various reasons including projects carried out on land under ownership dispute, projects under investigation by EACC, ongoing projects not budgeted for in the year under review, and extension of time after expiry of contracts.

In the circumstances, value for money on the expenditure of Kshs.379,186,814 on the projects could not be confirmed.

624. Irregular Award of Contracts

624.1 Contract for the Upgrading of Torongo Centre Road

The contract for the upgrading of Torongo centre road to bitumen standards was awarded at a contract sum of Kshs.12,646,653. However, the contract was awarded to a bidder other than the lowest evaluated bid of Kshs.11,060,451 and the highest ranked evaluated bid.

624.2 Contract for the Construction of Kapluk Dispensary

In addition, the contract for the renovation of wards, toilets, maternity, supply of incinerator and fencing at Kapluk Health Centre was awarded at a contract price of Kshs.4,303,170. However, the contract was not awarded to the lowest responsive bidder who had quoted a price of Kshs.3,377,403. These contract awards were contrary to Section 86(1) of the Public Procurement and Assets Disposals Act, 2015. Further, payment of Kshs.1,988,905 made to the contractor was not supported by an inspection and acceptance report, joint measurement and a completion/ interim certificate.

624.3 Contract for Works at Sirwa Athletics Camp

The contract for the construction of septic tank, kitchen and 4 doors pit latrine with urinal at Sirwa athletics camp for a contract price of Kshs.4,456,662 was awarded on 14 December, 2022. Request for quotation method was used to identify the contractor. However, only two quotation were evaluated. This was contrary to Section 106 (2) (d) of the Public Procurement and Asset Disposal Act, 2015 which requires at least three persons to submit their quotations prior to evaluation. Further, review of records

revealed that the quotations were opened on 9 January, 2023 and evaluated on 11 January, 2023, after the award of the contract before the professional opinion was issued on 18 January, 2023. Part payment for work done amounting to Kshs.2,246,514 was made on 30 June, 2023.

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

625. Irregular Reallocation of Funds for the Construction of Governor and Deputy Governor Residence

The County Executive incurred an expenditure amounting to Kshs.1,080,000 on rent for the residence of the Deputy Governor. This was contrary to Salaries and Remuneration Commission's Circular referenced SRC/TS/CGOVT/3/61/VOL.V (44) of 14 August, 2020 which required Counties to cease paying rent/ leasing houses for eligible State officers' official residential houses by 30 June, 2022. Further, the lease agreement for the Deputy Governor's residence was not provided for audit. In addition, a budgetary allocation of Kshs.15,000,000 for the construction of the Governor's and Deputy Governor's residences was reallocated in the second supplementary budget. This was contrary to Section 154 (1)(a) of the Public Finance Management Act, 2012 which states that an accounting officer shall not authorize the transfer of an amount that is appropriated for transfer to another County Government entity or person. Further, the 100% reduction of the original budget exceed the 10% threshold required by Regulation 39 (9) of the Public Finance Management (County Governments) Regulations, 2015 which states that in approving any estimates under sections 135 and 154 of the Act, the County Assembly approval shall not exceed ten (10%) percent of the approved budget estimates of a program of Sub-Vote.

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

626. Irregularities in the Contract for the Drilling of Borowonin Borehole

The contract for drilling of Borowonin borehole at a contract price of Kshs.2,999,800 was awarded with effect from 20 June, 2022 to 10 October, 2022. However, no Environmental Impact Assessment was conducted. This was contrary to Section 58(2) of the Environmental Management and Co-ordination Act, 2012 which requires the proponent of a project to undertake or cause to be undertaken an environmental impact assessment. Further, the drilling permit from Water Resources Management Authority (WRMA) was not sought which is a requirement before drilling of boreholes. This was contrary to Section 36(a) of the Water Act, 2016 which states that a permit is required for any use of water from a water resource.

A hydrological/geophysical survey report on 9 February, 2023 proposed that the borehole be drilled at a diameter of not less than 8" to a minimum depth of 150 meters and a maximum of 160 meters. However, the borehole was drilled to a depth of 180 meters but was dry with Kshs.1,898,900 of the contract having been paid. Further, an expenditure of Kshs.150,000 was incurred as a contingency for the extra 20 meters depth drilled. No justification was provided for the drilling of additional 20 meters over the recommended depth of 160m.

In the circumstances, the propriety and value for money for the expenditure of Kshs.1,898,900 could not be confirmed.

627. Unsupported Contract for Completion of Public Works Office Block

As previously reported, the County Executive allocated Kshs.2,030,000 for the completion of the stalled Public works office block. The tender was advertised on 22 March, 2023 and contract signed on 9 August, 2023 at a contract price of Kshs.24,868,530. However, records on termination of the previous contract were not provided and testing of the existing structure's integrity was not done to confirm whether the contract had been terminated procedurally and in accordance with the law. Further, the contract price of Kshs.24,868,530 exceeded the budgeted amount of Kshs.2,030,000 resulting to unauthorized commitment of Kshs.22,838,532 contrary to Section 53(8) of the Public Procurement and Asset Disposal Act, 2015.

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

628. Irregular Implementation of Water Project

Expenditure of Kshs.503,974,893 was incurred on drilling, piping and equipping of boreholes. However, the expenditure was not supported by pre and post hydrological survey reports, permits from the Water Resource Authority (WRA) and environmental impact assessment licenses issued by the National Environmental Management Authority (NEMA), testing reports that informed the capacity of pumps installed and registration certificates of the contractors. Further, the contract awarded for the construction of Kipcherere water project on 23 December, 2021 at a contract sum of Kshs.23,885,935 was not awarded to the lowest bidder who had quoted an amount of Kshs.21,827,625. The statement of professional opinion does not indicate the reasons for not awarding the contract to the lowest evaluated bidder.

In the circumstances, the legality, environmental impact and value for money on the expenditure of Kshs.503,974,893 incurred on drilling of the boreholes could not be confirmed.

629. Failure to Submit Report on Implementation Status of the Recommendations of Legislative Oversight Committees

The County Executive did not submit a report on how it had addressed the Senate and County Assembly recommendations on the audit findings for the years 2013/2014 to 2020/2021. This was contrary to Section 31(1) (a) of the Public Audit Act, 2015 which states that within three months after Parliament has debated and considered the final report of the Auditor-General and made recommendations, a State Organ or a public entity that had been audited shall, as a preliminary step, submit a report on how it has addressed the recommendations and findings of the previous year's audit.

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

REPORT ON THE EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

630. Voided Payments in IFMIS

Review of the Integrated Financial Management Information System (IFMIS) records revealed that two hundred and forty-nine (249) payments with value of Kshs.382,892,029 processed in IFMIS were voided. However, payment vouchers and authority to void them were not provided for review. It was therefore not possible to confirm the reasons for voiding the payments and if the status of the voided vouchers neither paid or unpaid.

In the circumstances, the effectiveness of controls over process of voiding of payments in IFMIS could not be confirmed.

631. Unupdated Fixed Assets Register

Annex 6 to the financial statements reflects historical cost of non-current assets of Kshs.7,879,566,587 as at 30 June, 2023. However, the amount differs with the fixed asset registers balances of Kshs.4,419,799,980 resulting to an unreconciled and unexplained variance of Kshs.3,459,766,606.

In the circumstances, the effectiveness of the controls on management of fixed assets could not be confirmed.

COUNTY EXECUTIVE OF LAIKIPIA - NO.31

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

632. Unexplained Variances Between Financial Statements and Supporting Schedules

The statement of receipts and payments reflects transfers to other government entities amounting to Kshs.229,145,292 which differed with supporting schedules as shown below:

Description	Financial Statements Balances (Kshs.)	Supporting Schedule Balances (Kshs.)	Variance (Kshs.)
Current Grants to Government Agencies and other Levels of Government	83,768,104	125,426,129	(41,658,025)
Laikipia County Health Institutions	19,668,216	0	19,668,216
Laikipia County Leasing Fund	25,780,678	23,748,590	2,032,088

In the circumstances, the accuracy and completeness of transfers to other Government entities amounting to Kshs.229,145,292 could not be confirmed.

633. Unsupported Pending Bills

Note 1 on Other Important disclosures and Annex 2 to the financial statements reflects pending accounts payables amounting to Kshs.2,018,917,692. The amount includes pending bills amounting to Kshs.1,082,587,719 which were not supported by invoices, local purchase orders, local service orders and other contractual documents.

In the circumstances, the accuracy and completeness of pending bills of Kshs.1,082,597,719 could not be confirmed.

634. Irregular Payments to Members of County Assembly and Staff

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects use of goods and services amounting to Kshs.1,401,782,476 which includes domestic travel and subsistence totalling Kshs.157,917,610. The domestic travel and subsistence includes imprest paid to County Assembly staff members to facilitate trade committee on project familiarization and monitoring and to Members of County Assembly (MCA) for an Agricultural visit to Israel amounting to Kshs.138,600 and Kshs.663,120 all totalling Kshs.801,720 respectively. However, these payments which should have been paid by the County Assembly, were wrongly charged to the County Executive.

In the circumstances, the regularity of the domestic travel and subsistence amount of Kshs.801,720 could not be confirmed.

Emphasis of Matter

635. Pending Bills Not Paid as First Charge

Note 1 to the financial statements on other important disclosures reflects pending accounts payables amounting to Kshs.2,018,917,692. A review of the records revealed that prior years pending bills amounting to Kshs.69,184,876, which should have been paid as a first charge in 2022/2023 were still outstanding. 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.

Further, failure to settle bills during the year to which they relate distorts the financial statements for that year and adversely affects the provisions for the subsequent year to which they have to be charged.

My opinion is not modified in respect of this matter.

Other Matter

636. Unresolved Prior Year Matters

In the previous audit report, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Control, Risk Management and Governance. However, although the Management has indicated that the issues have been resolved, the matters remained unresolved as the Senate and County Assembly have not met to deliberate on the same.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

637. Project Verification Report

The statement of receipts and payments and Note 7 to the financial statements reflects payments totalling Kshs.620,339,446 in respect of acquisition of assets. Included in these payments is Kshs.343,964,631 for sixty-seven (67) projects that were verified. However, verification exercise revealed that fourteen (14) projects were either incomplete or completed but had not been put in use.

In the circumstances, the value for money on the payments in respect of the projects could not be confirmed.

638. Irregular Payments to the Council of Governors

The statement of receipts and payments reflects use of goods and services totalling Kshs.1,401,782,478 as disclosed in Note 4 to the financial statements. The amount includes other operating expenses totalling Kshs.83,307,172 which includes Kshs.5,000,000 paid to the Council of Governors. This was contrary to Section 37 of the Intergovernmental Relations Act, 2012 which states that the operational expenses in respect of the structures and institutions established in the Act shall be provided for in the annual estimates of the revenue and expenditure of the National Government,

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

639. Unjustified use of Framework Contract Method of Procurement

Review of records for refurbishment of building expenditure of Kshs.2,383,429 revealed that the Department of Health entered into a framework contract for supply and delivery of building and hardware items, and paints even though the annual procurement plan had provided for procurement of hardware items through use of quotations. In addition, the suppliers were not subjected to a mini-competition where only two tenderers were awarded the tenders although there were other suppliers ranking top in the list. This was contrary to Regulation 101 (2) of the Public Procurement and Asset Disposal Regulations, 2020 that provides that a procuring entity shall not use a framework agreement in such a way as to prevent, restrict or distort competition.

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

640. Compensation of Employees

640.1 Non-Compliance with the Law on Fiscal Responsibility on Wage Bill

The County Executives compensation of employees amount totalling Kshs.3,536,889,453 represented sixty percent (60%) of the total receipts totalling Kshs.5,878,950,627. This was contrary to Regulation 25(1) (b) of the Public Finance Management (County Governments) Regulations, 2015 which states that the County Government expenditure on wages and benefits for public officers should not exceed 35% of the County Government's total revenue.

640.2 Non-Compliance with a Third of Basic Salary Rule

Review of the County Executive payroll revealed that four hundred and sixty-one (461) employees earned net salaries of less than a third (1/3) of their basic salary. This was contrary to Section 19(3) of the Employment Act, 2007 which states that the total amount of deduction from the wages of an employee shall not exceed two-thirds (2/3) of such wages.

640.3 Non-Compliance with Regulation and Guidelines on Acting Positions

During the year under review, the Management paid two (2) of its staff members acting allowance for a duration of ten (10) months. This was contrary to Section C.14(1) of the Public Service Commission, Human Resource Policies and Procedures Manual for the Public Service of 2016 C.14 (1) which states that acting allowance will not be payable to an officer for more than six (6) months.

640.4 Non-Compliance to the Law on Ethnic Composition

Review of records revealed that the County Executive had a total of two thousand, three hundred and thirty-nine (2,339) employees out of which one thousand, six hundred and seventy-three (1,673) or seventy-two (72%) were from the dominant ethnic community in the County. This was contrary to Section 7 (2) of the National Cohesion and Integration Act, 2008 which states that no public establishment shall have more than one third of its staff from the same ethnic community.

640.5 Failure to Remit Statutory Deductions

Review of records provided revealed that six hundred and twenty-five (625) officers were paid a total of Kshs.22,109,640. However, the employees who were eligible for statutory deductions but did not have PIN numbers were not deducted statutory deductions of PAYE, NSSF and NHIF for remittance to the relevant authorities. This was contrary to Section 9 and 9(A) of the Income Tax Act Cap 470 which require the employer to deduct PAYE from the employees' emoluments and the amount deducted remitted to the commissioner before the 10th day following the end of the month, Section 20 (1A) of the National Social Security Fund No. 45 of 2013 which requires an employer to pay the contribution on the ninth day of each month following the end of the month, and Section 15(4) of the National Hospital Insurance Fund (NHIF) Act No. 9 of 1998 which requires a person to whom this section applies to pay contributions to the Board on the first day of each month or on such later date as the Board prescribed.

640.6 Salaries Paid Outside the IPPD Payroll

Review of payment vouchers, supporting schedules and other records revealed that salaries totalling Kshs.513,795,377 for members of staff including ECDE teachers, casuals, and staff without payroll numbers were paid outside the Integrated Personnel and Payroll Data Base (IPPD). This was contrary to The National Treasury Circular No.13/2012 of 28 August, 2012.

640.7 Penalties on Statutory Deductions

Note 2 to the financial statements on other important disclosures reflects other pending payables totalling Kshs.226,491,421 which includes amounts due to third parties of Kshs.105,055,570. The amounts due to third parties includes interest and penalties totalling Kshs.101,504,030 payable to LAPFUND, LAPTRUST and NSSF as disclosed in Note 2(b) to the financial statements on other important disclosures. The high interest levied and penalties arising from failure to make remittances of statutory payments on time to the various statutory bodies is unsustainable and wasteful use of public resources.

In the circumstances, value for money for the interest and penalties of Kshs.101,504,030 could not be confirmed.

641. Failure to Implement E-procurement Processes

Review of records provided revealed that procurement processes such as tender advertisement/requisitions, opening of tenders, evaluation of tenders and award of tenders were not done in the Integrated Financial Management Information System

(IFMIS) system. This was contrary to Regulation 49(2) of the Public Procurement and Asset Disposal Regulations, 2020 which states that the conduct of e-procurement procedures for the supply of goods, works and services shall be carried out by a procuring entity using an e-procurement system which is integrated to the State Portal.

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

REPORT ON THE EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

642. Use of Personal Emails for Official Government Business

Review of correspondences and interview with the ICT Director revealed that most of the workers were using personal emails for official government business despite being provided with official email addresses. This was contrary to the Head of public service circular SH/ADM 23(1) dated 14 June, 2022 Government ICT standards, 2019 prescribing that all Ministries, Counties, Departments and Agencies (MCDAs) shall acquire and ensure appropriate use and management of E-mail and Instant messaging applications.

In the circumstances, Internal Controls and confidentiality of correspondences to recipients could not be confirmed.

COUNTY EXECUTIVE OF NAKURU - NO.32
REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

643. Inaccuracies in the Financial Statements

The financial statements prepared and presented for audit had the following inaccuracies;

- 1.1 Note 1 to the financial statements reflects transfer from County Revenue Fund (CRF) amount of Kshs.14,521,305,049 while recommendation revealed amount of Kshs.12,838,424,165 resulting in an unexplained variance of Kshs.1,682,880,884;
- 1.2 The statement of receipts and payments reflects other grants and transfers amount of Kshs.2,415,769,726 while Note 7 reflects amount of Kshs.2,415,789,887 resulting in an unexplained variance of Kshs.20,161;
- 1.3 The statement of assets and liabilities reflects bank balances of Kshs.4,649,646,300 while the statement of cash flow reflects amount of Kshs.4,397,888,614 resulting in an unexplained and unreconciled variance of Kshs.251,757,686;
- 1.4 The statement of the cash flow reflects total payments from operating expenses amount of Kshs.14,127,172,925 which differs with the recomputed amount of Kshs.14,127,152,763 resulting in unexplained variance of Kshs.20,162;
- 1.5 Other important disclosures to the financial statements reflects comparative pending staff payables-senior management amount of Kshs.6,139,469 while audited 2021/2022 financial statements reflects an amount of Kshs.6,097,469 resulting in an unexplained variance of Kshs.42,000.

In the circumstances, the accuracy of the above balances as presented in the financial statements could not be confirmed.

644. Variances Between Financial Statements and IFMIS Balances

Review of the financial statements and IFMIS balance submitted for audit revealed variances as detailed in the table below:

Item	Financial Statements (Kshs.)	IFMIS Balance (Kshs.)	Variance (Kshs.)
Compensation of Employees	6,901,543,527	7,250,026,666	(348,483,139)
Use of Goods and Services	3,039,770,319	5,289,736,548	(2,249,966,229)
Transfers to Other Government Entities	1,770,069,191	0	1,770,069,191
Other Grants and Transfers	2,415,769,726	1,149,916,090	1,265,853,636
Acquisition of Assets	1,841,113,364	1,951,555,493	(110,442,129)

In the circumstances, accuracy and completeness of the above balances as presented in the financial statements presented for audit could not be confirmed.

645. Non-Adherence to Cut Off Period

The statement of receipts and payments reflects transfers from County Revenue Fund (CRF) amount of Kshs.14,521,305,049 which includes Kshs.1,767,106,640 received after the reporting period. Further, the statement reflects use of goods and services amount of Kshs.3,039,770,319 out of which Kshs.497,503,385 was incurred after 30 June, 2023. In addition, the statement reflects other grants and transfers amount of Kshs.2,415,769,726 which includes transfers amounting to Kshs.349,420,979 that were made after 30 June, 2023. This was contrary to Regulation 97(4) of the Public Finance Management (County Governments) Regulations, 2015 provides that actual cash transactions taking place after 30 June shall not be treated as pertaining to the previous financial year even though the accounts for that year may be open for end of year procedures and adjustments.

In the circumstances, the accuracy and completeness of the transfers from County Revenue Fund amount of Kshs.1,767,106,640, use of goods and services amount of Kshs.497,503,385 and other grants and transfers amount of Kshs.349,420,979 could not be confirmed.

646. Inaccuracies in Compensation of Employees

The statement of receipts and payments reflects compensation of employees amounting to Kshs.6,901,543,528 as disclosed in Note 3 to the financial statements. However, the amount differs with the payrolls amount of Kshs.5,752,880,855 resulting in an unexplained variance of Kshs.1,148,662,673. Further, the amount includes compulsory National Industrial Training Authority levy amounting to Kshs.28,374,600 which was misclassified under pension and other social security contributions.

In the circumstances, the accuracy and completeness of compensation of employees amount of Kshs.6,901,543,528 could not be confirmed.

647. Unsupported Use of Goods and Services

The statement of receipts and payments reflects use of goods and services amount of Kshs.3,039,770,319 as disclosed in Note 4 to the financial statements. The following unsatisfactory matters were noted:

647.1 Irregular Domestic Travel and Subsistence Expenditure

The amount includes domestic travel and subsistence expenditure of Kshs.232,802,907 out of which Kshs.29,650,517 were transfers which have not been accounted for. Further, domestic travel and subsistence expenditure includes an amount of Kshs.15,603,700 incurred on Members of the County Assembly of Nakuru which was not explained despite the Assembly having an independent vote.

In the circumstances, the regularity of domestic travel and subsistence expenditure amounting to Kshs.45,254,217 could not be confirmed.

647.2 Unsupported Routine Maintenance - Vehicles and Other Transport Equipment

Use of goods and services amount of Kshs.3,039,770,319 includes routine maintenance of vehicles and other transport equipment amount of Kshs.36,977,382. Included in the

amount is Kshs.28,947,689 which was not supported by way of motor vehicle maintenance logbooks showing repairs, driver defects report, pre and post repair inspection reports and receipt of tyres.

In the circumstances, the occurrence of routine maintenance of vehicles and other transport equipment expenditure of Kshs.28,947,689 could not be confirmed.

647.3 Unsupported Training Expenses

The statement of receipts and payments reflects amount of Kshs.3,039,770,319 in respect of use of goods and services. This amount includes training expense amount of Kshs.67,767,772 as disclosed in Note 4 to the financial statements. However, training expenses totalling Kshs.11,574,790 was not supported by training needs assessments to identify skills gap, identification, selection and annual training plans to inform budget allocation and skills gap to be filled.

In the circumstances, the occurrence of training expenditure of Kshs.67,767,772 could not be confirmed.

648. Unauthorized Reallocations

Note 4 to the financial statements reflects routine maintenance - other assets amount of Kshs.102,063,119 which includes expenditure amounting to Kshs.47,470,431 incurred on catering and conference facilities. Further, Note 7 to the financial statements reflects other grants and transfers amount of Kshs.2,415,789,887 out of which payments amounting to Kshs.366,690,684 paid to suppliers for unrelated various supplies. In addition, Note 9 to the financial statements reflects rehabilitation and renovation of plant, machinery and equipment amount of Kshs.40,273,586 which includes expenditure of Kshs.35,449,015 incurred on refurbishment of buildings.

In the circumstances, the accuracy and completeness of routine maintenance - other assets expenditure of Kshs.47,470,431, other grants and transfers amount of Kshs.366,690,684 and rehabilitation and renovation of plant, machinery and equipment amount of Kshs.35,449,015 could not be confirmed.

649. Unsupported Research Studies, Project Preparation, Design and Supervision

The statement of receipts and payments reflects acquisition of assets amount of Kshs.1,841,113,364 as disclosed in Note 9 to the financial statements. The amount includes research, studies, project preparation, design and supervision expenditure of Kshs.58,063,251 out of which Kshs.18,908,476 was incurred on the supply of office items, trainings and transfers which was not supported.

In the circumstances, accuracy and completeness of research, studies, project preparation, design and supervision expenditure amount of Kshs.18,908,476 could not be confirmed.

650. Inaccuracies in Bank Balances

The statement of assets and liabilities reflects bank balances of Kshs.4,649,646,300 as disclosed in Note 13A to the financial statements. However, bank reconciliation

statements for one bank account revealed unpresented cheques amounting to Kshs.6,125,098 whose details of payees and dates of presentation for payment were not indicated. Further, the staff car loan bank balance of Kshs.955,619 differs with the cashbook balance of Kshs.975,780 resulting to an unexplained variance of Kshs.20,161. In addition, balances for seven (7) bank accounts were not supported with cash books, bank certificates, bank reconciliation statements and board of survey certificates and one bank account with a balance of Kshs.378,359,330 was not disclosed in the financial statements.

In the circumstances, the accuracy and completeness of bank balances of Kshs.4,649,646,300 could not be confirmed.

Emphasis of Matter

651. Budgetary Control and Performance

The statement of comparison of budget and actual amounts; recurrent and development combined reflects final receipts budget and actual on comparable basis of Kshs.21,209,698,916 and Kshs.16,252,255,225 respectively resulting to an under-funding of Kshs.4,957,443,691 or 23% of the approved budget. Similarly, the County Executive spent Kshs.15,968,266,127 against an approved budget of Kshs.21,209,698,916 resulting to an under-expenditure of Kshs.5,241,432,789 or 25% of the budget.

The under-funding and under-performance affected the planned activities and impacted negatively on service delivery to the public.

652. Pending Bills

Note 1, 2 and 3 of the financial statements on other important reflect pending accounts payable, pending staff payables and other pending payables of Kshs.1,495,409,006, Kshs.32,377,096 and Kshs.1,415,450 respectively all totalling Kshs.1,529,201,552 as at 30 June, 2023. However, some of the pending bills have been long outstanding with some dating back to the year 2013. Management did not provide explanations for the failure to settle the pending bills.

Further, failure to settle bills in the year to which they relate adversely affects the implementation of the subsequent year budgeted programs as the pending bills form the first charge to the subsequent year budget. The County Executive is also at risk of incurring penalties and interest with the continued delays in settlement of the bills.

My opinion is not modified in respect of these matters.

Other Matter

653. Unresolved Prior Year Matters

In the audit of the previous years, several issues were raised under the report of the financial statements, report on Lawfulness and Effectiveness in Use of Public Resources and the Report on the Effectiveness of Internal Controls, Risk Management and Governance which have remained unresolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

654. Failure to Transfer Own Revenue to County Revenue Fund

Review of records revealed that sixteen (16) health facilities generated revenue amounting to Kshs.1,519,361,041 which was not paid into the County Revenue Fund but was directly spent by the hospital facilities and some transferred to other departments. Further, Note 2 to the financial statements reflects interest income on deposits of Kshs.27,550,025 which was not transferred into the County Revenue Fund. This was contrary to Section 109 (2) of the Public Finance Management Act, 2012 which requires the County Treasury to ensure that all money raised or received by or on behalf of the County Government is paid into the County Revenue Fund.

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

655. Failure to Prepare Bank Reconciliations

During the year under review, bank reconciliations statements prepared only for the month of June, 2023. This was contrary to Regulation 90(1) of the Public Finance Management (County Governments) Regulations, 2015 which requires an accounting officer to ensure that bank account reconciliations are completed for each bank account every month and submit a bank reconciliation statement not later than the 10th of the subsequent month to the County Treasury with a copy to the Auditor-General.

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

656. Failure to Purchase Medical Equipment

The County Executive did not implement projects with budgetary allocation of Kshs.60,000,000, under the department of health for purchase of medical and dental equipment.

In the circumstances, delivery of services to the public may have been negatively affected.

657. Non-Collection of Liquor Licenses Revenue

Review of liquor licenses statistical information revealed two thousand six hundred and nine (2609) approved liquor outlets but only one thousand five hundred and twenty-two (1,522) liquor outlets paid for their licenses in the year under review, resulting to one thousand and eighty-seven (1,087) or 41.6% of liquor outlets operating without licenses. This was contrary to Regulation 63 of the Public Finance Management (County Governments) Regulations, 2015 which requires application of adequate safeguards for prompt collection and proper accounting for all county government revenue and other public moneys relating to their County Department or agencies and where there are difficulties in revenue collection an accounting officer or receiver of revenue shall report the circumstances to the CEC finance.

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

658. Irregular Legal Expenses

During the year under review, legal expenses amounting to Kshs.116,085,352 was paid to various external law firms. Review of legal docurecords in respect of the expenditure revealed the following anomalies;

- i. The law firms were directly procured despite the services not being urgent and the reasons for using of direct procurement were not provided for audit. Further, no documentary evidence to show prior approval for use of the direct procurement method, appointment of evaluation committee, negotiation by evaluation committee, market survey, signed contract and evidence of reports sent to the Public Procurement Regulatory Authority were provided for audit.
- ii. The legal fees charged by the external law firms did not have itemized fee notes or justifications for the amounts charged and therefore may not have been competitive.
- iii. The County lost civil case number 6 of 2016 where a decree was issued dated 20 May, 2019 which instructed the County Executive to pay Kshs.98,139,109 failure to which it would incur interest. However, the decree was not effected and accrued interest amounted to Kshs.38,011,890 as at 30 June, 2023, an amount that could otherwise been avoided.

In the circumstances, value for money on legal expenditure of Kshs.116,085,352 could not be confirmed.

659. Irregular Procurement of Drugs and Non-Pharmaceutical Items

During the year under review an amount Kshs.592,948,083 was incurred on procurement of drugs and non-pharmaceutical medical items out of which Kshs.525,102,285 or 89% was procured from private suppliers. This was contrary to Section 4 of the Kenya Medical Supplies Authority (KEMSA) Act, 2013 that requires counties to procure both drugs and medical supplies from KEMSA. Further, the expenditure was not supported with user requisitions, local purchase orders, delivery notes, inspection and acceptance committee reports, counter receipt vouchers and store ledgers.

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

660. Irregular Supply and Delivery of Seedlings

The County Executive incurred an expenditure of Kshs.37,999,457 through framework agreement for supply, delivery and distribution of seedlings to farmers. However, the supplies were not supported by valid nursery phytosanitary inspection certificate. This was contrary to Section 5 (m) of the Kenya Plant Health Inspectorate Services Act, 2011 which states that the functions of the Service shall be to register and license seed merchants, seed growers, agents and any other person who may be required to be registered under the provisions of this Act or any of the laws specified in the First Schedule. In addition, the expenditure of Kshs.37,999,457 exceeded the approved budget of Kshs.27,500,000 resulting to an unauthorized expenditure of Kshs.10,499,457. Further, the user requisition, inspection and acceptance report and the criteria used to the beneficiaries were not provided for audit.

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

661. Use of Goods and Services

The statement of receipts and payments reflects use of goods and services amounting to Kshs.3,039,770,319 as disclosed in Note 4 to the financial statements. However, the following unsatisfactory matters were noted:

661.1 Unauthorized Reallocation of Funds

The amount includes printing, advertising and information supplies and services expenditure of Kshs.102,028,758 which includes transfers amounting to Kshs.17,563,273 which was not accounted or budgeted for, implying unapproved reallocation. This was contrary to Section 154 (1) of the Public Finance Management Act, 2012 which states that an Accounting Officer shall not authorize transfer of any amount that is appropriated to another County Government entity or person.

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

661.2 Irregular Payment to the County Assembly of Nakuru

Included in the hospitality, supplies and services amount of Kshs.202,425,083 is Kshs.40,000,000 which was paid to the Nakuru County Assembly to facilitate consultative meetings between the County Assembly and the County Treasury. This was contrary to Regulation 42(1)(b) of the Public Finance Management (County Governments) Regulations, 2015 which requires the Accounting Officers of County Government entities to ensure that public funds entrusted to their care are properly safeguarded and are applied for purposes for only which they were intended and appropriated by the County Assembly.

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

661.3 Irregular Transfers to School Feeding Fund

Included in purchase of specialized materials and services expenditure of Kshs.960,861,371 is Kshs.50,000,000 being amount paid to Nakuru County School feeding Programmed Fund. However, the Fund has no enabling legislation supporting the transfer and how the funds would be utilized. Further, the Fund bank account balance was not disclosed in the financial statements.

In the circumstances, value for money for the expenditure of Kshs.50,000,000 on Nakuru County School feeding Programme Fund could not be confirmed.

661.4 Unsupported Donation of Dry Food Stuffs

Included in purchase of specialized materials and services expenditure of Kshs.960,861,371 is an amount Kshs.274,388,553 in respect of supply of dry food stuff and households' items donated to members of the public. However, requisitions, tender advertisement and evaluation, criteria of identifying the beneficiaries and evidence of acknowledgement from beneficiaries were not provided for audit.

In the circumstances, value for money incurred of Kshs.274,388,553 on supply of dry food stuff and households' items donations could not be confirmed.

661.5 Unsupported Office General Supplies and Services

Included in office, general supplies and services amount of Kshs.107,327,876 is unaccounted amount of Kshs.19,239,559. The amount also includes Kshs.10,016,409 incurred on general office supplies (papers, pencils, forms, small office equipment and Toners) purchased through low value procurement method. However, this amount was disbursed as office standing imprests to various officers' bank accounts but the respective petty cash registers or a memorandum cashbook were not provided for audit and in addition, the amount was not supported by electronic tax register receipts (ETRs).

In the circumstances, it was not possible to confirm whether the funds were applied for the intended purpose and whether value for money was achieved.

661.6 Irregularity of Imprest Management

Review of imprest records revealed the following anomalies:

- i. A number of staffs were issued with multiple imprest which were not surrendered at the end of the financial year. This was contrary to Regulation 93(4)(b) of the Public Finance Management (County Governments) Regulations, 2015 which states that before issuing temporary imprests the Accounting Officer shall ensure that the applicant has no outstanding imprest.
- ii. Imprest amounting to Kshs.4,420,266 had not been surrendered long after the due dates and there was no evidence of recovery from the salaries of the defaulting officers. This was contrary to Regulation 93(6) and (7) of the Public Finance Management (County Governments) Regulations, 2015 which requires an accounting officer to recover the full amount of outstanding imprest from salaries of the defaulting officers at the prevailing CBK interest rates.
- iii. Imprest amounting to Kshs.12,536,380 was not supported by imprest warrants, list of beneficiaries, amount of imprest issued per officer and the beneficiaries' bank accounts. Further, imprest surrenders were not provided for audit and the imprest was not recorded in the imprest register. This was Contrary to Regulations 91(2) and 93 (4) (c) and of the Public Finance Management (County Governments) Regulations, 2015 which requires formal application of imprest through an imprest warrant and recorded in the imprest register including the amount applied for.

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

661.7 Failure to Use E-Procurement

Review of records revealed procurement of goods, works and services amounting Kshs.868,592,308 which was not undertaken through e-Procurement. This was contrary to Executive Order No.2 of 2018 on procurement of public goods, works and services by public entities that requires all procurements to be undertaken through e-procurement.

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

662. Pending Projects

662.1 Delayed Construction of Office Block in Milimani

The contract for the construction of office block in Milimani was awarded at a contract sum of Kshs.288,577,450 for a duration of ninety-six (96) weeks from 18 November, 2020 to 18 November, 2022.

As at the time of the audit in the month of August, 2023, the contractor had been paid Kshs.282,775,920 or 98% of the contract sum which includes Kshs.195,596,424 paid in the year under review but the certified works were approximately 80%. In addition, the payments were not supported by joint measurements or measured works as stipulated in Clause 6 of the contract agreement and the project had not been completed long after the contractual completion date of 18 November, 2022. No liquidated damages for delayed performance have been levied but instead, the contractor claimed an amount of Kshs.3,060,716 being financing charge due to delay in payments.

Further, the project consultant submitted financial appraisal number 1 on 8 November, 2022 indicating that the value of the construction was at Kshs.360,457,058 resulting to an increment of Kshs.71,899,608 or 25% from the original contract price of Kshs.288,557,450, a variation which was not approved.

In the circumstances, the value for money on the payments of Kshs.282,775,920 or 98% of the contract sum could not be confirmed.

662.2 Delayed Construction of Treasury Headquarters

The contract for construction of Treasury Headquarters was awarded at a cost of Kshs.886,630,388 for a period of ninety-six (96) weeks effective 02 December, 2020 to 01 December, 2022.

Review of records revealed that cumulative amount of Kshs.415,186,378 or 47% of the contract sum had been paid including Kshs.126,089,428 paid during the year under review. However, these payments were not supported by approved bill of quantity and structural and architectural plan (designs). In addition, there was no evidence that the works had been registered with National Construction Authority (NCA). This was contrary to Regulation 17(1) of the National Construction Authority Regulations, 2014 which requires that all construction works, contracts or projects either in the public or private sector to be registered with the Authority. Further, physical inspection revealed that the project was still on going after scheduled completion date of 1 December, 2022 without evidence of renewal.

In addition, the architect was paid an amount of Kshs.54,189,963 for structural and architectural plan (designs) consultancy services that was not supported by approved designs by National Construction Authority and Physical Planning Department.

In the circumstances, value for money for the amount of Kshs.415,186,378 on construction of Treasury Headquarters could not be confirmed.

662.3 Irregularities in Construction of Outpatient Block at Njoro Level 4 Hospital

The contract for the construction of an outpatient block at Njoro Level 4 Hospital was awarded on 28, December, 2020 at a cost of Kshs.147,538,940 but the contract period was not specified in the contract. Review of records revealed that cumulative payments amounting to Kshs.109,560,352 or 77% of the contract sum had been paid including Kshs.10,384,496 paid during the year under review for certificate number 5. However, the certificate was not supported by joint measurement, approved bill of quantity, structural and architectural plan (designs) and there was no evidence that the works were registered with National Construction Authority (NCA). This was contrary to Regulation 17 of the National Construction Authority Regulations, 2014 which requires that all construction works, contracts or projects, either in the public or private sector to be registered with the Authority.

Further, review of site meeting minutes revealed that the project period was forty (40) weeks but the project was still ongoing seventy-nine (79) weeks after signing of the contract and therefore was behind schedule.

In addition, there was no evidence that the contractor had undertaken insurance on loss of or damage to the works, plant, and materials; loss of or damage to equipment; loss of or damage to property in connection with the contract; and personal injury or death as required by Section 30.3 of the Tender Security. The performance bond for the project expired on 15 February, 2021.

In the circumstances, value for money on cumulative payments amounting to Kshs.109,560,352 or 77% of contract sum could not be confirmed.

662.4 Delayed Construction of Outpatient Block at Molo Level 4 Hospital in Molo

The contract for the construction of outpatient block at Molo Level 4 Hospital in Molo was awarded at Kshs.150,009,577 and signed on 26 April, 2021 but the contract period was not specified in the agreement.

Review of records revealed that cumulative amount of Kshs.113,879,868 or 76% of contract sum had been paid including Kshs.19,772,773 paid during the year under review for certificate number 6. However, the certificate was not supported by joint measurement, approved bills of quantity, structural and architectural plan (designs) and there was no evidence that the works were registered with National Construction Authority (NCA). This was contrary to Regulation 17 of the National Construction Authority Regulations, 2014 which requires that all construction works, contracts or projects either in the public or private sector to be registered with the Authority.

Further, review of site meeting minutes revealed that the project period was forty (40) weeks from contract date. However, the project is still ongoing one hundred and twelve (112) weeks after signing of the contract resulting to seventy-two (72) weeks behind schedule.

In addition, there was no evidence that the contractor had undertaken insurance on loss of or damage to the works, plant, and materials; loss of or damage to equipment; loss of or damage to property in connection with the contract; and personal injury or death as

required by Section 30.3 of the Tender Security. The performance bond for the project expired on 29 April, 2022 and had not been reviewed.

In the circumstances, value for money on cumulative payments amounting to Kshs.113,879,868 or 76% of contract sum could not be confirmed.

662.5 Irregular Drilling of Boreholes

Note 9 to the financial statements reflects construction and civil works expenditure of Kshs.625,871,096 out of which, Kshs.88,790,163 was expenditure incurred on drilling and equipping twenty-seven (27) boreholes in the county. However, the expenditure was not supported with hydrological survey report, Environmental Impact Assessment report approved by National Environment Management Authority (NEMA), the Water Resources Management Authority (WARMA) permit, test pumping reports, borehole completion certificates and borehole sites ownership documents.

In the circumstances, value for money on expenditure of Kshs.88,790,163 for drilling and equipping of boreholes could not be confirmed.

662.6 Ineffective Revenue Management System

The County Executive entered into a contract with a service provider for supply, installation, configuration and commissioning of the Integrated Revenue Collection Management System at a contract sum of Kshs.34,510,000. The contract further provided payment of 4.3% of total revenue every year. During the year under review, the vendor was paid a total of Kshs.66,748,347 being 4.3% of the total revenue collected during the period. However, there was no evidence of maximizing or improvement of revenue collection as envisioned since installation of the system.

In the circumstances, value for money paid to the vendor of Kshs.66,748,347 or 4.3% of revenue collected could not be confirmed.

663. Human Resource Management

663.1 Failure to Remit Pension Contributions

Review of the Integrated Personnel Payroll Data Base (IPPD) revealed Local Authorities Pension Trust Fund (LAPTRUST) and Local Authorities Providence Fund (LAPFUND) deductions amounting to Kshs.475,664,839 but only Kshs.386,764,438 was remitted to the Funds resulting in unremitted pension deduction of Kshs.88,900,400 which may attract a 3 % monthly compounded interest.

Further, review of IFMIS payment details revealed an amount of Kshs.215,000,000 paid to LAPFUND being amount owed in relation to a court case. The amount included an outstanding principal amount of Kshs.35,389,069 owed to LAPFUND and accrued interest amounting to Kshs.461,334,395 which was successfully re-negotiated to Kshs.215,000,000. The difference between the outstanding principal of Kshs.35,389,069 and the amount paid of Kshs.215,000,000 signifies wasteful interest costs of Kshs.179,610,931 that would have otherwise been avoided had the Management remitted the payments when due.

In the circumstances, the interest paid on unremitted pension deductions are avoidable costs and the employees may not be paid their full pension upon retirement.

663.2 Non-Compliance with the Fiscal Responsibilities Principles on Wage Bill

The statement of receipts and payments reflects compensation of employees' amount of Kshs.6,901,543,527 which is forty-two (42) percent of the county's total revenue of Kshs.16,252,255,225. This was contrary to Regulation 25 (1)(b) of the Public Finance Management (County Governments) Regulations, 2015 which states that the county government's expenditure on wages and benefits for its public officers shall not exceed the thirty-five (35%) percent of the county government's total revenue.

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

663.3 Salaries Paid Outside the Integrated Personnel Payroll Data (IPPD) System

The statement of receipts and payments reflects compensation of employees amount of Kshs.6,901,543,527 as disclosed in Note 3 to the financial statements. The amount includes gross salary amount of Kshs.75,570,008 which was paid outside the Integrated Personnel Payroll Data (IPPD). This was contrary to Treasury Circular No. 13/2012, dated 28 August, 2019 which requires all allocations on personnel emoluments to be supported by IPPD.

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

663.4 Irregular Salary Deduction Non-Compliance with the One Third of Basic Pay Rule

Review of monthly payrolls revealed seventy-nine (79) officers who were drawing net salary less than a third of their monthly basic pay. This was contrary to Section 19 (3) of the Employment Act, 2007 which requires the total amount of all deductions which may be made by an employer from the wages of his employee at any one time not to exceed two-thirds of the basic pay.

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

663.5 Irregular Retention of Staff Beyond Mandatory Retirement Age

Review of the payrolls revealed that twenty-eight (28) county officers were retained beyond the mandatory retirement age of sixty (60) years and Management did not explain what special skills the officers possessed to warrant their retention in service. This was contrary to paragraph L.5 of the Public Service Commission (PSC) County Public Service Human Resource Manual, 2013 which states that all officers will be required to retire from the service on attaining the mandatory retirement age of sixty (60) years. In addition, two (2) officers had similar bank account. However, no explanation was provided for the shared bank account, which resulted in irregular payments.

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

663.6 Lack of Staff Ethnic and Regional Mainstreaming

Review of the County staff establishment revealed that out of the five thousand five hundred and fifty-six (5556) employees, two thousand six hundred and fifty (2650) or 47.7% belong to the dominant ethnic community. This was contrary to Section 7(2) of the National Cohesion and Integration Act, 2008 which stipulates that no public establishment shall have more than one third of its staff from the same ethnic community in the County. Further, the County Executive recruited four hundred and seventy-six (476) new employees out of which two hundred and fifty-seven (257) or 57% belonged to the dominant ethnic community. This was contrary to Section 65 (1) (e) of the County Government Act, 2012 which states that in selecting candidates for appointment, the County Public Service Board shall consider the need to ensure that at least thirty percent (30%) 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.

663.7 Lack Compliance with Probationary Appointment

Review of personnel records revealed that four hundred and eighty-seven (487) employees have served the County for over six (6) months. However, these employees have not been confirmed into the permanent and pensionable establishment on completion of probationary period. This was contrary to Policy B.18 (1) of the Human Resource Policies and Procedures Manual for the Public Service of May, 2016.

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

663.8 Irregular Maintenance of Human Resource Information System

Review of personnel records revealed that the County Executive's payroll for one hundred and ninety-nine (199) employees is processed through an off- shelf payroll system. This was contrary to Treasury Circular No.13/2019 of 28 August, 2019 which requires that the allocation of personnel emoluments must be supported by Integrated Personnel and Payroll Data Base (IPPD) and each government department was required to provide the information to support personnel requirements. Further, the off- shelf payroll system does not capture essential employee information details such as Kenya Revenue Authority personal identification number, date of birth, date of employment, gender, ethnic code, job group or job scale. In addition, no monthly payroll reconciliations were carried out against payroll byproducts to validate amounts paid and number of staff and the reliability of the Human Resource Information system on payroll could not be confirmed.

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

663.9 Lack of a Recruitment Plan

The County Executive employed four hundred and seventy-eight (478) permanent staff and three thousand nine hundred and two (3,902) temporary staff in the year under review without recruitment plans. It was therefore not clear the criteria used to identify the gaps and filling of vacancies. This was contrary to paragraph B.2 of the Human Resource Policies and Procedures Manual for the Public Service which requires every public entity

to prepare Human Resource Plans to support achievement of goals and objectives in their strategic plans.

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

663.10 Lack of County Performance Management Plan and Staff Appraisal System

During the year under review, Management did not design a performance management plan to evaluate performance of the county public service. This was contrary to Section 47(1) of the County Governments Act, 2012 which requires each County Executive Committee to design a performance management plan to evaluate performance of the county public service and the implementation of County Policies. Further, there is no developed performance appraisal instruments applicable to all categories of staff in the county public service.

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

664. Failure to Submit Report on Implementation of Oversight Committees Recommendations and Findings

The County Executive has not submitted a report on how it has addressed the Senate and County Assembly recommendations and findings of audit reports for the years 2013/2014 to 2020/2021. This was contrary to Section 31(1)(a) of the Public Audit Act, 2015 which states that within three months after Parliament has debated and considered the final report of the Auditor General and made recommendations, a State Organ or a public entity that had been audited shall, as a preliminary step, submit a report on how it has addressed the recommendations and findings of the previous year's audit.

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

665. Stalled Projects

Review of the Project Implementation Status report and the project inspection revealed that five (5) projects worth Kshs.315,579,556 under the department of Health had stalled and the contractors were not on site.

In the circumstances, value for money invested in the five (5) projects of Kshs.315,579,556 could not be confirmed.

666. Unsupported Insurance Costs

Included in use of goods and services amount is insurance costs of Kshs.177,452,850. However, review of records revealed the following unsatisfactory matters:

666.1 Motor Vehicle Insurance

The contract for provision of motor vehicle, plant and equipment insurance services was signed on 1 February, 2023 at a premium amount of of Kshs.41,579,070 for the period commencing 1 February, 2023 to 31 January, 2025. However, one hundred and eighty-seven (187) vehicles were arbitrary insured without valuation while sixty-five (65) vehicles and motor cycles had not been insured.

666.2 Comprehensive Medical Insurance Cover

Management signed an undated contract with National Health Insurance Fund (NHIF) for provision of comprehensive medical insurance cover to county staff at a premium amount of Kshs.102,182,159 for 2022-2023 financial year. The contract was to begin from the date the County Government furnished NHIF with the confirmation of payment of the premiums. It was noted that NHIF was requested in a letter dated 3 July, 2023 to extend the contract for ninety (90) days from the expiry date of 15 July to 15 October, 2023 at terms and conditions in the expired contract. However, there was no documentary evidence provided to confirm that the request was accepted.

In the circumstances, value for money incurred on insurance premium of Kshs.177,452,850 could not be confirmed.

667.Unauthorized Voided Payments

Review of IFMIS records revealed that one hundred and seventy-seven (177) payments amounting to Kshs.360,326,515 were processed and voided or cancelled during the year under review. However, there was no evidence to show that the voided payments were authorized and were not supported with payment vouchers, journal vouchers reversing the payments and evidence of subsequent payments.

In the circumstances, the funds in respect of the voided payments may have been used in paying for transactions not authorized by the Controller of Budget.

REPORT ON THE EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

668. Un-Surrendered Receipt Books

Review of the Counterfoil Receipts Book Register (CRBR) indicates that several receipt books issued to Nakuru County Revenue officers for collection of revenue from Health facilities had not been surrendered. Some of the receipt books were issued way back in 2015 and had not been surrendered as at the time of audit in the month of August, 2023. Further, the revenue collected from the long outstanding receipt books remained un-accounted for as the time of the audit. The receipt books which are 1,190 in number, have a total value of Kshs.17,850,000. Further, officers who had not surrendered receipt books were still being issued with additional receipt books

In the circumstances, the effectiveness of internal controls an issuance of receipt books could not be confirmed.

669. Lack of Controls in Cess Revenue System

Review of cess revenue documents revealed that the revenue system lacked the following issues of concern;

- i. Inventory and serial numbers of revenue collection machines and the approved designated collection points.

- ii. Daily, quarterly and monthly schedules generated by revenue collection machines.
- iii. Reconciliation of each machine collections and banking.
- iv. Serial numbers of all machines issued out during the year under review.
- v. Revenue account bank statements.

In the circumstances, effectiveness of internal controls on cess revenue collection could not be confirmed.

670. Non-Establishment of an Audit Committee

The term of the Audit Committee Members expired on 7 August, 2022 after serving for three (3) years. However, their term in office has not been renewed or a new committee appointed and therefore there was no Audit Committee in place. This was contrary to Regulation 167(1) of the Public Finance Management (County Governments) Regulations, 2015 which requires each County Government entity to establish an audit committee.

In the circumstances, Management lacked guidance in governance and oversight in management of the County Executive operation.

671. Lack of a Risk Management Policy

The County Executive Management had not put in place a Risk Management Policy, strategies and a risk register to mitigate against risk. This was contrary to Regulation 158 (1) (a) and (b) of the Public Finance Management (County Governments) Regulations, 2015 which requires the Accounting Officer to ensure that the County Government entity develops risk management strategies, which include fraud prevention mechanism and a system of risk management and internal control that builds robust business operations.

In the circumstances, the County Executive is exposed to possible loss of funds and interruption of business operations.

672. Failure to Maintain a Fixed Assets Register

The summary of fixed assets register at Annex 6 to the financial statements reflects accumulated assets balance of Kshs.18,924,188,381 as at 30 June, 2023. However, the balance is not supported by way of detailed asset register indicating the asset description, location, asset numbers and respective values.

In the absence of an asset register, Management may not effectively safeguard its assets from loss, misuse or abuse.

COUNTY EXECUTIVE OF NAROK - NO.33
REPORT ON THE FINANCIAL STATEMENTS

Basis for Adverse Opinion

673. Inaccuracies in Statement of Receipts and Payments

The statement of receipts and payments reflects payments totalling Kshs.11,730,849,985 for the year under review. However, the expenditure amounts reflected in the financial statements differed from their respective supporting schedule as detailed below;

Expenditure Item	Financial Statement Balances (Kshs.)	Supporting Schedule (Kshs.)	Variance (Kshs.)
Utilities, Supplies & Services	129,038,902	130,041,089	1,002,187
Printing, Advertising & Information Supplies and Services	212,756,258	211,754,071	1,002,187
Training Expenses	149,449,957	78,417,837	71,032,120
Specialized Materials & Services	1,580,359,455	1,594,822,912	14,463,457
Office & General Supplies and Services	494,688,472	570,225,015	75,536,543
Other Operating Expenses	430,132,639	389,627,232	40,505,407
Purchase of ICT Equipment	11,810,834	11,460,834	350,000
Rehabilitation Civil Works	38,428,041	0	38,428,041
Compensation of Employees	4,123,775,531	4,064,381,792	59,393,739

In the circumstances, the accuracy and completeness of the expenditure of Kshs.11,730,849,985 could not be confirmed.

674. Unreconciled Balances - Other Grants and Transfers

The statement of receipts and payments reflects expenditure on other grants and transfers of Kshs.381,895,470 as disclosed in Note 6 to the financial statements.

Included in the amount is Kshs.237,615,925 in respect of transfer to the National Agricultural Rural and Inclusive Growth Project (NARIGP) which differed from the supporting schedule amount of Kshs.198,081,838 by an unreconciled variance Kshs.39,534,087. Further the transfers were not supported by memorandum of understanding or work plan

In addition, the expenditure includes an amount of Kshs.15,576,723 in respect of transfer to Agricultural Sector Development Support Programme (ASDSP) which differed from the supporting schedule amount of Kshs.10,076,723 by an unreconciled variance of Kshs.5,500,000. Similarly, the amount was not supported by memorandum of understanding or work plan.

In the circumstances, the completeness and accuracy of expenditure on other grants and transfers of Kshs.381,895,470 could not be confirmed.

675. Unsupported Expenditure on Acquisition of Assets

The statement of receipts and payments reflects expenditure on acquisition of assets of Kshs.2,696,206,165 as disclosed in Note 7 to the financial statements. The following unsatisfactory matters were however noted:-

- i. The amount includes Kshs.764,887,997 in respect of construction of buildings which further includes an amount of Kshs.31,793,606 incurred on consultancy services and research studies for project preparation, design review, and supervision of various projects. However, the payments were not supported with implementation status reports indicating actual projects undertaken. Further, the contracts signed on 10 March, 2020 between the consultancy firm did not indicate the terms of reference, expected milestones, and timelines.
- ii. The expenditure also includes an amount of Kshs.237,880,038 incurred on construction and civil works, out of which Kshs.59,067,286 was paid to various contractors for the construction of foot bridges and culverts and other works that were not supported with payment vouchers, contracts, certificates of completion and inspection and acceptance certificates.
- iii. The expenditure includes an amount of Kshs.8,880,272 incurred on overhaul and refurbishment of construction and civil works that were not supported with an approved budget and procurement plan. Further, pre and post inspection reports and request from user departments were not provided for audit.

In the circumstances, the completeness and accuracy of expenditure on acquisition of assets of Kshs.2,696,206,165 could not be confirmed.

676. Unconfirmed Purchase of Motor Vehicles

The statement of receipts and payments reflects expenditure on acquisition of assets of Kshs.2,696,206,165 as disclosed in Note 7 to the financial statements. The expenditure includes an amount of Kshs.59,650,000 in respect to purchase of vehicles and other transport equipment. Review of documents revealed that Management procured three (3) motor vehicles through the government framework contract dated 10 May, 2021.

However, the delivery notes, pre-inspection reports and evidence that the vehicles were received and taken on charge were not provided for audit. Further, the post-delivery inspection conducted and a report from mechanical engineer from Department of Roads, Public Works and Infrastructure to confirm the specifications of the vehicles was also not provided for audit. In addition, copies of logbooks to confirm registration and ownership of the motor vehicles were also not provided for audit.

In the circumstances, the accuracy and completeness of expenditure on purchase of motor vehicles of Kshs.59,650,000 could not be confirmed.

677. Unreconciled Cash and Cash Equivalents

The statement of financial position reflects bank balance of Kshs.73,268,290 as disclosed in Note 8A to the financial statements. However, the statement of cash flows reflects a balance of Kshs.33,169,120 resulting in unreconciled variance of Kshs.40,099,170. Further, bank reconciliation statements, M-Pesa statements, cashbooks, bank statements, certificate of bank balances, and board of survey reports for nineteen (19) accounts held at various commercial banks were not provided for audit.

In addition, Note 10 to the financial statements reflects deposits and retention balance of Kshs.40,099,170. However, the bank certificate reflects a balance of Kshs.19,067,633 resulting to an unreconciled variance of Kshs.21,031,537.

In the circumstances, the accuracy and completeness of the cash and cash equivalents balance of Kshs.73,268,290 could not be confirmed.

678. Unexplained Prior Year Adjustment Balance

The statement of assets and liabilities reflects prior year adjustment balance of Kshs.268,329,309 which was not supported with any documentation.

In the circumstances, the accuracy of the prior year adjustment balance of Kshs.268,329,309 could not be confirmed.

679. Unsupported Pending Accounts Payable

Other Important Disclosures 1 and Annex 2 to the financial statements reflect pending accounts payable balance of Kshs.1,117,626,040 being amounts owed to suppliers of goods, works, and services. However, the bills were not supported by way of local purchase orders/local service orders, ageing analysis, delivery notes, inspection and acceptance certificates.

In the circumstances, the accuracy and completeness of the pending bills payable balance of Kshs.1,117,626,040 as at 30 June, 2023 could not be confirmed.

680. Unsupported Expenditure on Use of Goods and Services

The statement of receipts and payments reflects expenditure on use of goods and services of Kshs.4,150,928,820 as disclosed in Note 4 to the financial statements. Review of procurement records revealed that contract No. NCG/MACHINE/REPAIR/001/2022-23 was awarded to a contractor on 18 November, 2022 for the execution of the proposed maintenance and repair of earth moving equipment at a contract price of Kshs.122,698,536. The contractor was paid an advance payment of Kshs.24,500,000. However, bank guarantee from the contractor of equivalent amount was not provided for audit.

Further, the expenditure includes legal fees, insurance expenses and domestic travel and subsistence allowance of Kshs.520,227,462; Kshs.30,510,000 and Kshs.193,804,166 all totalling Kshs.744,541,628. However, supporting documents including legal fee notes, insurance policy documents, invoices and work tickets were not provided for audit.

In addition, the expenditure includes an amount of Kshs.35,231,588 for rental of produce assets. However, the local service orders, invoices, lease agreements and evidence of services rendered were not provided for audit. Similarly, an amount of Kshs.9,502,005 relating to rent for the Nairobi Liaison Office was incurred in contravention of the Executive Circular referenced OP/CAB.9/1A of 03 April, 2020 directing meetings to be held at the County's registered or principal office.

In the circumstances, the regularity and accuracy of expenditure totalling Kshs.813,775,221 could not be confirmed.

Emphasis of Matter

681. Budgetary Control and Performance

The statement of comparison of budget and actual amounts (recurrent and development combined) reflects final receipts budget and actual on comparable basis of Kshs.14,981,115,820 and Kshs.11,764,019,105 respectively, resulting in an under-funding of Kshs.3,217,096,715 or 21% of the budget. Similarly, the County Executives spent Kshs.11,730,849,985 against an approved budget of Kshs.14,981,115,820 resulting in an under-expenditure of Kshs.3,250,265,835 or 23% of the budget. Management has attributed the low absorption to late disbursement of the exchequer by The National Treasury.

The budget under-funding and under-expenditure affected the planned activities and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

Other Matter

682. Unresolved Prior year Matters

In the audit report of the previous year, several paragraphs were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources. However, Management has not resolved the issues or given any explanation for the failure to adhere to the provisions of the Public Sector Accounting Standards Board template.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

683. Non-Compliance with Fiscal Responsibility Principle on Development Expenditure

The statement of comparison of budget and actual amounts development combined reflects total development expenditure of Kshs.3,078,101,635 or twenty six percent (26%) of the total expenditure of Kshs.11,730,849,985 which was below the thirty percent (30%) threshold stipulated by Section 25(1)(g) of the Public Finance Management (County Governments) Regulations, 2015.

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

684. Non-Compliance with Law on Preparation of Financial Statements

The County Treasury did not prepare and submit for audit financial statements for Narok and Kilgoris Municipalities, Facility Improvement Fund and Level Four Hospitals within the County as prescribed by the Public Sector Accounting Standard Board (PSASB) as communicated through The National Treasury Circular Ref: No. AG.4/16/3 Voll.II (66) of 06 July, 2023. This was also contrary to Section 164 of the Public Finance Management Act, 2012 which requires an Accounting Officer for a County Government entity to prepare and submit to the Auditor-General for audit financial statements in respect of the entity in the format prescribed by the Public Sector Accounting Standards Board within three months after the end of each financial year.

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

685. Delayed Completion of Narok County Referral Hospital and Medical School

The statement of receipts and payments reflects expenditure on acquisition of assets of Kshs.2,696,206,165 as disclosed in Note 7 to the financial statements. Review of records provided for audit on project implementation status as at 29 August, 2023 revealed that major capital projects under the Department of Health and Public Sanitation were behind the agreed completion dates as indicated below;

Project Description/ Details	Contract Amount (Kshs.)	Amount Paid (Kshs.)	Expected Completion Date	% of Completion
Proposed New Hospital Block and Mortuary at Narok County Referral Hospital.	637,680,794	621,338,949	09 Aug, 2021	90%
The Mechanical, Electrical, Engineering Services and Associated Works for New Narok County Referral Hospital Block	469,614,655	289,797,960	18 July, 2022	65%

Project Description/ Details	Contract Amount (Kshs.)	Amount Paid (Kshs.)	Expected Completion Date	% of Completion
Proposed Construction of a New Narok County Medical School (MTC), hostels and Associated Works	288,850,043	256,712,952	31 Dec, 2021	95%

Further, physical inspection of the proposed new hospital block and mortuary at Narok County Referral Hospital revealed on-going works involving structural variations that were recommended by Ministry of Health and the Ministry of Public Works of the National Government for the facility to meet requisite standards of a referral hospital. However, minutes of site meetings, bills of quantities of variations or written recommendations by the Ministry of Health in support of the structural variations were not provided for audit.

In addition, the projects were behind schedule, risking running into further delays thereby affecting the intended delivery of service.

In the circumstances, value for money on the expenditure of Kshs.1,167,849,861 could not be confirmed.

686. Non-Compliance with Guidelines on Pending Bills

Review of records revealed that the County Executive had accumulated pending bills totalling Kshs.343,163,071 to contractors which have been outstanding for more than one year, dating back to 2013/2014 financial year. Further, Management had not established a Pending Bills Resolution Committee to verify ineligible pending bills as directed by the Intergovernmental Budget and Economic Council (IBEC) through a resolution on 18 June, 2019. As a result, the Management did not have pending bills evaluation report to determine the validity and eligibility of the pending bills.

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

687. Irregular Retention of Staff Beyond the Retirement Age

Review of the Integrated Personnel and Payroll Database (IPPD) revealed that forty-five (45) employees who had attained the mandatory retirement age of sixty (60) years were still in the payroll as at 30 June, 2023 were paid emoluments amounting to Kshs.45,195,339 in the year under review. This was contrary to Regulation 70(1)(a) of the Public Service Commission Regulations, 2020 which provides that the mandatory retirement age in the public service shall be sixty years. The Management did provide justification for employees prolonged stay in the Service.

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

688. Irregular Payment of House Allowances

Review and analysis of the monthly payrolls revealed that payment amounting to Kshs.12,871,432 was made to four hundred and fifty-nine (459) employees in respect of

house allowance above the rates provided by the Salaries and Remuneration Commission. This was contrary to SRC Circular Ref. No: SRC/TS/MDP/3/1/2(2) dated 11 August, 2015 which provides for the rates upon which house allowances are paid to various officers depending on their cadre.

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

689. Non-Compliance with Law on Supplementary Budget

During the year under review, the County Executive's supplementary budget was varied from Kshs.12,170,718,406 to Kshs.14,981,115,820, or twenty-three percent (23%) of the original budget. However, the amount exceeded the ten percent (10%) limit set under Section 135(7) of the Public Finance Management Act, 2012 which provides that, in any financial year, the county government may not under supplementary budget, spend more than ten percent of the amount appropriated by the County Assembly for that year. No evidence was provided to confirm that there were special circumstances to justify the excess budget variance and County Assembly did not approve the higher percentage.

Further, the supplementary budget was not supported with memorandum from the Accounting Officers to the County Treasury providing explanation for the additional funding requests, contrary to Regulation 39(7) of the Public Finance Management (County Governments) Regulations, 2015, which provides that the County Government entity requesting for additional funds through a supplementary budget process shall submit a memorandum to the County Treasury, on a date determined by County Treasury.

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

690. Non-Compliance with the One-Third of Basic Salary Rule

Review of the monthly payroll records revealed that two-hundred twenty-four (224) employees earned a net salary of less than a third (1/3) of the basic salary contrary to Section 19(3) of the Employment Act, 2007 which states that the total amount of deduction of the wages of an employee shall not exceed two-third (2/3) of such wages.

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

691. Procurement Irregularities

Review of the annual procurement plan revealed that the plan lacked important details such as schedule of the planned delivery, implementation or completion dates for all goods, works, and services required. Further, the procurement plan did not indicate which items would be packaged into lots and it was therefore not possible to determine on what basis one hundred and eighteen (118) contracts valued at Kshs.2,709,802,969 were packaged into different lots. In addition, quarterly reports on implementation of procurement plans were not provided for audit.

Management did not also publish or publicize contracts awarded during the year under review on the county's website or on the Public Procurement Information Portal (PPIP) as required by Section 138(1) of the Public Procurement and Asset Disposal (PPAD) Act, 2015 and Executive Order No.2 of 2018, which requires all entities to maintain and continuously update and publicize complete information of all tenders awarded.

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

692. Unremitted Retirement Benefits Contributions

Review of documents provided for audit revealed that the County Executive owed an amount of Kshs.1,863,017,088 to three (3) pension funds which comprise of outstanding contributions of Kshs.134,981,919 and interest amount of Kshs.1,728,035,170. However, Management has not made any effort to clear the outstanding amount which continue to attract penalties and interest.

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

REPORT ON THE EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

693. Internal Audit Function

Records provided for audit revealed that the County Executive's internal audit department did not have an approved internal audit charter, approved annual audit plan and independent budget or authority to incur expenditure. Further, the risk assessment, internal audit reports and minutes of audit committee were not provided for audit.

In the circumstances, the effectiveness of assurance and advisory services function by the internal audit as well as oversight from the Audit Committee could not be confirmed.

694. Lack of Risk Management Strategies

The County Executive did not have a risk management policy or strategy in place and therefore, had no approved processes and guidelines on how to mitigate operational, legal and financial risks contrary to Regulation 158 of the Public Finance Management (County Governments) Regulations, 2015. The Management was therefore not in a position to identify, evaluate risks and allocate resources to mitigate them.

In the circumstances, Management ability to identify, evaluate risks and allocate resources to mitigate them could not be confirmed.

695. Lack of County Performance Management Plan and Staff Appraisal System

The County Executive Committee has not designed a performance management plan to evaluate performance of the county public service. In addition, Management has not established a performance management committee as per the provisions of the County

Public Service Human Resource Manual and therefore, no performance appraisal had been carried out to link the individual employees' performance with the County Executive's performance since 2016. Further, forty-two (42) employees were promoted to higher positions during the year ended 30 June, 2023 without staff appraisal reports.

In the circumstances, the effectiveness of human resource management on the promotions could not be confirmed.

696. Lack of Staff Establishment

Review of the employee records revealed that the County Executive had five thousand, three hundred and thirty-eight (5,338) employees who were included in the Integrated Personnel and Payroll Database System (IPPD) without an approved staff establishment. This was contrary to Section B.2(1) of the Human Resource Policies and Procedures Manual for the Public Service, 2016 which requires every public entity to prepare Human Resource Plans based on comprehensive job analysis to support achievement of goals and objectives in their Strategic Plans. It was therefore not possible to determine whether the County Executive operated with an optimal number of staff.

Further, review of personnel records revealed that one thousand, three hundred and eighty-seven (1,387) employees had served the County Executive for more than six (6) months but were yet to be confirmed to permanent and pensionable terms or their probation period extended. This was contrary to Section B.18(1) of the Human Resource Policies and Procedures Manual for the Public Service of May, 2016 which provides that an officer appointed to the service in a probationary post will be confirmed in appointment and admitted into the permanent and pensionable establishment on completion of a probationary period of six (6) months of satisfactory service.

In the circumstances, the effectiveness of internal controls over Human Resource Management could not be confirmed.

COUNTY EXECUTIVE OF KAJIADO - NO.34

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

697. Inaccuracies in Cash and Cash Equivalents Balances

The statement of financial assets and liabilities and as disclosed in Notes 13A and 13 B to the financial statements reflects bank and cash balances of Kshs.109,561,268 and Nil respectively. However, the cash book reflects cash in hand balance of Kshs.20,327,978 in respect of outstanding imprest, that has not been disclosed in the financial statements. Further, Management did not provide a board of survey report for the financial year ended 30 June, 2023.

In the circumstances, the accuracy and completeness of the cash and cash equivalents balance of Kshs.109,561,268 could not be confirmed.

698. Unreconciled Variance on Compensation of Employees

The statement of receipts and payments reflects compensation of employees amount of Kshs.4,039,723,988 while the statement of comparison of budget and actual amounts (recurrent and development combined) reflects an amount of Kshs.3,975,867,085 resulting to an unreconciled variance of Kshs.63,856,903.

In the circumstances, the accuracy and completeness of compensation of employees amount of Kshs.63,856,903 could not be confirmed.

699. Un-Authorised Re-Allocations

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects use of goods and services amount of Kshs.1,589,433,651. Included in the expenditure is an amount of Kshs.84,438,538 in respect of hospitality, supplies and services expenses. However, review of the supporting account analysis provided for audit revealed that expenses amounting to Kshs.43,660,434 were reallocated to hospitality, supplies and services.

In the circumstances, the regularity of hospitality, supplies and services expenses totalling Kshs.43,660,434 could not be confirmed.

700. Non-Disclosure of Accounts Payables -Deposits and Retention Monies

The statement of assets and liabilities and as disclosed in Note 15 to the financial statements reflects Nil balance on account payables in respect of deposits and retention monies balances. However, Note 13A to the financial statements, cash book and bank reconciliation statement reflects deposit account balance of Kshs.1,529,640 that included pending deposits and retention monies. Further, the schedule in support of the retention monies was not provided for audit.

In circumstances, the accuracy and completeness of the accounts payable Nil balance could not be confirmed.

701. Unsupported Prior Year Adjustment

The statement of cash flows reflects prior year adjustments of Kshs.430,899,961. However, the adjustments were not supported by journals, requisite documents and records to justify amendments.

In the circumstances, the accuracy of the prior year adjustment during the year of Kshs.430,899,961 could not be confirmed.

702. Unreconciled Variance on Acquisition of Assets

The statement of receipts and payments and as disclosed in Note 9 to the financial statements reflects acquisition of assets amount of Kshs.1,006,851,896 while Annex 6 on summary of non-current asset register reflects additions of assets during the year amount of Kshs.1,849,860,518 resulting to an unreconciled difference of Kshs.843,008,622.

In the circumstance, the accuracy of acquisition of assets amount of Kshs.843,008,622 could not be confirmed.

703. Unsupported Casual Payments

The statement of receipts and payments and as disclosed in Note 3 to the financial statements reflects Kshs.4,039,723,988 under compensation of employees. The amount includes Kshs.43,972,892 which represents basic wages of temporary employees whose schedules were not provided for audit. Further, integrated financial management information system (IFMIS) payment details shows a total amount of Kshs.19,878,619 representing casual wages resulting to a variance of Kshs.24,094,273.

In the circumstances, the accuracy and completeness of the basic wages of temporary employees amount of Kshs.43,972,892 could not be confirmed.

704. Unsupported Expenditure- Use of Goods and Services

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects use of goods and services amount of Kshs.1,589,433,651. The amount includes specialized materials and supplies expenses totalling Kshs.455,827,339. However, sampled payments vouchers totalling Kshs.281,195,030 included expenses totalling Kshs.42,405,090, whose payment vouchers were not provided for audit.

Further, included in the amount of Kshs.1,589,433,651 is Kshs.242,823,413 relating to other operating expenses that also includes expenses totalling Kshs.13,025,067 whose payment vouchers were not provided for audit review.

In the circumstances, the accuracy and occurrence of expenditures on use of goods and services totalling Kshs.55,430,157 could not be confirmed.

705. Discrepancies in Other Grants and Transfers

The statement of receipts and payments reflects an amount of Kshs.162,500,000 on other grants and transfers. This amount is in respect of grants for management of natural disasters while corresponding Note 6 to the financial statements show that the amount of Kshs.162,500,000 was in respect of grants and transfers to other Governments entities. Records maintained by the County Executive however, indicates that the amount of Kshs.162,500,000 was transfers to Kajjado County Emergency Funds and not grants and transfers to other Government entities as reflected in the financial statements. Further, County Executive transferred Kshs.280,000,000 to the Emergency Fund as per the Fund's bank statements and financial statements. However, the amount included Kshs.150,000,000 that could not be traced in the County Executive's IFMIS account, an indication that these transfers were made through the bank but outside the IFMIS system. Further, the payment vouchers initiating and supporting the transfers were not provided for audit.

In addition, the ledger provided for audit reflects that an amount of Kshs.32,500,000 was transferred from Kajjado County Executive to the Emergency Fund account. However, review of the Emergency Fund account revealed that funds were not received in the account.

In the circumstances, the accuracy and completeness of other grants and transfers amount of Kshs.162,500,000 could not be confirmed.

706. Inaccuracies in Pending Bills

Note 18 on other important disclosures and Annex 2 to the financial statements reflects pending accounts payables balance of Kshs.1,197,584,070. However, the details of the pending bills have not been disclosed. Further, the foreword by the County Executive Committee Member (CECM) Finance and Economic Planning, under part 4(d) indicates outstanding pending bills of Kshs.2.06 billion as at 30 June, 2022 out of which Kshs.749 million or 50% was paid from the development account in the year under review.

However, the report on the status of County Executive pending bills as at 30 June, 2023 indicated total invoiced amount of Kshs.2,639,811,488 and amount paid to date as Kshs.1,425,576,601 with outstanding balance of Kshs.1,197,584,070 which did not agree with information indicated in the foregoing paragraph.

Recast of the summary of development pending bills revealed that the bills to date yielded Kshs.1,441,576,601 and not Kshs.1,425,576,601 reported, resulting in an unexplained difference of Kshs.16,153,210. Further, the difference between Kshs.2,639,811,488 and Kshs.1,441,729,811 is Kshs.1,214,234,887 and not Kshs.1,197,584,070 as reported in the status report and annex 2 to the financial statements, resulting in an unexplained difference of Kshs.16,650,817.

In the circumstances, the accuracy and completeness of the pending bills of Kshs.1,197,584,070 as at 30 June, 2023 could not be confirmed.

Emphasis of Matter

707. Budgetary Control and Performance

The statement of comparison of budget and actual amounts recurrent and development combined reflects final receipts budget and actual on a comparable basis of Kshs.9,596,829,780 and Kshs.8,614,812,503 respectively, resulting to an under-funding of Kshs.982,017,277 or 10% of the budget. Similarly, the County Executive spent Kshs.8,460,995,245 against an approved budget of Kshs.9,224,600,514 resulting to an under-expenditure of Kshs.827,462,172 (or 9%) of the budget.

The budget under-performance and under-expenditure affected the planned activities and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

Other Matter

708. Unresolved Prior Year Matters

In the audit reports of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, Management has not resolved the issues or given any explanation for failure to adhere to the provisions of the standards prescribed by the Public Sector Accounting Standards Board template.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

709. Non-Compliance with Law on Ethnic Composition

Review of human resource records revealed that the County Executive had for thousand four hundred and seventeen (4,417) employees out of which 3,130 or 71% were from the local dominant community. This was contrary to Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 which stipulates that all public establishments shall seek to represent the diversity of the people of Kenya in the employment of staff, and that no public establishment shall have more than one third of its staff from the same ethnic community.

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

710. Non-Adherence to Fiscal Responsibility Principle on Employees Costs

The statement of receipts and payments reflects compensation of employees amount of Kshs.4,039,723,988 representing 46.9% of the total revenue of Kshs.8,614,812,503. The

amount exceeded the set threshold as required by Regulation 25 (1)(a) and (b) of the Public Finance Management (County Governments) Regulations, 2015 which requires the employee costs not to exceed 35% of the total revenue.

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

711. Non-Compliance with One Third of Basic Salary Pay Rule

Review and analysis of the monthly payroll revealed that one hundred and ten (110) employees earned a net salary less than a third (1/3) of the basic salary. This was contrary to the provision of Section 19(3) of the Employment Act, 2007, which requires that the total amount of deduction of employee's salary shall not exceed two thirds (2/3) of the basic salary.

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

712. Non-Compliance with Contract Terms

The County Government awarded a contract for a period of one year for the construction of Outpatient Department at Kajiado Referral Hospital at a contract sum of Kshs.120,836,259 Project. Physical inspection conducted on 16 August, 2023, 17 months after commencement date, revealed that the project was incomplete, behind schedule and the contractor was not on site indicating that the project may have stalled.

In the circumstances, the public may not obtain value for money from the funds spent on the project.

713. Project Implementation

During the year under review, the County Executive implemented several projects. Review and physical inspection of the sampled project sites revealed the following unsatisfactory matters: -

713.1 Stalled Project- Naimurunya Primary

During the year under review, the County Executive entered into a contract for the construction of two (2) ECDE classrooms at Naimurunya Primary School at a contract sum of Kshs.3,999,970. The contract agreement was signed on 30 March, 2023 for a contract period of sixty (60) days. Payment details indicates that the contractor was paid Kshs.2,728,807 on 30 June, 2023.

Physical inspection carried out in the month of August, 2023 revealed that the construction was still at slab/substructure level despite payment certificate No.1 of 3 May, 2023 of Kshs.3,199,976 indicating that project was 80% complete. The contractor was not on site indicating the project may have stalled.

In the circumstances, value for money was not achieved for the funds spent on the project.

713.2 Incomplete Fencing of Tarda Farm

The County Executive awarded a tender to a firm for fencing of Tarda Farm in Emali in Kenyewa- Poka Ward at a contract sum of Kshs.29,575,082 on 10 April, 2018 for a contract period of six (6) months. However, no documents such as final certificate issued for payment, inspection and acceptance report, project progress report to indicate the successful completion and handing over of the project were provided for audit. Review of financial records revealed that the contractor was paid an amount of Kshs.13,000,471 or about 44% of the contract sum on 31 December, 2018. It was not clear and no explanation was provided on why the project has not been successfully completed.

In the circumstances, the public has not received value for money from the funds spent on the project.

714. Non-Operationalization of Municipalities of Kajiado, Ngong and Kitengela

Review of records indicated that the Governor granted special municipality status to two (2) urban areas namely Kajiado and Ngong Municipalities on 6 December, 2018. However, to date financial statements, books and records of accounts for the financial years 2018/2019, 2019/2020, 2020/2021, 2021/2022 and 2022/2023 have not been submitted for audit.

Although Kitengela Municipality has a Board of Management and an Administrator, no information was provided for audit review on when it was granted special municipality status and financial statements have equally not been prepared. This was contrary to Section 46(1) of the Urban Areas and Cities Act, 2011 which requires that the Board shall keep proper books and records of its incomes, expenditure, assets, and liabilities, and within a period of three months after the end of each financial year the Board shall submit them to the County Executive Committee Member for onward transmission to the Office of the Auditor-General together with the statement of assets and liabilities.

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

715. Failure to Comply with the Public Sector Accounting Standards

Review of the financial statements revealed the following anomalies:

- a) The statement of receipts and payments referenced supporting Notes to the financial statements numbering are not corresponding to the respective Notes.
- b) Information on Progress on Follow Up of Prior Year Auditor's Recommendations was not included;
- c) Annex 7 on inter-entity transfers is included in the financial statements but the amounts are omitted; and
- d) Pending accounts payable are not analyzed in Annex 2.

In the circumstances, the financial statements do not comply with the reporting template prescribed by the Public Sector Accounting Standards Board.

716. Unapproved Contract Extension

The County Government awarded a contract on 15 January, 2021 for a period of three (3) months for decommissioning of Ngong Dumpsite Phase II at Ngong Town at a contract sum of Kshs.169,906,940. An amount of Kshs.89,839,350 was paid during the year under review representing 52% completion. Although the contract period had lapsed, no extension had been requested and granted contrary to Section 139(2) of the Public Procurement and Asset Disposal Act, 2015 which requires approval of contract extensions by the accounting officer.

Further, review of the contract documents revealed that the notification of contract award stated that the performance guarantee was 2% of the tender sum. However, the contractor provided performance guarantee of 2% of Kshs.50,000,000 equivalent to Kshs.1,000,000 and not based on the contract sum contrary to Section 142(1) of the Public Procurement and Asset Disposal Act, 2015 which requires a successful tenderer to submit a performance security equivalent to not more than 10% of contract amount.

In the circumstances, Management was in breach of law.

REPORT ON THE EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

717. Inadequacies in Legal Expenses Management and Contract

Payment details maintained by the Office of the County Attorney for the year under review reflects total legal expenses of Kshs.149,328,456 arising from engagement of several consultants to render legal services. Review of the sampled documents and expenditures amounting to Kshs.106,748,456 however, revealed the following anomalies:

- i. There was no approval by the County Executive Committee to engage the legal consultants hence contravening Section 16(1) of the Office of the County Attorney Act, 2020.
- ii. Legal fees resulting from representation in land disputes were not supported with valuation reports or value estimates to inform charges shown in the fee notes as per schedule 6 of the Advocates Remuneration Order 2014.
- iii. Contract agreements setting out the terms of engagement with the consultants were not maintained by the Office of the County Attorney. In addition, documentation on bidding and evaluation of the legal firms were not provided for audit.
- iv. The case files do not include itemized fee notes and invoices to clearly outline how the consultants came up with the charges that the County Executive incurred, except for one petition.

- v. There was no evidence of taxation of bills for the concluded cases, in order to confirm the accuracy of the final fee notes raised, especially where huge amounts were involved.

In the circumstances, the County Executive total legal fees may not be sustainable in the long run, and Management did not demonstrate measures put in place to control legal expenditures.

718. Lack of an Approved Staff Establishment

Review of the personnel records revealed that the County Executive had no approved staff establishment as prescribed by Section 55(b) and (c) of the County Government Act, 2012 to ensure staff requirements are kept at optimum levels for efficient, quality and productive services for the people of the County.

In the circumstances, the County Executive may not operate at optimum staffing level which may impact negatively on service delivery to the public.

719. Lack of Human Resources Plan

Review of the Human Resource records revealed that the County Executive did not have the human resource plan for the financial year 2022/2023 including recruitment plan to determine the optimum number of employees required for the achievement of the goals and objectives of the County Government. Further, emerging issues and needs of staff may not have been addressed adequately. Thus, it was not possible for the County Public Service Board to determine the recruitment needs and fill the vacancies as required.

In the circumstances, the lack of human resource plan may have impacted negatively on service delivery to the public and achievement of the County Executive's.

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

Review of internal control records and information provided by Management revealed that the County Executive lacks a Risk Management Policy, contrary to the requirements of Section 158(1) of Public Finance Management (County Governments) Regulations, 2015. Further, the County Executive does not have in place disaster recovery and business continuity plans contrary to the provisions of Section 158 (1)(b) of the Public Finance Management (County Governments) Regulations, 2015.

In the circumstances, the existence of effective measures to deal with risks and business continuity and disaster recovery could not be confirmed.

721. Unconfirmed Value of Non-Current Asset Register

Annex 6 to the financial statements on summary of non-current assets register reflects assets balance of Kshs.12,080,838,018 as at 30 June, 2023 which comprise of historical cost balance brought forward from 2021/2022 of Kshs.10,230,977,500 and additions during the year amounting to Kshs.1,849,860,518. However, review of the asset register maintained revealed that land valued at Kshs.3,160,286,800 was not incorporated.

Further, review of records provided revealed that the County Executive through the County Demonstration Farm holds had biological assets (cattle) valued at approximately Kshs.7,150,000. However, the biological assets were not disclosed in the financial statements alongside other assets belonging to the County Executive.

In addition, the supporting fixed asset register provided for audit had not been updated with the details of assets acquired during the year.

In the circumstances, the internal controls on assets recording and reporting were not effective.

COUNTY EXECUTIVE OF KERICHO - NO.35

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

722. Inaccuracies in the Financial Statements

The statement of cash flows reflects cash and cash equivalents amount of Kshs.309,515,583 which includes Kshs.311,933,309 at the beginning of the year and a net decrease in cash and cash equivalents of Kshs.2,417,726. However, the comparative amounts in respect of cash and cash equivalents as at the end of the year reflects a cash balance brought forward of Kshs.531,048,530 which is at variance with cash and cash equivalents amount of Kshs.311,933,309 resulting in an unexplained variance of Kshs.219,115,221.

In the circumstances, the accuracy and completeness of the cash and cash equivalent balance of Kshs.309,515,583 could not be confirmed.

723. Transfers from County Revenue Fund After Cut Off Period

The statement of receipts and payments reflects an amount of Kshs.6,502,537,922 in respect of transfers from County Revenue Fund (CRF) and as disclosed in Note 1 to the financial statements. However, review of Central Bank of Kenya (CBK) bank statements revealed transfers from exchequer included transfers of funds totalling Kshs.1,049,579,241 received between 1 and 5 July, 2023 which was after the cut off period of 30 June, 2023.

In the circumstances, the accuracy and completeness of an amount of Kshs.6,502,537,922 in respect of transfers from the CRF could not be confirmed.

724. Compensation of Employees

724.1 Variances Between Gross Payment Voucher and Gross Salaries Payroll

The Statement of receipts and payments reflects an amount of Kshs.2,776,973,006 in respect of compensation of employees and as disclosed in Note 3 to the financial statements. However, review of gross payroll and gross pay per payment vouchers revealed different amounts of Kshs.2,777,686,719 and Kshs.2,773,240,930 respectively resulting to unreconciled variance of Kshs.4,445,789.

In the circumstances, the accuracy and completeness of Kshs.2,776,973,006 in respect of compensation of employees' allowances could not be confirmed.

724.2 Variances in Statutory Deduction Remittances

The statement of receipts and payments reflects an expenditure of Kshs.2,776,973,006 in respect of compensation of employees which includes amounts of Kshs.7,218,000 and Nil in respect of NSSF and NHIF respectively and as disclosed in Note 3 to the financial statements. However, review of the payroll deductions and payments made by the County Executive revealed amounts of Kshs.14,499,093 and Kshs.47,796,450 resulting to unreconciled variances of Kshs.7,281,093 and Kshs.47,796,450 respectively.

In the circumstances, the accuracy and completeness balance of Kshs.2,776,973,006 in respect of compensation of employees' allowances could not be confirmed.

725. Use of Goods and Services

725.1 Unsupported Domestic Travel and Subsistence Allowance

The statement of receipts and payments reflects use of goods and services of an amount of Kshs.1,041,341,564 which includes an amount of Kshs.189,228,477 in respect of domestic travel and subsistence allowances and as disclosed in Note 4 to the financial statements. However, review of the supporting documents and IFMIS payment details revealed total payments amounting Kshs.296,960,179 resulting in an unreconciled variance of Kshs.110,731,702. Further, review of development IFMIS payments from various departments revealed an amount of Kshs.87,975,956 in respect of domestic travel and subsistence allowances without supporting authority approving reallocation of development fund for recurrent.

In the circumstances, the accuracy and completeness of an amount of Kshs.189,228,477 in respect of domestic travel and subsistence allowances could not be confirmed.

725.2 Unsupported Domestic Travel and Subsistence Allowances

Review of the IFMIS payment details and bank statements revealed that forty-seven (47) officers were paid domestic travel and subsistence allowance in excess of the number of days that may reasonably be available in a year. The total amount paid was Kshs.169,837,014 without supporting payment vouchers.

In the circumstances, the accuracy and completeness of Kshs.169,837,014 in respect of domestic travel and subsistence allowances could not be confirmed.

725.3 Unsupported Expenditure on Office and General Supplies and Services

The statement of receipts and payments reflects use of goods and services of an amount of Kshs.1,041,341,564 which includes an amount of 24,698,126 in respect of office and general supplies services and as disclosed in Note 4 to the financial statements. However, supporting documents including payment vouchers totalling Kshs.5,037,405 were not provided for audit.

In the circumstances the accuracy and completeness of an amount of Kshs.5,037,405 in respect of office and general supplies services could not be confirmed.

726. Transfers to Other Government Entities

726.1 Omitted Transfers to Bomet Water Company

The statement of receipts and payments reflects an amount of Kshs.815,691,599 in respect of transfers to other government entities and as disclosed in Note 6 to the financial statements. However, review of the IFMIS payment details revealed payments of Kshs.31,000,000 made to Bomet Water Company which was not included in the transfers to other government entities.

In the circumstances, the accuracy of an amount of Kshs.815,691,599 in respect of transfer to other government entities could not be confirmed.

726.2 Transfers to Kenya Climate Smart Agriculture Project

The statement of receipts and payments reflects transfers to other government entities of Kshs.815,691,599 which includes an amount of Kshs.217,517,463 in respect of transfers to Kenya Climate Smart Agriculture Project and as disclosed in Note 6 to the financial statements. However, review of the IFMIS payment details revealed payment totalling Kshs.149,190,521 resulting in an unreconciled variance of Kshs.68,326,942.

In the circumstances, the accuracy and completeness of transfers to Kenya Climate Smart Agriculture Project amounting to Kshs.217,517,463 could not be confirmed.

727. Acquisition of Assets

727.1 Unsupported Payments to Various Contractors

The statement of receipts and payments and as disclosed in Note 9 to the financial statements reflects an amount of Kshs.1,754,673,761 in respect of acquisition of assets. Review of the IFMIS payment details revealed that fifteen (15) contractors were paid amount of Kshs.29,196,567 for the supply of various goods and services. However, supporting documents including procurement documents, delivery documents and inspection and acceptance report were not provided for audit review.

In the circumstances, the accuracy and completeness of payments captured in the IFMIS records amounting to Kshs.29,196,561 in respect of supply of various goods and services by the fifteen (15) contractors could not be confirmed.

727.2 Unsupported Purchase of Trucks and Trailers

The statement of receipts and payments and as disclosed in Note 9 to the financial statements reflects acquisition of assets of an amount of Kshs.1,754,673,761 which includes an amount of Kshs.12,818,400 in respect of purchase of vehicles and other transport equipment which further includes payment for purchases of trucks and trailers amounting Kshs.2,728,010. However, supporting documents including procurement documents, quotations inspection and acceptance committee reports, payment voucher and assets register were not provided for audit review.

In the circumstances, the accuracy and completeness and regularity of expenditure on purchase of vehicles and other transport equipment of Kshs.2,728,010 could not be confirmed.

728. Unsupported Other Payments

The statement of receipts and payments reflects an amount of Kshs.154,156,955 in respect of other payments and as disclosed in Note 12 to the financial statements. However, the supporting schedules and payment vouchers were not provided for audit.

In the circumstances, the accuracy and completeness of the expenditure amounting to Kshs.154,156,955 in respect of other payments could not be confirmed.

729. Variances in Development Bank Accounts Balance

The statement of assets and liabilities reflects cash and cash equivalents balance of Kshs.309,515,583 as disclosed in Note 13A to the financial statements which includes Kshs.897,757 in respect of county development bank balance as at 30 June, 2023. The certificate of bank balance from Central Bank of Kenya (CBK) had a balance of Kshs.6,471,975 while the cash book balance was Kshs.897,759. Review of the bank reconciliation statements reflected reconciling balances of Kshs.791,489,877 and Kshs.785,915,661 in respect of payments in cash book not yet recorded in bank (unpresented cheques) and receipts in cash book not yet recorded in bank respectively. However, detailed analysis of the unpresented cheques reflected a total of Kshs.789,590,177 resulting to a variance of Kshs.1,899,700 while receipts in the cash book not in bank amounted to Kshs.783,326,548 resulting in an unexplained variance of Kshs.2,589,063.

In the circumstances, the accuracy and completeness of cash and cash equivalents balance of Kshs.897,757 could not be confirmed.

730. Unreconciled Project Receipts and Payments

The statements of financial assets and as disclosed in Note 13A to the financial statements reflects a balance of Kshs.309,515,583 in respect of cash and cash equivalents. However, review of cash movements and recorded balances for the various projects revealed that there were unreconciled variances as detailed below;

- (i) The special purpose department of crop development account-KACSP-Kenya Climate Smart Agriculture -State Department of Crop revealed a variance of Kshs.23,005,937;
- (ii) The Kericho County Roads maintenance Fuel Levy Account revealed a variance of Kshs.7,991,921;
- (iii) The Kericho County Agriculture Sector Development Support Project (ASDAP II) Account revealed a variance of Kshs.7,999,279;

- (iv) The Kericho County Kenya Development Support Programm (KSDP) Account revealed a vairance of Kshs.44,643,522;
- (v) The Kericho County Primary Health Care Account revealed a variance of Kshs.3,850,000; and
- (vi) The Kericho County Climate Change Fund Account revealed a variance of Kshs.37,970,211.

Those variances were not explained or reconciled.

In the circumstances, the accuracy and completeness of cash and cash equivalents balance of Kshs.309,515,583 as at 30 June, 2023 could not be confirmed

731. Multiple and Outstanding Imprests

The statement of assets and liabilities reflects Nil balance in respect of outstanding imprests and advance as disclosed in Note 14 to the financial statements. However, the IFMIS payments details revealed that between 19 June and 30 June, 2023 there were payments totalling Kshs.37,127,820 paid to staff, some receiving multiple payments for domestic travelling out of which an amount of Kshs.13,109,699 was paid to twenty-six (26) members of staff. Further, Management did not provide documents to support when the activities took place and how the amounts were cleared within the eleven days before the close of the financial year. In addition, manual imprests registers from the twelve (12) departments of the county executive were not provided for audit.

In the circumstances, the accuracy and completeness of the Nil balance in respect of outstanding imprest could not be confirmed.

732. Unsupported Payables – Deposits and Retentions Balance

The statement of assets and liabilities reflects a balance of Kshs.91,646,566 in respect of deposits and retentions as disclosed in Note 15 to the financial statements. However, the supporting control ledger, schedule and any supporting certificates were not provided for audit.

In the circumstances, the accuracy and completeness of the deposits and retentions balance of Kshs.91,646,566 could not be confirmed.

Emphasis of Matter

733. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipt budget and actual comparable basis amounts of Kshs.7,474,085,274 and Kshs.6,681,961,783 respectively resulting in under-funding of revenue of Kshs.792,123,491 or 11% of the budget. Similarly, the County Executive spent Kshs.6,732,281,978 against budget amount of Kshs.7,474,085,274 rsulring into under-absorption of Kshs.741,803,296 or 10% of the budget.

The under-funding and under-expenditure affected the planned activities and may have impacted negatively on service delivery to the public.

734. Pending Bills

734.1 Unsupported Pending Bills Brought Forward

Disclosed in Note 20.1 and Annex 2 to the financial statements are pending accounts payable of Kshs.526,208,651. However, review of the approved revised supplementary estimate II revealed that an amount of Kshs.425,616,000 had been allocated during the year under review to settle the pending bills that were carried forward to 2022/2023 financial year in line with 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 obligation. However, the budgeted amount was not supported by a breakdown of the pending bills which were to be paid. Further, the details of the pending bills settled with the budgeted amount of Kshs.425,616,000 were not provided for audit.

734.2 Inaccuracies in Pending Bills

The financial statements reflects pending accounts payable balance of Kshs.526,208,651 as disclosed in Note 20.1 and detailed in Annex 2 on analysis of the pending accounts payable to the financial statements. However, review of the invoices and completion certificates of certified works revealed a re-computed balance of Kshs.582,053,849 resulting to an unexplained and unreconciled variance of Kshs.55,845,198. Further, review of the Annex 2 to the financial statements revealed that the balance of Kshs.28,413,675 was in respect of recurrent and development expenditures for previous financial year 2021-2022 which implies there was failure to clear pending bills in the year to which they relate.

In the circumstance, the accuracy and completeness of the balance of Kshs.526,208,651 in respect of pending bills could not be confirmed.

My opinion is not modified in respect of these matters.

Other Matter

735. Unresolved Prior Year Matters

As disclosed under the progress on follow up of auditors recommendation section of the financial statements, the Management indicated that some of the issues have been resolved. However, Management did not provide reports and invitations from the oversight committee's detailing the deliberations and recommendations of the committees on resolved issues. Further, no satisfactory reasons was provided for the delay in resolving other issues.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

736. Irregular Payment to Council of Governors

The statement of receipts and payments and as disclosed in Note 6 to the financial statements reflects an amount of Kshs.815,691,599 in respect of transfers to other government entities. However, review of the IFMIS payment details and bank statements revealed that an amount of Kshs.3,200,000 was transferred to Council of Governors to cater for subscription contrary to Section 37 of the Inter-Governmental Relations Act, 2012 which states that the National Government should meet all operational expenses of the Council of Governors.

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

737. Direct Procurement of Certified Seeds, Breeding Stock and Live Animals

The statement of receipts and payments and as disclosed in Note 9 to the financial statements reflects acquisition of assets of an amount Kshs.1,754,673,761 which includes an amount of Kshs.39,347,827 in respect of purchase of certified seeds, breeding stock and live animals out of which an amount of Kshs.25,038,420 was paid to various suppliers for the supply of vaccines, veterinarian supplies and farm materials. Review of the supporting documents revealed that direct procurement was used to procure the items contrary to Section 103, (1) and (2) of the Public Procurement and Asset Disposal Act, 2015 which states the conditions for direct procurement.

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

738. Compensation of Employees

738.1 Non-Compliance with Fiscal Responsibility Principles on Wage Bill

The payment on compensation of employees of Kshs.2,776,973,006 constitute 42% of total revenue of Kshs.6,681,961,783 received during the year under review. This is 7% above the limit contrary to Regulation 25(1) (a) and (b) of the Public Finance Management (County Governments) Regulations, 2015 which requires that the County Executive Committee Members with the approval of the County Assembly shall set a limit on the county government's expenditure on wages and benefits for its public office pursuant to Section 107(2) of the Act and, (b) the limit set under paragraph shall not exceed 35 per cent of the county government total revenue.

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

738.2 Non-Compliance with Law on Staff Diversity

The County Executive recruited total number of two hundred and seventy-one (271) new staff during the year. However, the staff number comprised of two hundred and sixty (260) members of staff from the dominant ethnic community in the County forming 96% of the new staff composition. This was contrary to Section 65 (1)(e) of the County Government

Act, 2012 which states 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. It is not clear what action the Management is taking to remedy the anomaly.

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

738.3 Non-Adherence to One-third Basic Salary Rule

As disclosed in Note 3 to the financial statements, the statement of receipts and payments reflects compensation of employees of Kshs.2,776,973,006 which includes an amount of Kshs.775,043,366 in respect of basic salary of permanent employees. However, review of the Integrated Payroll and Personnel Database (IPPD) for the year ended 30 June, 2023 revealed that eighty-three (83) officers were drawing net salary less than a third of their monthly basic salary. This was contrary to Section 19(3) of the Employment Act, 2007 which provides that total deductions from salaries of employees shall not exceed two-thirds of the respective basic salaries.

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

738.4 Irregular Payment of Salaries Outside the Integrated Payroll and Personnel Database (IPPD)

The statement of receipts and payments reflects compensation of employees expenditure amount of Kshs.2,776,973,006. However, included in the balance is Kshs.80,108,526 processed and paid outside the Integrated Payroll Personnel Database (IPPD) system contrary to The National Treasury Circular No.13/2019 dated 28 August, 2019, which states that Integrated Payroll Personnel Database (IPPD) must support the allocation of personnel emoluments. No explanation was provided by Management for the use of the manual system.

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

738.5 Lack of Annual Recruitment Plan

Review of the human resource documents revealed that during the year under review, new staff members were recruited including two hundred and ten (210) interns, 1 director supply chain Management officer, twenty (20) ECDE Supervisors, and thirty (30) staff in Department of Agriculture which were not supported with a recruitment plan. This was contrary to Human Resource Plans B.2 (1) which states that every Ministry/State Department shall prepare Human Resource Plans to support achievement of goals and objectives in their Strategic plans. The plans shall be based on comprehensive job analysis and shall be reviewed every year to address emerging issues and needs. Further, supporting documents including the advertisement, selection panel recommended list and the recruitment plans were not provided for audit.

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

739. Acquisition of Assets

739.1 Irregular Reallocation of Development Funds to Recurrent Expenditure

Review of the statement of comparison of budget and actual amounts –development reflects final budget of Kshs.2,582,512,372 in respect of development expenditure budget and actual on comparable basis of Kshs.2,185,937,721. However, review of the IFMIS payment details in respect of development revealed payments totalling Kshs.808,216,218 or 35% of the development budget were in respect of transfers to other government entities largely for health facilities operations, domestic travel and subsistence allowance and Kenya School of Government trainings. These are expenditures of recurrent in nature reallocated from capital funds contrary to Section 43(1)(b) of the Public Finance Management Act, 2012 which states, inter alia, that Accounting Officers may not reallocate funds which are appropriated for capital expenditure except to defray other capital expenditure.

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

739.2 Procurement of Non – Current Assets from Non-Prequalified Firms

As disclosed in Note 9 to the financial statements, the statement of receipts and payments reflects an amount of Kshs.1,849,303,010 in respect of acquisition of assets. However, review of the supporting documents revealed payments of Kshs.82,625,7873 in respect of non-current Assets were procured from non-prequalified suppliers and contractors for the year 2022-2023 contrary to Section 106(1 and 2) of the Public Procurement and Asset Disposal Act, 2015.

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

739.3 Incomplete Refurbishment and Construction of Shops and Stalls at Liten Market

The statement of receipts and payments reflects acquisition of assets of an amount of Kshs.1,754,673,761 as disclosed in Note 9 to the financial statements which includes an amount of Kshs.574,327,451 in respect of construction and civil works out of which an amount of Kshs.3,176,858 was for refurbishment and construction of twenty-four (24) shops and stalls at Litein market by a local company. The contract was signed on 13 January, 2022 at a contract sum of Kshs.9,475,064 without an end date for the project. However, physical inspection on 8 November, 2023 revealed that only nineteen (19) shops out of twenty-four (24) shops were constructed as per bills of quantities due to limited space. Management did not provide any explanation on how they will make good the loss of the five (5) shops not constructed due to limited space. Further two (2) shops were incomplete with the following works still pending, roofing, plastering, flooring, doors and windows were not fixed, electrical works. The refurbishment to the already existing pit latrines was also not done at time of audit in the month of November, 2023 against the bill of quantities.

In the circumstances, value for money for the expenditure of Kshs.3,176,856 in respect of refurbishment and construction of twenty-four (24) shops and stalls at Litein market could not be confirmed.

739.4 Delay in Construction of Modern Sondu Market

The statement of receipts and payments reflects acquisition of assets of an amount of Kshs.1,754,673,761 as disclosed in Note 9 to the financial statements which includes an amount of Kshs.574,327,451 in respect of construction and civil works out of which an amount of Kshs.4,342,425 relate to construction and completion of Morden Sondu Market. The contract agreement was signed on 12 June, 2019 at contract sum of Kshs.128,945,229 for a contract period of fifty two (52) weeks with effect from 14 August, 2019. Further, review of the supporting documents revealed that the contractor has been paid an accumulated amount of Kshs.100,442,289, however, physical inspection carried out on 8 November, 2023 revealed that the project was incomplete despite the expiry of the completion date. The contractor was on site at the time of audit and the percentage covered was minimal. Further, an interview with the Management revealed that there has been a boundary dispute between the neighboring communities over the location of the Sondu Modern market.

In the circumstances, value for money and the expected benefits from the projects to the public may not be realized.

739.5 Delay in Construction of Modern Market in Kericho Town

The statement of receipts and payments reflects acquisition of assets of an amount of Kshs.1,754,673,761 as disclosed in Note 9 to the financial statements, which includes an amount of Kshs.574,327,451 in respect of construction and civil works out of which an amount of Kshs.60,934,681 relate to payments for the proposed construction of Modern Market in Kericho which commenced on 22 February, 2021 at contract sum of Kshs.234,970,538 and a completion date of 22 February, 2023. Further review of the interim payment certificates revealed that the contractor had been paid an accumulated amount of Kshs.159,501,390. However, physical verification inspection of the project on 8 November, 2023, revealed that the project was incomplete despite the expiry of the project duration and no document was provided for audit in respect of the extension of the project completion. Review of the inspection and acceptance report dated 1 December, 2022 revealed that the contractor was asked to review the work program to compensate for the time lost and ensure that works proceed without interruption of absenteeism from site, an indication that the contractor had not been doing much to ensure that the project is completed within the stipulated time.

In the circumstances, value for money and the expected benefits from the projects to the public may not be realized.

739.6 Tea Buying Center Constructed on Private Land

The statement of receipts and payments reflects acquisition of assets of amount of Kshs.1,849,303,010 as disclosed in Note 9 to the financial statements, which includes an

amount of Kshs.574,327,451 in respect of construction and civil works out of which Kshs.8,816,133 was in respect of construction of three (3) tea buying centers at Chebole Kapsimotwet and Kipsiya/Chesagogo through the department of Agriculture, Livestock Development and Cooperative Development. Physical inspection conducted on 8 November, 2023 and interview with the local residents revealed that the parcels of land were donated by locals for the construction of the tea buying centers which were complete and not in use as at the time of inspection. However, land ownership documents title deeds, sale and transfer agreements, survey and valuation reports were not provided for review. The County Government of Kericho may be faced with the risk of losing the land in case of future claims in respect of the ownership and operations of such projects.

In the circumstances, the ownership of the parcels of land and expenditure on tea buying centres could not be confirmed.

740. Irregular Provision of Security Services

As disclosed in Note 4 to the financial statements, the statement of receipts and payments reflects use of goods and services of an amount of Kshs.1,041,341,564 which includes an amount of Kshs.113,411,535 in respect of other operating expenses out of which an amount of Kshs.2,415,584 is in respect of provision of security services. Further, review of the governance structure revealed that the County Executive of Kericho has a directorate of enforcement officers employed on permanent and pensionable terms of service. However, Management engaged a private security firm to provide the same security service at a total cost of Kshs.2,415,584 during the year under review.

In the circumstances, the accuracy and regularity of the payments of Kshs.2,415,584 in respect of provision of security services could not be confirmed.

REPORT ON THE EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

741. Failure to Conduct Public Participation on 2022-2023 Budget

Regulation 7(1) of Public Finance Management-County Government Regulations, 2015 requires the County Executive Member to publish process and procedures for public participation in the planning and budget processing. However, no documentary evidence was provided for audit indicating that public participation took place.

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

742. Lack of Information and Communication Technology (ICT) Policy and Strategic Plan

The County Executive of Kericho did not provide for review ICT policy and disaster recovery plan.

In the circumstances, the County Executive's preparedness from possible disaster recovery could not be confirmed.

COUNTY EXECUTIVE OF BOMET - NO.36

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

743. Compensation of Employees

743.1 Variances Between Financial Statements and Ledger Amounts

The statement of receipts and payments and as disclosed in Note 3 to the financial statements reflects an amount of Kshs.2,637,357,657 in respect of compensation of employees. However, review of supporting documents including payroll for the twelve (12) months revealed an amount of Kshs.2,135,340,587 resulting in an unreconciled variance of Kshs.502,017,070.

743.2 Unsupported Basic Wages to Temporary Employees

The statement of receipts and payments and as disclosed in Note 3 to the financial statements reflects compensation of employees amount of Kshs.2,637,357,657 which includes Kshs.93,988,981 in respect of basic wages to temporary employees. However, the requisitions to engage casuals by the respective departments, the approval by County Public Service Board (CPSB), the written delegated authority by CPSB to accounting officers to engage casuals, the appointment letters, and payrolls for the casuals were not provided for audit.

In the circumstances, the accuracy and completeness of compensation of employees amount of Kshs.2,637,357,657 could not be confirmed.

743.3 Unsupported Excess Remittances to National Social Security Fund (NSSF)

The statement of receipts and payments and as disclosed in Note 3 to the financial statements reflects compensation of employees amount of Kshs.2,637,357,657 which includes an amount of Kshs.313,173,301 in respect of pension and other social security contributions which further includes remittances to NSSF of Kshs.13,061,320. However, review of the supporting documents including payrolls for the year revealed employees and employers NSSF deductions of Kshs.2,607,446 and Kshs.5,214,892 respectively all totalling Kshs.7,822,338 resulting to an unreconciled variance of Kshs.5,238,982.

In the circumstances, the accuracy and completeness of the Kshs.13,061,320 could not be confirmed.

744. Use of Goods and Services

744.1 Variance in Domestic Travel and Subsistence

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects use of goods and services amount of Kshs.1,271,231,308 which

includes an amount of Kshs.125,880,635 in respect of domestic travel and subsistence. However, review of the IFMIS payment details revealed total payments of Kshs.289,233,590 to various employees in respect of temporary imprest and daily subsistence allowance resulting in unreconciled variance of Kshs.163,352,955. Further, review of the IFMIS imprest register revealed payments relating to temporary imprest and domestic travel and subsistence allowance that were not posted in the imprest register.

In the circumstances, the accuracy and completeness of the expenditure of Kshs.125,880,635 could not be confirmed.

744.2 Unsupported Legal Fees

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects use of goods and services amount of Kshs.1,271,231,308 which includes an amount of Kshs.312,593,734 in respect of other operating expenses which further includes Kshs.22,151,107 relating to legal fees, arbitration and compensation payments. However, the payments were not supported with payment vouchers demand fee notes and court proceeding statements. Further review of the IFMIS payment details revealed that a total of Kshs.14,949,824 was paid in favor of a law firm whose details and nature of the case was not disclosed.

In the circumstances, the accuracy, completeness and regularity of the expenditure of Kshs.22,151,107 could not be confirmed.

744.3 Unsupported Payment of Motor Vehicle Maintenance

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects use of goods and services amount of Kshs.1,271,231,308 which includes an amount of Kshs.19,046,640 in respect of routine maintenance vehicles and other transport equipment. However, the payments were not supported with service orders, detailed invoices or post repair inspection reports. Further, the balances indicated in the pre-inspection reports did not agree with the procurement orders issued to suppliers.

In the circumstances, the accuracy, completeness and regularity of the expenditure of Kshs.19,046,640 could not be confirmed.

745. Transfers to Other Government Entities

745.1 Variance on Cash Transfers to Self-reporting Health Facilities

The statement of receipts and payments and as disclosed in Note 5 to the financial statements reflects transfers to other government entities amount of Kshs.426,456,095 which includes an amount of Kshs.136,790,000 in respect of cash transfers to reporting health facilities. However, review of the supporting transfer schedule revealed total transfers of Kshs.131,378,000 to Level 4 and 5 hospitals resulting in an unreconciled variance of Kshs.5,412,000.

In the circumstances, the accuracy and completeness of cash transfers of Kshs.136,790,000 could not be confirmed.

746. Other Grants and Transfers

746.1 Unsupported Other Current Transfers, Grants and Subsidies

The statement of receipts and payments and as disclosed in Note 6 to the financial statements reflects other grants and transfers amount of Kshs.441,643,724 which includes an amount of Kshs.217,529,634 in respect of other current transfers, grants and subsidies including transfers to youth polytechnics. However, review of the supporting schedule revealed total transfers of Kshs.100,302,112 to youth polytechnics that was not supported.

In the circumstances, the accuracy and completeness of Kshs.100,302,112 transferred to youth polytechnic could not be confirmed.

746.2 Unsupported Cash Transfers to Non-Reporting Health Facilities

The statement of receipts and payments and as disclosed in Note 6 to the financial statements reflects other grants and transfers amount of Kshs.441,643,724 which includes an amount of Kshs.98,021,925 in respect of cash transfers to non-reporting health facilities including dispensaries, health centers and hospitals not clustered as level 4 hospitals. However, review of the IFMIS payments details and bank statements revealed transfers totalling Kshs.141,880,955 resulting to unsupported and unreconciled variance of Kshs.43,859,030.

In the circumstances, the accuracy and completeness of transfers to non-reporting health facilities of Kshs.98,021,925 could not be confirmed.

747. Undisclosed Outstanding Imprests

The statement of assets and liabilities reflects a Nil balance in respect of outstanding imprests. However, review of the IFMIS and manual imprest registers revealed a balance of Kshs.1,066,000 issued to five (5) officers which remained unsurrendered as at 30 June, 2023 but were not disclosed in the financial statements. Further, review of the imprest warrants in respect of imprests issued revealed purpose of the imprests was not clearly stated and were supported with general office expenses budget. In addition, included in the unsurrendered imprests is one issued on 31 August, 2022 which remained unsurrendered at the time of audit in October, 2023.

In the circumstances, the accuracy and completeness of outstanding imprest could not be confirmed. In addition, Management was in breach of the law.

748. Unsupported Prior Year Balances

The statement of assets and liabilities reflects prior year adjustments balance of Kshs.382,873,494 which as disclosed in Note 14 to the financial statements related to the correction of several prior year errors. However, the balances have not been restated or

supported. This was contrary to Paragraph 1.5.1 of IPSAS: Financial Reporting under the Cash Basis of Accounting which provides that when an error arises in relation to a cash balance reported in the financial statements, the amount of the error that relates to prior periods, shall be reported by adjusting the cash at the beginning of the period. Comparative information shall be restated unless it is impracticable to do so.

In the circumstances, the accuracy and completeness of the respective prior year adjustment balance could not be confirmed.

749. Inaccurate Related Party Transactions

Note 16 to the financial statements on other important disclosures number 2 reflects related party transactions comparative balance of Kshs.6,155,811,191 which includes transfers to County Assembly of Kshs.721,128,005. However, Note 5 and the 2021/2022 financial statements reflects Kshs.731,128,005 on the same item resulting to unreconciled variance of Kshs.10,000,000.

In the circumstances, the accuracy of the related party transactions balance could not be confirmed.

Emphasis of Matter

750. Budgetary Control and Performance

The statement of comparison of budget and actual amounts - recurrent and development combined reflects final receipts budget and actual on comparable basis amounts of Kshs.7,192,138,652 and Kshs.5,966,951,222 respectively resulting to under-funding of revenue of Kshs.1,225,187,430 or 17% of the budget. Similarly, the statement reflects final budget expenditure and actual on comparable basis amounts of Kshs.7,192,138,652 and Kshs.5,880,244,181 respectively resulting to under-expenditure of Kshs.1,311,894,471 or 18% of the budget.

The under-funding and under-expenditure could have affected the planned activities and may have impacted negatively on service delivery to the public.

751. Unsupported Pending Bills

Note 16 on other important disclosures and Annex 2 to the financial statements reflects a balance of Kshs.715,690,021 in respect of pending accounts payable. However, review of the pending bills schedule provided for audit revealed a total amount of Kshs.913,467,480 resulting to unreconciled variance of Kshs.197,777,459. Further, pending bills totalling Kshs.221,127,366 were not supported with completion certificates, invoices for constructions and civil works, delivery notes, inspection and acceptance reports, procurements documents including award letter, letters of appointment of tender opening and tender evaluating committee, professional opinion, method of procurement used, tender opening and tender evaluation minutes, user requisition, stores ledger, counter receipt vouchers and counter requisition and issue note.

In addition, review of Annex 2 to the financial statements revealed that some of the pending bills relates to constructions of roads and civil works, and supply of goods and services which were incurred between 2016-2022 financial years but had not been settled. The County Executive therefore is at risk of incurring significant unquantified interests costs and penalties with the continued delay in settling invoiced bills.

My opinion is not modified in respect of these matters.

Other Matter

752. Unresolved Prior Year Matters

Prior year audit issues remained unresolved as at 30 June, 2023. Management has not provided reasons for the delay in resolving the prior year audit issues. Further, the unresolved prior year issues disclosed under the progress on follow up of auditor's recommendations section of the financial statements do not relate to the issues raised in the audited financial statements for the year 2021/2022 as required by the Public Sector Accounting Standards Board template and The National Treasury's Circular.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

Basis for Conclusion

753. Compensation of Employees

753.1 Non-Compliance with Fiscal Responsibility Principles

The payment on compensation of employees of Kshs.2,637,357,657 constitute 44% of total revenue of Kshs.5,966,951,222 received during the year under review. This is 9% above the allowable limit contrary to Regulation 25(1)(a) and (b) of the Public Finance Management (County Governments) Regulations, 2015 which requires that the County Executive Committee Members with the approval of the County Assembly shall set a limit on the County Government's expenditure on wages and benefits for its public officers pursuant to Section 107(2) of the Act and the limit set shall not exceed 35 per cent of the County Government total revenue.

753.2 Non-Compliance with Law on Ethnic Composition

The County Executive had a total staff of three thousand, five hundred and sixty-six (3,566) employees out of which three thousand four hundred and sixty-seven (3467) or 97% members of staff were from the dominant ethnic community. This was contrary to Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 which stipulates that all public establishments shall seek to represent the diversity of the people of Kenya in the employment of staff, and that no public establishment shall have more than one third of its staff from the same ethnic community it is not clear what action the Management is taking to remedy the anomaly.

753.3 Non-Adherence to One-third Basic Salary Rule

Review of the Integrated Payroll and Personnel Database (IPPD) system for the year ended 30 June, 2023 revealed that one thousand, three hundred and eighty-eight (1,388) officers were drawing net salary less than a third of their monthly basic salary. This was contrary to Section 19(3) of the Employment Act, 2007 which provides that total deductions from salaries of employees shall not exceed two-thirds of the respective basic salaries.

753.4 Irregular Payment of Acting Allowances

The County Executive made payment of Kshs.1,226,516 as acting allowance to eight officers who have been in acting positions for more than six months contrary to Section C.14 (1) of Human Resource Policies and Procedures Manual for the Public Service, 2016 which provides that, when an officer is eligible for appointment to a higher post and is called upon to act in that post pending advertisement of the post, he is eligible for payment of acting allowance at the rate of twenty percent (20%) of his substantive basic salary. Acting allowance will not be payable to an officer for more than six (6) months. Further, the appointment letters, the County Human Resource Management and Advisory Committee (CHRMAC) recommendations for payment of acting allowances, and approval by authorized officer were not provided for audit review.

753.5 Irregular Retention of Employees Beyond Mandatory Retirement Age in Service

Review of the gross annual salary revealed that the County Executive made payment totalling Kshs.10,722,820 to nineteen (19) employees who had reached the mandatory retirement age of sixty (60) years but were retained in service without justification or indication of special skills.

This was contrary to paragraph D.21 of the Human Resource Policies and Procedures Manual for the Public Service, 2016 which requires all officers to achieve fro service on attaining the mandatory retirement age of sixty (60) years, sixty-five (65) years for persons with disabilities and as described by the government from time to time.

753.6 Irregular Extension of Employees Contracts in Service

The County Executive made payments totalling Kshs.13,841,676 to officers whose employment contracts had expired. However, review of the employees personal files revealed that their contracts were renewed without the recommendations from County Human Resource Management Advisory Committee (CHRMAC). Further, review of the personal files for the County Executive Committee Members, Chief Officers and Chief of Staff did not contain the renewed contracts or the employment contracts contrary to policy. This was contrary to Part A.15 (XVI) of the Human Resource Policies and Procedures Manual for Public Service, 2016 which provides that the functions of County Human Resource Management Advisory Committees (CHRMAC) entail making recommendations to the authorized officer regarding recommendations for renewal of contracts.

753.7 Irregular Payments of Salary to ECDE Teachers

Review of records revealed that Management paid ECDE teachers Kshs.208,308,056. The ECDE teachers were created in IPPD payroll using a special salary code that pays a lower gross salary to teachers contrary the Council of Governors Scheme of Service for Early Childhood Development and Education teachers, 2021 which requires all trained, qualified and serving ECDE teachers to join the scheme on condition that they meet the set minimum requirements.

753.8 Irregular Payment of Salary in Shared Bank Accounts

Review of the County Executive's monthly payrolls revealed that fourteen (14) employees earning a monthly gross salary totalling Kshs.4,456,503 were paid salary in shared bank accounts contrary to Section C.1(2) of the Human Resource Policies and Procedures Manual for the Public Service, 2016 which requires all officers to be paid salary on a monthly basis in Kenya currency through their respective bank accounts.

In the circumstances, the regularity, accuracy and completeness of monthly gross payments of Kshs.4,456,503 could not be confirmed.

754. Use of Goods and Services

754.1 Irregular Training Expenditure

The County Executive paid two (2) local firms amounts totalling Kshs.4,752,000 for training services. However, the paid trainers were not registered with the National Industrial Training Authority contrary to Section 7C (2) of The Industrial Training Act, 2012 CAP.237 which requires that no person shall be registered under subsection (1) unless the trainer satisfies the Director-General that he offers reasonable facilities and opportunities for proper training in the field specified in the application.

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

754.2 Irregular Expenditure on Rental Services

The County Executive made rent payments totalling Kshs.3,600,000 to a lessor in respect of a lease agreement. The lease agreement was between Bomet Water Company (lessee) and the lessor dated 24 October, 2013. However, Management confirmed that the payment was in respect of the occupancy by the Department of Water, Environment and Climate Change which contradicts the lease agreement which is between the Bomet Water Company and the lessor.

In the circumstances, the regularity of the lease agreement could not be confirmed.

754.3 Non-Competitive Procurement of Hospitality, Supplies and Services

Review of procurement records revealed that Management entered into a contract and paid Kshs.5,412,500 for the provision of hospitality services through framework agreement which were sourced from single bids contrary to Regulation 102(1)(a)(b) of

Public Procurement and Asset Disposal Regulations, 2020 which states that subject to Section 114 of the Act, a procuring entity may enter into a framework agreement through open tender using an invitation to tender which shall specify that the procuring entity intends to establish a framework agreement and the number of suppliers or contractors which shall not be less than seven alternative vendors.

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

755. Other Grants and Transfers

755.1 Irregular Transfer to Chebunyo Primary Classrooms for Renovations

Review of records revealed that Management paid Kshs.1,800,440 paid to Chebunyo Primary School for renovation of classrooms on 26 May, 2023 following a long outstanding request by the Board of Management to the County Government of Bomet on 12 June, 2018. However, the renovation of classrooms in primary school is a function of the National Government.

In the circumstances, the regularity of the expenditure of Kshs.1,800,440 could not be confirmed.

755.2 Irregular Transfer to Council of Governors

The County Executive transferred an amount of Kshs.3,000,000 to Council of Governors to cater for subscription. However, the payment was not included as transfers to other Government entities contrary to the approved template issued by the Public Sector Accounting Standards Board (PSASB) in the preparations of the annual reports and financial statements thereby understating the amount of transfers to other Government entities. Further, the payment was made contrary to Section 37 of the Inter-Governmental Relations Act, 2012 which states that the National Government should meet all operational expenses of the Council of Governors.

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

756. Acquisition of Assets

756.1 Irregularities in the Construction of Dr. Joyce Laboso Memorial Mother and Child Wellness Center

Review of construction records revealed that Management incurred Kshs.156,554,071 for the construction of Dr. Joyce Laboso Memorial Mother and Child wellness Center. Physical inspection of the project in November, 2023 revealed various variations and changes were made on the architectural designs for the ground, first and second floor design layout. Further, a single building was constructed for both the incinerator and generator rooms compared to the architect's drawings indicating two separate buildings for generator and incinerator. Also, a bio-digester was under construction in place of the approved septic tank and soak pit. However, the variation and changes in the designs were not supported with approved new architectural designs consolidating the changes from a registered architect, while approval by the Project Implementation Committee and

procurement directorate approving any changes in the project cost and revised bill of quantities were not provided for audit.

In addition, the project is constructed on three parcels of land which were acquired from three (3) private individuals on 2 February, 2015 as per the sale of land agreements provided for audit review. However, eight (8) years after the sale of land agreements were signed in the year 2015, the County Executive only acquired title deed for one parcel measuring 2.56 acres with the remaining two other parcels not having title deeds.

The supporting documents including the procurement details, bill of quantities, contract agreement and Project Management Committee reports on the progress of the projects were also not provided for audit.

In the circumstances, the pending amount of Kshs.156,554,071 could not be confirmed.

756.2 Irregular Supply and Delivery of a Prime Mover, Semi-Trailer, Low Bed Payload and Tipplers

The County Executive incurred Kshs.61,300,000 for the supply of five (5) and one (1) low loader truck on 24 May, 2023. However, the procurement was not included in the 2018-2023 County Integrated Development Plan (CIDP) and 2022-2023 Annual Development Plan (ADP). Further, physical verification in August, 2023 revealed that the prime mover, semi-trailer, low bed payload and large tipplers, were delivered but the County Executive has to date not obtained log books to confirm ownership.

In the circumstances, the ownership of assets amounting to Kshs.61,300,000 could not be confirmed.

756.3 Irregular Procurement of Road Maintenance Machinery

Review of records revealed that Management incurred Kshs.141,547,000 for the supply of five (5) crawler dozer, five (5) graders or land levelers and one (1) motorized roller. However, the procurement of the equipment was outside of the County Integrated Development Plan (CIDP) 2018-2023, Annual Development Plan (ADP) 2022-2023, approved budget and approved consolidated annual procurement plan for the year under review.

Further, tender opening minutes dated 28 March, 2023 submitted for audit were not initialized in all pages by the committee officials and listed seven (7) received bids with one bidder who submitted IFMIS bid being disqualified by the tender opening committee for not submit the manual copy. This was contrary to Section 78(7) of the Public Procurement and Asset Disposal Act, 2015.

In addition, physical inspection revealed that five (5) crawler excavators, five (5) motor graders and one (1) drum roller were delivered except for the five (5) breaker sets which were yet to be delivered. Management did not provide supporting documents including the specification of the machines, store ledger record and the inspection and acceptance committee reports. The log books for the crawlers, excavators and drum roller were not provided for audit.

In the circumstances, the regularity of the payments of Kshs.141,547,000 for the supply of machinery could not be confirmed.

756.4 Delayed Construction of Governor's Residence

The County Executive entered into a contract with a local contractor for the construction of Governors residence at a contract sum of Kshs.78,014,233. The contract period was two and a half (2^{1/2}) years starting 31 January, 2019, when the contractor took possession of the project site with completion date of 30 June, 2021. The contract period was extended by six (6) months to 30 June, 2022 with the contractor on 14 December, 2022 requesting for another extension of contract period from 30 December, 2022 to 30 June, 2023 but the approval of the second extension was not supported. However, physical verification of the project in August, 2023 revealed that the project was incomplete twenty-six (26) months after the estimated completion date of 30 June, 2021 and the contractor was not on site. Further, roofing timber works valued at Kshs.3,452,264 according to the bills of quantities that was earlier erected and pitched had not been covered with iron sheets, was deteriorating which may be condemned resulting to ineligible increase of the contract cost. As at 30 June, 2023, a total of Kshs.48,530,890 or 62% of the contract sum had been incurred with 51% of the work done.

In the circumstances, the public may not obtain value for money and the expected benefits from the project.

756.5 Unsupported Compulsory Acquisition of Public Land

The County Executive made payments totalling Kshs.11,254,000 for purchase of private parcels of land for public use. However, the compulsory acquisition of land was incurred without submission of request to the National Lands Commission through the County Executive Committee Member contrary to Section 107(1) of the Land Act, 2012 PART VIII in respect to compulsory acquisition of interests in land which states that whenever the National or County Government is satisfied that it may be necessary to acquire some particular land under Section 110, the respective Cabinet Secretary or the County Executive Committee Member shall submit a request for acquisition of public land to the Commission to acquire the land on its behalf. Further, supporting documents including, title deeds, official search documents, survey and land valuation reports from the Commission were not provided for audit.

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

756.6 Stalled Construction of Sugutek-Chepkositonik Bridge

The County Executive made payments amounting to Kshs.3,065,461 on 24 May, 2023 for the construction of Sugutek-Chepkositonik bridge. The contract was awarded to a local contractor. However, supporting documents including contract agreement, interim payment certificate and Projects Management Committee report on total work done was not provided for audit. Physical inspection carried out in August, 2023 on the project

revealed that construction works were not completed but had stalled and the site remained abandoned.

In the circumstance, the public may not obtain value for money and the expected benefits from the projects.

756.7 Irregular Advance Payment for the Supply of Milk to Early Childhood Development Education (ECDE) Centres

The County Executive incurred payment of Kshs.64,540,980 in respect of acquisition of strategic stocks and commodities which includes advance payments to the New KCC Limited totalling Kshs.56,540,980 for supply of milk to ECDE centres within the County. However, the advance payments of Kshs.56,540,980 exceeded the allowable limit of twenty percent (20%) of tender price contrary to Section 147(1) of the Public Procurement and Asset Disposal Act, 2015.

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

756.8 Irregular Hire of Excavator

The County Executive paid Kshs.4,803,506 to a local company on 13 April, 2023 for hire of an excavator to gravel at Kapkesosio quarry/Kyogong' quarry through a three (3) years framework agreement using Requests for Quotations (RFQ). However, the use of RFQ for awarding contract vide framework agreement was contrary to Regulation 102(1)(a)(b) which states that subject to Section 114 of the Act, a procuring entity may enter into a framework agreement through open tender using an invitation to tender which shall specify that the procuring entity intends to establish a framework agreement and the number of suppliers or contractors which shall not be less than seven alternative vendors.

Further, supporting documents including the framework agreement, the RFQs, quotations, bid documents, appointment of adhoc opening and evaluation committees, procurement minutes and duly signed contractual agreement were not provided for audit.

In the circumstances, the regularity of the expenditure of Kshs.4,803,506 for hire of an excavator could not be confirmed.

756.9 Unsupported Pipeline Extensions

Review of contract records revealed that Management incurred an amount of Kshs.144,516,429 in respect of overhaul and refurbishment of construction and civil works. Included in the payment is Kshs.35,917,279 for water pipeline extensions from main reservoirs to various destinations in the sub-counties within Bomet County. However, the feasibility study reports, Memorandum of Understanding between the County Executive and the Bomet Water Company, and handing over reports of the completed works to Bomet Water Company were not provided for audit.

In the circumstances, the regularity of the expenditure amount of Kshs.35,917,279 could not be confirmed.

757. Unutilized Completed Projects

757.1 Construction of Saginya Cattle Dip

Review of records revealed that Management made payment of Kshs.3,497,640 to a local contractor for construction of Saginya cattle dip. However, supporting documents including interim payment certificate, completion certificate, inspection and acceptance committee reports and Projects Management Committee report on total work done was not provided for audit. Further, physical inspection carried out in August, 2023 revealed the project was completed but not in use. Management did not explain why the completed project was not operational.

In the circumstances, the public may not have obtained benefits from the completed project.

757.2 Completion of Rongena Maternity

Review of contracts records revealed that Management made payment of Kshs.1,929,571 to a local contractor for completion of Rongena Maternity. The completed project was to be handed over on 16 March, 2023. However, physical inspection of the project in the month of August, 2023 indicated that the project was completed but had not been put into use. Management did not explain why the completed project was not operational.

In the circumstances, the public may not have obtained benefits from the completed project.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

758. Lack of an Audit Committee

Records provided for review revealed that the County Executive did not have a functional audit committee in line with Regulation 168 of the Public Finance Management (County Regulations), 2015 which states that the main function of the audit committee shall be to support the accounting officers with regard to their responsibilities for issues of risk, control and governance and associated assurance provided that the responsibility over the management of risk, control and governance processes remains with the Management of the concerned county government entity and follow up on the implementation of the recommendations of internal and external auditors

In the circumstances, the effectiveness of the measures by the Management to manage risk, internal control and governance could not be confirmed.

759. Absence from Duty Without Permission

Review of the County Human Resource Management Advisory Committee (CHRMAC) minutes for the year revealed that eighteen (18) staff of the County Executive were absent from duty for more than (10 days) and were subsequently issued with “show cause why letters” by their supervisors. Also, the “show cause why letters” were not responded to within twenty-one days as required by the policies and CHRMAC failed to initiate the summary dismissal of the officers contrary to the Human Resources Policy.

In the circumstances, the effectiveness of procedures on managing disciplinary matters by the County Executive could not be confirmed.

760. Alteration of Officers Birth Date Without Approval from CHRMAC

Review of the payroll records revealed that eleven (11) County employees had their date of birth altered more than twice and the Management explanations were not provided.

In the circumstances, effectiveness of internal controls relating to security and integrity of employee personal data could not be confirmed.

COUNTY EXECUTIVE OF KAKAMEGA - NO.37

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

761. Inaccuracies in Bank Balances

The statement of assets and liabilities reflects bank balance of Kshs.208,000,170 as disclosed in Note 11 to the financial statements. However, three (3) bank accounts reconciliation statements for the month of June, 2023 reflects stale cheque balance of Kshs.9,792,320 which had not been reversed in the cash books and unrepresented cheques of Kshs.9,265,335 which were not analysed or supported by schedules.

Further, the recurrent bank account reconciliation statement for the month of June, 2023 reflects payments in bank statement not recorded in the cash books amounting to Kshs.32,455,743 and which were not supported by schedules.

In addition, five (5) bank accounts reconciliation statements for the month of June, 2023 reflect receipts in the cash book not recorded in bank statements amounting to Kshs.973,859,956.

In the circumstances, the accuracy and completeness of the bank balances of Kshs.208,000,170 could not be confirmed.

762. Unsupported Use of Goods and Services Expenditure

The statement of receipts and payments reflects use of goods and services amount of Kshs.2,438,651,648 as disclosed in Note 4 to the financial statements. However, the expenditure includes an amount of Kshs.694,318,407 incurred under the Department of Agriculture and Livestock whose payment vouchers and the relevant supporting documents were not provided for audit.

In the circumstances, the accuracy and completeness of use of goods and services expenditure amounting to Kshs.694,318,407 could not be confirmed.

763. Unsupported Outstanding Imprests and Advances

The statement of assets and liabilities reflects outstanding imprests and advances balance of Kshs.27,071,017 as disclosed in Note 12 to the financial statements. However, Management did not maintain an imprest register indicating details of payees, amount issued, imprest warrant number, dates of issue, due dates and dates of surrender. Further, the balances were due for surrender as at 30 June, 2023 but no explanation was provided for the failure to have them recovered.

In the circumstances, the accuracy and completeness of the imprest and advances balance of Kshs.27,071,017 could not be confirmed.

Emphasis of Matter

764. Pending Bills

Note 1 under other important disclosures reflects pending accounts payables balance of Kshs.1,505,298,681 as disclosed in Annex 2. The amount includes balance brought forward of Kshs.1,277,690,723 which includes outstanding balances for the years between 2016 and 2021. However, Management did not explain why the bills were not settled during the year they occurred.

Further, failure to settle bills during the year to which they relate, adversely affects the implementation of the subsequent year's budgeted programme since the outstanding bills form a first charge on that year's budget allocation.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

765. Delayed and Stalled Medical Facilities

The statement of receipts and payments reflects acquisition of assets amount of Kshs.2,531,986,585 as disclosed in Note 8 to the financial statements. The amount includes payments made during the year in relation to ten (10) on-going projects amounting to Kshs.6,636,886,649 which were started on different dates between the years 2015 and 2022. As at 30 June, 2023, an amount of Kshs.3,018,041,182 had been paid on these projects but they were still incomplete and were at various stages of completion.

In the circumstances, value for money on the expenditure of Kshs.3,018,041,182 incurred on the incomplete projects could not be confirmed.

766. Stalled Construction of Emalokha (Firasti) Water Supply

Review of procurement and expenditure records revealed that the contract for construction of Emalokha (Firasti) Water Supply was awarded on 21 March, 2022 at a contract sum of Kshs.45,685,764 and for a contract period of six (6) months. However, physical inspection in the month of October, 2023 revealed that the construction of intake weir, pump house, staff house, office block and pumps were not complete and the project was estimated to be 60% complete. In addition, the contractor was not on site and no works were going on.

In the circumstances, value for money on the expenditure incurred on construction of Emalokha (Firasti) Water supply could not be confirmed.

767. Stalled Construction of Butwehe Intake Works Project

The contract for construction of Butwehe intake works project in Ikolomani Sub-County was awarded on 19 April, 2022 at a contract sum of Kshs.21,467,670 with completion period of six (6) Months. Physical inspection in the month of October, 2023 revealed that the works had not been completed and the contractor was not on site, no works were going on, and the project was estimated to be 80% complete.

In the circumstances, value for money on the expenditure incurred on construction of Butwehe intake works could not be confirmed.

768. Stalled Construction of Inyanya Water Supply Project

The contract for construction of the Inyanya Water Supply Project in Khwisero Sub-County was awarded on 21 March, 2022 at a contract sum of Kshs.25,773,258 with a completion period of six (6) months. Physical inspection in the month of October, 2023 revealed that the project had stalled and the contractor had abandoned the site without connecting water and power. Further water kiosks were not complete and the project was estimated to be 25% complete.

In the circumstances, value for money on expenditure incurred on the construction of Inyanya Water Supply Project could not be confirmed.

769. Delayed Completion of the Construction of Disaster Center Phase 2

The contract for construction of a Disaster Centre Phase 2 was awarded on 24 March, 2020 for a period of twenty-four (24) weeks at a contract sum of Kshs.5,925,419 which was varied to Kshs.7,277,434. Physical inspection in the month of September, 2023 revealed that, the body structure was erected but finishing works were yet to be undertaken, implying that the project was incomplete. However, the contractor was not on site and no works were going on.

In the circumstances, value for money on the expenditure incurred on the construction of a disaster centre phase 2 could not be confirmed.

770. Delayed Construction of Bukhungu Stadium Phase II

The statement of receipts and payments reflects acquisition of assets amount of Kshs.2,531,986,585, as disclosed in Note 8 to the financial statements. The amount includes Kshs.475,643,725 relating to construction of buildings out of which an amount of Kshs.175,950,266 was paid for the on-going construction of Bukhungu Stadium Phase II. It was noted that the contract was awarded on 21 May, 2019 at a contract sum Kshs.2,927,721,199 with completion date of 30 December, 2021. However, physical inspection in the month of October, 2023 revealed that the project was only 45% complete, the contractor was not on site and no works were going on. In addition, a total of Kshs.1,059,870,800 or 36% of the contract sum had been paid to the contractor.

In the circumstances, value for money on the expenditure of Kshs.1,059,870,800 incurred on the construction of Bukhungu stadium could be confirmed.

771. Delayed Construction to Bitumen Standard of Murram - Shitirire and Malava - Tumbeni Road

The contract for the construction to bitumen standard of the 7.5km Murram-Shitirire and Malava-Tumbeni road was awarded on 12 April, 2021 at a contract sum of Kshs.319,688,430 for a period of eighteen (18) months ending 12 October, 2022. Physical inspection in the month of October, 2023 revealed that the road was 92% complete, the tarmacking was complete but road signs, stone pitching and two sections where the road crosses two rivers/streams were not done. Further, the contractor was not on site and the contract period had lapsed.

In the circumstances, value for money on expenditure incurred on the construction to bitumen standard of the 7.5km murram – Shitirire and Malava – Tumbeni Road could not be confirmed.

772. Delayed Construction to Bitumen Standard of Tsalwa Junction Ombwaro - Manyulia Road in Butere Sub County

The contract for construction to bitumen standard of the 5.5 km Tswala Juntion Obwayo-Manyulia road was awarded on 7 January, 2020 at a contract sum of Kshs.216,000,126 for a period of eighteen (18) months ending 7 July, 2021. Physical inspection in the month of October, 2023 revealed that tarmacking was completed but the road did not have signs and it was not marked and stone pitching and shoulders were not done with chippings. In addition, the contractor was not on site and the road was estimated to be 92% complete.

In the circumstances, value for money on expenditure incurred on the construction to bitumen standard of the 5.5km Tsalwa Junction Ombwaro – Manyulia road could not be confirmed.

773. Non-Compliance with Law Fiscal Responsibility on Wage Bill

The statement of receipts and payments reflects compensation of employees amount of Kshs.5,652,697,106 as disclosed in Note 3 to the financial statements. The amount translates to 43% of total revenue amount of Kshs.13,231,761,689. This was contrary to Regulation 25(1)(b) of the Public Finance Management (County Governments) Regulations, 2015 which sets the limit for compensation of employees at 35% of total revenue of a County Government in a year.

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

774. Lack of Ethnic Diversity in Employment of Staff

Review of the payrolls revealed that the County Executive had six thousand eight hundred and seventy-six (6,876) employees out of whom six thousand, two hundred and fifty-one (6,251) or 91% were from the dominant ethnic community in the County. This was

contrary to Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 which states that, “all public offices shall seek to represent the diversity of the people of Kenya in employment of staff and that no public institution shall have more than one third of its staff establishment from the same ethnic community”.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

775. Use of Manual Payroll

The statement of receipts and payments reflects compensation of employees amount of Kshs.5,652,697,106 as disclosed in Note 3 to the financial statements. However, verification of supporting documents revealed salary payments amounting to Kshs.105,212,238 were processed through the manual payroll which is prone to errors. This was contrary to Section 6.3 of the County Financial Accounting and Reporting Manual which states that all salaries, allowances and/or arrears of County Government employees should be processed through Integrated Payroll and Personnel Data (IPPD).

In the circumstances, the effectiveness of internal controls on manual payroll processing could not be confirmed.

COUNTY EXECUTIVE OF VIHIGA - NO.38

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

776. Irregularities in Compensation of Employees

The statement of receipts and payments and as disclosed in Note 2 to the financial statements reflects an amount of Kshs.2,449,450,402 relating to compensation of employees. Analysis of the IPPD and other payroll records revealed that two hundred and ninety (290) employees received arrears on earnings not in their normal earnings category in the year amounting to Kshs.5,768,403. Further, eight (8) employees were earning both house allowance and special house allowance amounting to Kshs.2,700,000.

In the circumstances, the completeness and accuracy of the compensation of employees' expenditure amounting to Kshs.2,449,450,402 could not be confirmed.

777. Inaccuracies in Insurance Costs

The statement of receipts and payments and as disclosed in Note 3 to the financial statements reflects an amount of Kshs.861,955,415 relating to use of goods and services. The amount includes insurance expenditure of Kshs.24,392,667 out of which an amount of Kshs.1,700,000 was in relation to acquisition of land which should have been accounted for under the correct item of acquisition of assets.

In the circumstances, the accuracy and completeness of the expenditure on insurance amounting to Kshs.24,392,667 could not be confirmed.

778. Inaccuracies in Routine Maintenance – Other Assets

The statement of receipts and payments and as disclosed in Note 3 to the financial statements reflects an amount of Kshs.861,955,415 relating to use of goods and services which includes an amount of Kshs.10,420,907 incurred on routine maintenance – other assets. The amount included payments for the supply of laptops of Kshs.1,319,999. which should have been accounted for under the correct item of acquisition of assets.

In the circumstances, the completeness and accuracy of routine maintenance-other assets amounting to Kshs.10,420,907 could not be confirmed.

779. Inaccuracies in Transfers to Other Government Agencies

The statement of receipts and payments reflects an amount of Kshs.266,840,185 relating to transfers to other government units. Review of the payment details revealed that payments amounting to Kshs.211,213,038 were made to individuals and suppliers but were irregularly charged to transfers and grants to other government agencies.

In the circumstances, the completeness and accuracy of the transfers to other government agencies amounting to Kshs.211,213,038 could not be confirmed.

780. Long Outstanding Receivables from Vihiga County Assembly

The statement of assets and liabilities reflects a balance of Kshs.19,071,698 in respect of accounts receivables which as disclosed in Note 10 to the financial statements includes transfers due from Vihiga County Assembly totalling Kshs.14,000,000. Review of records revealed that the County Executive transferred Kshs.38,000,000 to the County Assembly of Vihiga on 25 February, 2021 and Kshs.6,000,000 on 23 November, 2021 totalling Kshs.44,000,000 being funds paid from deposit and retention account to bridge a shortfall on County Assembly of Vihiga Car Loan and Mortgage account. However only Ksh.30,000,000 had been refunded while a balance of Kshs.14,000,000 remained outstanding as at 30 June, 2023..

In the circumstances, the recoverability of the amount advanced to the County Assembly amounting to Kshs.14,000,000 could not be confirmed.

781. Outstanding Salary Advances

The statement of assets and liabilities reflects Kshs.19,071,698 in respect of accounts receivables which, as disclosed in Note 10 to the financial statements includes salary advances totalling Kshs.1,775,438 issued to ten (10) members of staff, of which, nine (9) were issued in 2015 and one (1) in 2017. Further, five (5) of the employees with advances totalling Kshs.1,151,603 were no longer in service at the County Executive while Kshs.21,333 was owing from a deceased former member of staff. No efforts had been made to recover these outstanding amounts.

In the circumstances, the recoverability of the salary advances amounting to Kshs.1,775,438.00 could not be confirmed.

Emphasis of Matter

782. Budgetary Control and Performance

The summary statement of appropriation-recurrent and development combined reflects final revenue budget and actual on comparable basis of Kshs.5,845,892,913 and Kshs.4,928,188,384 respectively resulting into under-funding of Kshs.917,704,529 or 16% of the budget. Similarly, the County Executive spent Kshs.4,894,558,321 against an approved budget of Kshs.5,845,892,913 resulting to under-expenditure of Kshs.951,334,592 or 16 % of the budget.

The under-funding and under-expenditure affected the planned activities and may have impacted negatively the service delivery to the public.

783. Late Transfers from the CRF

The statement of receipts and payments and as disclosed in Note 1 to the financial statements includes total exchequer releases amount of Kshs.4,928,188,384 for the year ended 30 June, 2023 out of which Kshs.2,200,891,688 or approximately 45 % of the total

of 4,928,188,384 was received in the last quarter and Kshs.917,704,529 out of the expected Kshs.5,845,892,913 was not received during the year under review.

The County Executive may not be able to meet its financial obligations in rendering the services to the public.

784. Pending Bills

Annex 2 to the financial statements reflects pending bills totalling Kshs.1,467,712,152. During the year under review, the County Executive incurred additional pending bills amounting to Kshs.633,623,236. Failure to settle bills during the year in which they relate to distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

My opinion is not modified in respect of these matters.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

785. Delay in Construction of Governor's and Deputy Governor's Residences

Review of documents revealed that the County Executive paid an amount of Kshs.35,918,538 towards the construction of the Governor's and the Deputy Governor's residence. As noted in the previous audits, review of the project file revealed that despite the fact that the contractor had committed to complete the outstanding works by 27 September, 2023, the works had not been completed at the time of audit in the month of November, 2023 as plumbing works, electrical works, floor tiling and fixing of doors were still on-going. Further, the consultant had not updated the construction file hence it was not possible to confirm the actual status of the project.

In the circumstances, the value for money on the expenditure incurred on the project could not be confirmed.

786. Lack of Annual Human Resource Plan and Annual Recruitment Plans

Audit review of the Vihiga County Executive Human Resource Management Practices revealed that the Management did not prepare Annual Human Resource Plan and Annual Recruitment Plan as required by Section B.2 (1) and (2) of PSC HR Policy 2016 which stipulates that on the basis of the Human Resource plans, Ministries/State Departments shall be required to develop annual recruitment plans which will be forwarded to the Public Service Commission at the beginning of each financial year to enable it plan to fill the vacancies.

In the absence of annual human resource plan and annual recruitment plan, Management was in breach of the law.

787. Lack of Skills Inventory and Succession Management Plan

Review of Vihiga County Executive Human Resource Management Practices revealed that the Management did not maintained a skills inventory which can help the Management in decision making in training, recruitment and succession planning for future promotion and seamless hand over as provided under Section H.14 of Public Service Commission Human Resource Manual 2016 which states that Authorized Officers are expected to develop, update and maintain a skills inventory for all officers in their respective State Departments for purposes of identifying the available, and the required skills. The inventory guides the training, recruitment and succession management decisions.

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

788. Non-Compliance with Fiscal Responsibility on Wages and Benefits

The statement of receipts and payments and as disclosed in Note 2 to the financial statements reflects payments totalling Kshs.2,449,450,402 in respect of compensation of employees. The amount represents approximately 49% of the total revenue of Kshs.4,928,188,384, which was 14% percentage points over and above the allowed ceiling of 35%. This was contrary to Regulation 25(1)(a) and (b) on fiscal responsibility principles.

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

789. Payment of Salaries outside the Integrated- Payroll and Personnel Database (IPPD)

The statement of receipts and payments reflects compensation of employee's amount of Kshs.2,449,450,402. Review of the Monthly County Payroll Summary submitted by the department of Public Service and Administration to the Chief officer Finance and Economic planning revealed that expenditure amounting to Kshs.338,511,351 was paid outside the IPPD system contrary to Circular No.13/2019 dated 28 August, 2019 which stated that the allocation of personnel emoluments must be supported by Integrated Personnel Payroll Data (IPPD) and each Ministry, Department and Agency will be required to provide this information to support personnel requirements

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

790. Irregular Re-designation of Employees

Review of the Payroll data revealed that twenty five (25) employees were re-designated from their job groups without complying with Section B.21(1) of the PSC human resource and procedure manual (2016) which states "Every Ministry/State Department shall propose Human Resoure plans to support achievement of goals and objectives in their strategic plans. The plans shall be based on comprehensive job analysis and shall be reviewed every year to address emerging issues and needs. Further, one (1) employee

had his tax pin in two different entities Vote Code 33801 and 34001 for the month of July and August, implying that the employee earned two salaries.

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

791. Huge Bills on Legal Cases

Review of litigation status report of Vihiga County Executive for the year 2023, revealed that the County Executive had ninety two (92) cases out of which fifty-four (54) were active, thirty-one (31) had been concluded and seven (7) were dormant. Review of concluded cases and judgements revealed that the County Executive lost most of the cases. The rulings were in favour of the parties that took the County Executive to court. From records maintained by the legal section, the County has spent over Kshs.225,194,922 on the concluded cases. In addition, the County Executive had huge pending bills relating to external advocates totalling Kshs.71,937,256. Most of the court cases related to issues of; disputes of unpaid claims for goods/works/services completed by contractors, un-procedural termination of employment contracts, irregular procurement processes and poor contract management.

In the circumstances, imprudent decisions by the Management could have led to judgements entered against the County Executive resulting to high cost of litigations and interests.

792. Irregularity in the Construction of 206 Modern Market Stalls at Mbale

Review of the Kisumu Civil Suit No.18 of 2017- a Company Vs County Government of Vihiga & 2 others. Kisumu Judicial Review No. 10 of 201 revealed several irregularities in the execution of a contract which resulted into huge legal cost and loss to the County. According to deed settlement, the County Government of Vihiga and Centre for Youth Linkages and Empowerment Programs Ltd (CYLEP) entered a Memorandum of Understanding dated 21 July, 2016 for building what was termed Modern Market stalls at Mbale with a target of 500 stalls under the Public Private Partnership Framework where CYLEP was to finance the project on Build-Operate-Transfer basis. CYLEP through a formal contractual Agreement dated 27 July, 2016 engaged M/s Galexon for the construction of 500 stalls in Mbale at a cost of Kshs.54,225,000. The limited Company did the actual construction of the initial 206 stalls in Mbale town out of 500 but was never paid for the works.

The traders took possession without going through any formal allocations and occupied them from October, 2016 without payment of requisite rentals. CYLEP failed to pay the Company and moved to court against CYLEP and County Government of Vihiga. The Court Order issued at Kisumu on 27 February, 2020 ordered the Chief Officer, Department of Trade, Tourism and Industry, County Government of Vihiga and County Executive Committee Member for Finance, County Government of Vihiga to settle the decretal sum together with interests and costs as awarded to plaintiff in civil suit No.18 of 2017 amounting Kshs.36,956,075. Consequently, the County Executive has paid a total

of Kshs.40,217,531 which is in excess of the awarded amount by Kshs.3,261,456 (40,217,531-36,956,075).

Further, no memorandum of understanding was provided for audit and no formal contract agreement was entered into by the parties. No evidence that the completed stalls were formally launched/ commissioned by the County Executive. No bills of quantities to establish the cost of the project were provided for audit. It is therefore not clear how the contract sum of Kshs.54,225,000 was arrived at. The traders irregularly occupied the stalls without the County Executive commissioning the project and the terms of rent payments were not specified.

In the circumstances, the public may not have obtained value for money on the expenditure of Kshs.40,217,531 incurred on the project.

793. Irregular Procurement of Fuel

Review of the payment documents revealed that a Local Purchase Order (LPO) for supply of fuel at a cost of Kshs.3,211,935 was issued to a supplier who was awarded the contract dated 8 February, 2022 through a Request for Quotation procurement method. However, this was contrary to Regulation 91(1) of the Public Finance Management (County Governments) Regulations, 2015 which provides that a procuring entity that procures using the Request for Quotations method pursuant to Section 105 of the Act, shall be subject to the procurement threshold in the Second Schedule which provides for a maximum of Kshs.3,000,000 per quotation under this method.

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

794. Avoidable Expenditure on Legal Fees

Review of documents revealed that an amount of Kshs.2,875,006 was paid to an advocate on behalf of a supplier Kshs.1,387,000 principal amount while Kshs.1,283,549 was the interest amount and Kshs.205,055 in respect of legal fee. This was in accordance with a court decree issued on 16 June, 2021. Failure to pay the supplier on time led the County Executive to incur a wasteful expenditure of Kshs.1,488,608 which could have been avoided had the Management acted on the court ruling on time.

In the circumstances, value for money on the expenditure of Kshs.1,488,608 could not be confirmed.

795. Unremitted Statutory Deductions

The statement of assets and liabilities reflects Kshs.142,746,114 in respect to accounts payables including deposits and retentions which, as disclosed in Note 11 to the financial statements includes Kshs.18,513,821 in respect of Pay As You Earn (P.A.Y.E) deductions which had been outstanding and had not been remitted as at 30 June, 2023. This was contrary to Section 7 of the Income Tax Act Cap 70 which states that an

employer paying emoluments to an employee shall deduct therefrom, and account for tax thereon, to such extent and in such manner as may be prescribed.

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

796. Irregular Payment on Road Maintenance Works

The statement of receipts and payments reflects acquisition of assets as disclosed in Note 7 to the financial statements of Kshs.822,498,889 which includes other infrastructure and civil works costing Kshs.351,331,924 out of which Kshs.5,817,740 expenditure is in respect of maintenance of Musiila-Ebukaya-Esibulo (Lot1); Mwitubwi-Jeraini (Lot2); and Sichenga-Mwitubwi (Lot3) roads. According to bills of quantity, the length of the roads were 3.6 kilometres whereas site visit revealed that only 2.5 kilometres was done leaving 1.1 KM not done which translates to irregular payment for work not done amounting to Kshs.1,777,642.

In the circumstances, the regularity and value for money on payment of Kshs.1,777,642 for the incomplete section of road could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

797. Failure to Automate and Install Revenue Collection System

Review of revenue documents and systems revealed that the County Executive use the automated revenue collection system as the installation works were still in progress. The County, therefore, continued to rely on manual method which is prone to abuse and may have contributed to the shortfall in revenue collection.

In the circumstances, the effectiveness of the internal controls on revenue collection could not be confirmed.

798. Weaknesses in Management of Imprest

Review of the schedules and the cash books revealed that surrenders of imprest were due from various officers between October, 2022 and June, 2023 without any attempt to recover the same from the affected officers' salaries. Further, imprest surrender vouchers from five (5) officers with an amount of Ksh.1,484,000 were not provided for audit.

In addition, an amount of Kshs.5,215,100 though surrendered was not updated in the imprest register.

In the circumstances, the effectiveness of internal controls in the management of imprests could not be confirmed.

799. Failure to Update Assets Register

Review of documents revealed that the assets register was incomplete and not up to date as it was lacking key information such as, tag numbers, date of delivery, responsible officer assigned a specific asset and assets condition. Physical inspection of assets revealed some of the assets in departments were missing while assets inherited from the defunct local authorities were yet to be included in the assets register.

In the circumstances, the effectiveness of internal controls in the management of fixed assets could not be confirmed.

COUNTY EXECUTIVE OF BUNGOMA - NO.39

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

800. Unconfirmed Cash and Cash Equivalents Balance

The statement of assets and liabilities reflects a balance of Kshs.398,159,872 in respect of cash and cash equivalents which, as disclosed in Note 10A to the financial statements, comprises of balances in twenty-one (21) bank accounts maintained by the County Government.

However, bank reconciliation statements for six (6) bank accounts reflect receipts in cash book not recorded in bank statements totalling Kshs.911,792,018. No explanation was provided on why the receipts had not been banked as at 30 June, 2023 or evidence of subsequent banking.

In the circumstances, the accuracy and completeness of the cash and cash equivalents balance of Kshs.398,159,872 could not be confirmed.

801. Variances Between Financial Statements and Integrated Personnel and Payroll Database (IPPD) Records

The statement of receipts and payments reflects an amount of Kshs.5,149,895,102 in respect of compensation of employees as disclosed in Note 3 to the financial statements. However, the Integrated Payroll and Personnel Database (IPPD) records reflect an amount of Kshs.4,913,595,705 resulting to un-explained and unreconciled variance of Kshs.236,299,397.

Further, review of the payment schedule provided for audit revealed variances in statutory deductions as tabulated below;

Description	Financial Statements (Kshs.)	IPPD Records (Kshs.)	Variance (Kshs.)
K.R.A	698,891,743	723,045,056	24,153,313
N.H.I.F	128,059,173	89,166,548	38,892,625
N.S.S.F	19,197,526	18,751,065	446,461
GOK PSS SCHEME	64,769,855	67,950,499	3,180,644
Provident Fund	483,962,439	541,577,065	57,614,626

In the circumstances, the accuracy and completeness of compensation of employees amount of Kshs.5,149,895,102 could not be confirmed.

802. Inaccuracy of Deposits and Retentions Balance

The statement of assets and liabilities reflects a deposits and retentions balance of Kshs.268,028,338 as disclosed in Note 12 to the financial statements. However, Note 10A on bank balances reflects a balance of Kshs.259,258,888 under deposits account resulting to an unexplained and unreconciled variance of Kshs.8,769,450.

In the circumstances, the accuracy and completeness of the deposits and retention balance of Kshs.268,028,338 could not be confirmed.

803. Unsupported Expenditure on Routine Maintenance of Vehicles

The statement of receipts and payments reflects an amount of Kshs.2,476,788,733 in respect of use of goods and services as disclosed in Note 4 to the financial statements. Included in this amount is Kshs.73,904,394 relating to routine maintenance - vehicles and other transport equipment. However, logbooks for services, repairs and maintenance undertaken, invoices, local services orders and user requisitions were not provided for audit.

In the circumstances, the completeness of the expenditure of Kshs.73,904,394 relating to routine maintenance – vehicles and other transport equipment could not be confirmed.

Emphasis of Matter

804. Budgetary Control and Performance

The statement of comparison of budget and actual amounts: recurrent and development combined reflects final receipts budget and actual on comparable basis amounts of Kshs.12,864,899,018 and Kshs.11,078,876,881 respectively, resulting to under-funding of Kshs.1,786,022,137 or 14% of the budget. Similarly, the statement reflects actual expenditure of Kshs.10,957,014,181 against approved budget of Kshs.12,864,899,018 resulting to under-performance of Kshs.1,907,884,837 or 15% of the budget.

The under-funding and under-performance affected the planned activities and may have impacted negatively on service delivery to the public.

805. Pending Bills

Note 1 under other important disclosures reflects a balance of Kshs.1,244,506,681 in respect of pending accounts payable. Included in this amount is a brought forward balance of Kshs.1,199,306,317, additions during the year of Kshs.729,082,458 and payments during the year of Kshs.683,882,094. However, explanation was provided on the failure to clear the long outstanding bills brought forward, which relate to the periods between 2015/2016 and 2021/2022.

Failure to settle bills during the year in which they are incurred distorts the financial statements for that year and adversely affects the budgetary provisions of the subsequent year.

My opinion is not modified in respect of these matters.

Other Matter

806. Unresolved Prior Year Matters

As disclosed under the progress on follow up of auditor's recommendations section of the financial statements, some of the prior year audit issues remained unresolved as at 30 June, 2023. Management has not provided satisfactory reasons for the delay in resolving the issues.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

807. Non-Compliance with Law on Fiscal Responsibility on Wage Bill

The statement of receipts and payments reflects an amount of Kshs.5,149,895,102 in respect of compensation of employees which represents 48% of the total receipts for the year of Kshs.10,732,728,072. This was contrary to Regulation 25(1)(b) of the Public Finance Management (County Governments) Regulations, 2015, which states that total expenditure on the wage bill for County Governments should not exceed thirty-five (35) percent of the County Government's total revenue.

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

808. Long Outstanding Imprests and Advances

The statement of assets and liabilities reflects accounts receivable - outstanding imprests and advances balance of Kshs.30,994,011 as disclosed in Note 11 to the financial statements which relates to Government imprest. Included in this amount is a balance of Kshs.26,494,350 relating to the period between 2016/2017 and 2021/2022 financial years. No explanation was provided for failure to clear the long outstanding imprest balances. This was contrary to Regulation 93(5) of the Public Finance Management (County Governments) Regulations, 2015 which requires a holder of a temporary imprest to surrender or account for the imprest within seven (7) days after returning to duty station.

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

809. Failure to Remit Statutory Contributions

Review of supporting schedules for statutory contribution revealed that as at 30 June, 2023, the County Executive was yet to remit monthly contributions amounting

to Kshs.766,330,463 relating to LAPFUND, LAPTRUST (Local Authorities) and LAPTRUST (County Pension Fund) made up of principal deductions and interest balances of Kshs.358,896,992 and Kshs.409,433,470 respectively. This was contrary to Section 19(4) of the Employment Act, 2007 which stipulates that an employer who deducts an amount from an employee's remuneration shall pay the amount to the relevant statutory body.

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

810. Payment of Salaries Outside the Integrated Personnel and Payroll Database (IPPD)

The statement of receipts and payments reflects an amount of Kshs.5,149,895,102 in respect of compensation of employees. Included in this amount is Kshs.1,838,448 being salaries paid to an average of four (4) employees per month outside the Integrated Personnel and Payroll Database (IPPD). This was contrary to Section 1.5.1 of the National Treasury Financial Accounting Recording and Reporting Manual which provides that personnel emoluments of County Government staff should be paid through IPPD.

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

811. Ineligible Payments to Members of the Public Service Board

The statement of receipts and payments reflects an amount of Kshs.5,149,895,102 in respect of compensation of employees as disclosed in Note 3 to the financial statements which includes Kshs.4,634,506,241 being payment for basic salaries of permanent employees. Out of this amount, Kshs.620,000 was incurred on basic salary and allowances for the Chairperson and members of the County Public Service Board during the year under review while an amount of Kshs.780,000 was paid as transport (commuter) allowances. It was not explained why the members were paid the allowance, while they served on full time basis, contrary to the provisions of Salaries Remuneration Commission circular on benefits and allowances payable to members of County Public Service Board.

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

812. Failure to Insure County Government Buildings and Structures

Annex 4 to the financial statements on summary of non – current assets register reflects a balance of Kshs.25,067,147,680 in respect of assets which includes Kshs.969,886,225 relating to buildings and structures. However, no evidence was provided to confirm that the County Executive insured the buildings and structures to mitigate against loss in case of disaster, contrary to Section 162(2)(c) of the Public Finance Management Act, 2012, which requires public officers to ensure that adequate arrangements are made for the proper use, custody, safeguarding and maintenance of public property and use the officer's best efforts to prevent any damage from being done to the financial interests of the County Executive.

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

813. Voided Transactions

During the year under review, payment vouchers totalling Kshs.1,887,973,460 relating to development and recurrent expenditure were voided as at 30 June, 2023. No explanation was provided on why the payments were voided after being approved by the Controller of Budget. Further, no evidence was provided to confirm that the Controller of Budget was informed of the voiding of the payments so as to make necessary adjustments.

In the circumstances, Management did not observe financial discipline.

814. Irregular Engagement of Temporary Workers

The statement of receipts and payments reflects expenditure of Kshs.5,149,895,102 in respect of compensation of employees as disclosed in Note 3 to the financial statements which includes Kshs.168,119,122 relating to basic wages of temporary employees. Included in the expenditures is an amount of Kshs.78,000,000 paid to three thousand two hundred and sixty-eight (3,268) volunteer community health workers serving in three hundred and twenty nine (329) community health units at a token payment at the rate of Kshs.2,000 per volunteer per month.

However, Management did not provide a needs assessment report, terms and conditions of the workers and reports from the field on achievements of the workers to support their identification and engagement. This was contrary to Section 37(1)(b) of the Employment Act, 2007 which provides that a casual employee is one who performs work which cannot reasonably be expected to be completed within a period or a number of working days amounting in aggregate to the equivalent of three months or more.

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

815. Failure to Provide Project Implementation Status

The Management did not provide for audit the current project implementation status per department as at 30 June, 2023. It was, therefore, not possible to ascertain the number of projects approved for implementation during the year, how many were completed, in progress not started.

In the circumstances, it was not possible to confirm whether the approved budget was executed as planned and whether value for money was obtained from the total funding for projects during the year.

816. Irregular Payment of Legal Fees

The statement of receipts and payments reflects an amount of Kshs.2,476,788,733 in respect of use of goods and services as disclosed in Note 4 to the financial statements which includes Kshs.545,546,564 relating to other operating expenses. This amount includes Kshs.17,073,558 paid to eight (8) law firms for provision of legal services to the County Government. However, procurement documents relating to the law firms including

advertisements, tender opening and evaluation minutes, professional opinion, letters of award and regret letters, were not provided for audit.

It was therefore not possible to ascertain how the consultants were identified and if proper procurement procedures were followed. This was contrary to Section 91(1) of the Public Procurement and Asset Disposal Act, 2015 which provides that open tendering shall be the preferred procurement method for procurement of goods, works and services.

In the circumstances, Management was in breach of the law and regularity of the legal fees of Kshs.17,073,558 could not be confirmed.

817. Non-Compliance with to One-third Basic Salary Rule

The statement of receipts and payments reflects an amount of Kshs.5,149,895,102 in respect of compensation of employees as disclosed in Note 3 to the financial statements which includes an amount of Kshs.4,634,506,241 relating to basic salaries of permanent employees. However, review of the Integrated Payroll and Personnel Database (IPPD) as at 30 June, 2023 revealed that an average of 256 employees were earning net salaries that were less than one-third of their basic salaries. This was contrary to Section 19(3) of the Employment Act, 2007 which provides that total deductions from salaries of employees shall not exceed two-thirds of the respective basic salaries.

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

818. Non-Compliance with Law on Ethnic Diversity

Records provided for audit review including the payroll indicate that during the year under review, the County Executive recruited fifty-three (53) new employees. However, out of this number, thirty-one (31) employees or 58% were from the dominant ethnic community in the County. This was contrary to Section 65(1)(e) of the County Governments Act, 2012 which provides that in selecting candidates for appointment, the County Public Service Board shall consider that at least thirty (30) percent of the vacant posts are not from the dominant ethnic community in the County.

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

819. Incomplete Construction of Kanduyi - Sangalo Junction Road to Dual Carriage Way

A local contractor was awarded a contract for construction of Kanduyi-Sang'alo junction road dual carriage-way to bituminous standards, a distance of 6.5 kilometers, at a contract sum of Kshs.1,382,442,976. The contract was signed on 15 January, 2019 with a commencement date of 12 July, 2019. The project took a period of 24 months, and was certified to be substantially complete on 20 July, 2022.

However, physical inspection conducted on 20 September, 2023 revealed that the works were not complete and the contractor was not on site. The following critical works which were part of the bills of quantities were not done: road furniture, street lighting and bituminous surface treatment and surface dressing.

In the circumstances, value for money for the expenditure of Kshs.1,382,442,976 could not be confirmed.

820. Delay in Construction of Misikhu - Naitiri - Brigadier Road

A local contractor was awarded a contract for the upgrading of Misikhu-Naitiri-Brigadier road, a distance of 39 Km, at a contract sum of Kshs.1,115,939,198. The expected completion date was 30 June, 2021 after several extensions of the contract period. A total of Kshs.621,138,926 or 56% of the contract sum had been paid to the contractor as at 21 September, 2023.

However, physical inspection conducted on 21 September, 2023 revealed that the contractor had only done 20 Km of the road, out of which 13 Km of the section done had started developing potholes in most of the parts even before the works were completed.

In the circumstances, value for money for the expenditure of Kshs.621,138,926 could not be confirmed.

821. Over Payment for Construction of Masinde Muliro Stadium

During the year under review, Management contracted a local firm for construction of Masinde Muliro Stadium at Kanduyi, at a contract sum of Kshs.679,386,379 and a contract period of 24 months from 14 June, 2019 to be completed on 31 January, 2021. However, physical inspection conducted on 21 September, 2023 revealed that out of the total contract sum of Kshs.679,386,376, Kshs.582,849,313 or 86% had already been paid to the contractor against 70% of works done. No explanation was provided on the overpayment against actual works done. It was also observed that the actual payments of Kshs.582,849,313 included Kshs.40,200,000 paid in relation to preliminary expenses which were not supported. The expenditure of Kshs.582,849,313 also included Kshs.10,000,000 paid as contingencies but was not supported by appraisal of work done.

It was further observed that roofing works was sub-contracted to another contractor at a contract sum of Kshs.96,822,150. However, the sub-contracting agreement between the main contractor and the sub-contractor was not provided for audit. It was therefore not possible to ascertain the terms of agreement and the actual scope of works sub-contracted. In addition, no documentary evidence was provided inform of a report by the implementation committee to the accounting officer on the outcome of the project contrary to Regulation 138(7) of the Public Procurement and Asset Disposal Regulations, 2020 which states that review meeting status reports that include executive summary, report on the performance of activities and budget by the implementation team be done and forwarded to the accounting officer.

In the circumstances, the actual implementation progress and value for money incurred on the stadium could not be confirmed.

822. Irregular Re-allocation Between Programs/ and Sub-votes

During the year under review, the Department of Agriculture, Livestock, Fisheries, Irrigation and Co-operatives budgeted to spend Kshs.55,780,000 on purchase of

fertilizers. However, the supplementary budget provided for audit indicated that the budget was increased to Kshs.270,000,000 representing a 384% increase. No evidence was provided to confirm that the increase in the budget was approved by the County Treasury and County Assembly as required by Regulation 30(8) of the Public Finance Management (County Governments) Regulations, 2015.

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

823. Un-Utilised Completed Webuye Milk Plant Phase 1

The County Executive Management awarded a contract to a local construction company in 2018/2019 financial year for construction of a dairy processing plant in Webuye at a contract sum of Kshs.146,181,786. However, during field inspection carried out on 20 September, 2023, it was observed that the milk processing plant was not in use, had not been equipped or handed over to the users. No explanation was provided on why the plant had not been put to use.

Further, records available indicated that the County Executive was charged a penalty of Kshs.7,452,847.63 for late settlement of Certificate Number 1 valued at Kshs.22,263,623.63. No explanation was provided on what prompted the late settlement, hence the penalty.

In the circumstances, value for money for the expenditure of Kshs.146,181,786 could not be confirmed.

824. Irregularities in Construction of Maternal Child Ward Block

The County Executive Management awarded a contract to a local contractor in 2018/2019 for construction of a maternal child ward block in Bungoma Teaching and Referral Hospital at a contract sum of Kshs.299,370,092.20 and a contract period of twenty six (26) months ending 6 October, 2023. According to the last interim payment certificate No. 8, the total value of work done as at 28 October, 2023 was Kshs.260,655,436.60 representing 87% of the total contract sum. The amount included Kshs.14,954,500 incurred as preliminary expenses but which were not supported by insurance cover policy, procurement records and supporting schedules.

Further, Management issued variation of works amounting to Kshs.59,704,656 without following due process, since a request from the contractor, re-measurement sheet by the resident engineer and approval from the client were all done after the contractor had completed the work. This was contrary to Section 132(2)(a) of Public Procurement and Asset Disposal Regulations, 2020 which provides that any variation request shall be reviewed by the contract implementation team.

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

825. Irregular Payment for Installation, Repair and Maintenance of Grid Powered Street Lights

The Management awarded a contract to a local construction company for installation, repair and maintenance of grid powered street lights throughout the County at a contract sum of Kshs.19,060,076. However, records available indicated that the contractor was paid the full contract sum although the contract was incomplete as ground mounted metals control pillar, a 4-way surface mounted consumer unit was not done, a 6-way surface mounted consumer unit and trench back filling were not done.

Further, 25 amps single phase cut out was not installed, the 400 watts ultra-high-powered led floodlights was done but not to the specifications. In addition, erection of 6 publicity sign and cable glands for terminating overhead cables was not done.

In the circumstances, value for money for the expenditure of Kshs.19,060,076 could not be confirmed.

826. Failure to Transfer Functions to Kimilili and Bungoma Municipality Boards

The County Executive established Kimilili and Bungoma Municipalities on 1 October, 2021 by awarding the two Municipalities their respective Charters as required by the Urban Areas and Cities Act, 2011. However, although the Municipalities were established in 2021, four critical functions had not been transferred to the two Boards by the County Executive as at 30 June, 2023. These are: approval of building plans, collection of revenue, enforcement activities, and refuse and garbage collection.

No explanation was provided for the failure to transfer the functions to the two Municipality Boards as required by the law.

In the circumstances, Management was breach of the law.

827. Grounded Motor Vehicles, Motorcycles and Machinery

Review of motor vehicles records revealed that a total of two hundred and eighteen (218) motor vehicles were grounded and un-serviceable. Further, the County Executive did not have an annual disposal plan of items declared as unserviceable, surplus or obsolete, obsolescence stores, asset or equipment. This was contrary to Regulation 176(1) of the Public Procurement and Asset Disposal Regulations, 2020 which requires an accounting officer to ensure that an annual asset disposal plan is prepared on items declared as unserviceable, surplus or obsolete, obsolescence stores, asset or equipment.

In addition, ownership documents for the grounded motor vehicles and motorcycles were not provided for audit review. The existence of some of them could not be confirmed as they were from the defunct local authority but could not be located physically.

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

828. Non-Maintenance of an Updated Fixed Assets Register

Annex 4 on summary of non-current assets register reflects an historical cost balance of Kshs.25,067,147,680 which includes a balance of Kshs.11,782,085,015 in respect of land. However, records maintained by the County Executive indicate that, between financial years 2017/2018 and 2021/2022, the County Government purchased a total of thirty-five (35) parcels of land valued at Kshs.18,700,000 and an additional eight (8) parcels in 2022/2023 financial year valued at Kshs.13,270,000. Although the forty-three (43) parcels of land had been fully paid for as at 30 June, 2023, the County Executive had not acquired title deeds for all the parcels valued at Kshs.31,970,000. Further, the County Government did not budget for related administration costs to cover for valuation fees, survey fees, stamp duty, registration fees, laying of beacons and fencing charges.

In addition, the County Executive did not maintain and provide an updated asset register of assets contrary to Regulation 136(1) of the Public Finance Management (County Governments) Regulation, 2015 which requires the Accounting Officer to be responsible for maintaining a register of assets under his or her control or possession.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

829. Composition of Audit Committee and Failure to Operationalize Risk Management Policy Framework

As reported previously, review of the audit committee members' appointment letters and the audit committee meeting minutes revealed that as at 30 June, 2023, the Committee lacked one independent member. The position fell vacant on 4 December, 2018. Further, the County Executive was yet to operationalize the approved risk management policy framework and did not have an updated risk register.

In addition, the internal audit function had issued four quarterly reports presented to the Management through Audit Committee for consideration and implementation, which included issues on governance, risk management and internal controls and wastages. However, there was no evidence that the Management had taken initiative to implement the recommendations.

In the circumstances, effectiveness of internal controls, risk management and governance of the County Executive could not be confirmed.

830. Lack of Policy Documents

During the year under review, the County Executive did not have an approved staff establishment document. Even though the County Executive had drafted various policy documents like Human resource and procedure manual, staff establishment guidelines, casual's policy, career progression, succession plan policy, recruitment plan and ICT

policy documents and procedures relevant for the effective management of its public service, none of them had been approved by the County Assembly for adoption and implementation.

In the circumstances, it was not possible to confirm whether the current staff affairs were fairly handled.

COUNTY EXECUTIVE OF BUSIA - NO.40

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

831. Irregularities in the Compensation of Employees

The statement of receipts and payments reflects compensation of employees amount of Kshs.2,759,066,747 as disclosed in Note 3 to the financial statements. However, the following unsatisfactory matters were observed;

831.1 Irregular Payment of Commuter Allowance

Review of supporting documents revealed that the expenditure includes an amount of Kshs.1,066,451 paid to the County Secretary and Members of the County Public Service Board as transport (commuter) allowance. However, payment of commuter allowance to full time members of the County Public Service Board was contrary to Salaries and Remuneration Commission Circular Ref. SRC/TS/CGOVT/3/61 Vol. IV (49) of 8 December, 2017.

831.2 Misstatement of Compensation of Employees

The compensation of employees amount of Kshs.2,759,066,747 includes an amount of Kshs.43,352,068 paid to three (3) insurance providers for provision of insurance services and excludes payments totalling Kshs.744,011,131 incurred on employee costs but wrongly charged to use of goods and services. As a result, the expenditures on compensation of employees and use of goods and services are misstated by the same amounts.

In the circumstances, the regularity, accuracy and completeness of compensation of employees and use of goods and services expenditures of Kshs.2,759,066,747 and Kshs.744,011,131, respectively could not be confirmed.

832. Unsupported Expenditures and Balances

832.1 Insurance Costs

The statement of receipts and payments reflects use of goods and services amount of Kshs.1,883,687,039 as disclosed in Note 4 to the financial statements which includes an amount of Kshs.98,882,847 in respect of insurance costs. The payment was made to an Insurance Company as part-payment for provision of medical insurance cover for two thousand nine hundred and forty-one (2,941) members of staff, the members of the County Public Service Board and their eligible dependents for a period of six (6) months, between 8 June, 2023 to 8 November, 2023 at a contract sum of Kshs.143,269,588. However, the payment was not supported by a detailed list of the beneficiaries staff covered by the medical insurance plan, indicating their full names, personal numbers, job groups, names of eligible dependents and copies of birth or child adoption certificates.

832.2 Deposits and Retentions

The statements of assets and liabilities and as disclosed in Note 12 to the financial statements reflects deposits and retentions balance of Kshs.5,104,361. However, the balance includes an amount of Kshs.4,139,884 transferred to two (2) commercial bank accounts, for which the nature and purpose were neither explained nor supported.

832.3 Domestic Travel and Subsistence

The statement of receipts and payments reflects use of goods and services amount of Kshs.1,883,687,039 as disclosed in Note 4 to the financial statements, which includes an amount of Kshs.141,545,416 in respect of domestic travel and subsistence. However, the expenditure includes an amount of Kshs.1,600,000 that was not supported by payment vouchers and other supporting documents.

In the circumstances, the accuracy, completeness and regularity of insurance costs, deposits, domestic travel and subsistence amounting to Kshs.98,882,847, Kshs.4,139,884 and Kshs.1,600,000 respectively could not be confirmed.

Emphasis of Matters

833. Budgetary Control and Performance

The statement of comparison of budget and actual amounts (recurrent and development combined) reflects final receipts budget and actual amounts on comparable basis of Kshs.8,666,685,093 and Kshs.7,293,544,081 respectively, resulting to under-funding of Kshs.1,373,141,012 or 16% of the budget. Similarly, the County Executive spent Kshs.6,580,867,577 against an approved budget of Kshs.8,666,685,093 resulting to under-performance of Kshs.2,085,817,516 or 24% of the budget.

The under-funding and under-performance affected the planned activities and may have impacted negatively on service delivery to the public.

834. Pending Bills

As disclosed in Note 17.1 to the financial statements, other important disclosures are pending accounts payable balance of Kshs.1,941,629,827. However, Annex 2 indicates that some of the bills relate to the period between 2013/2014 and 2021/2022. Had the bills been paid and settled during the year under review, the statement of receipts and payments could have reflected deficit for the year of Kshs.2,019,497,251 instead of Kshs.77,867,424 currently reflected. Failure to settle bills in the year to which they relate to adversity affects the budgetary provisions of the subsequent financial year to which they have to be charged.

My opinion is not modified in respect of these matters.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

835. Failure to Enlist Permanent and Pensionable Staff on Pension Scheme

Review of the June, 2023 Integrated Payroll and Personnel Database (IPPD) revealed that two hundred and fifty-two (252) employees engaged on permanent and pensionable terms in January, 2021, and had not attained forty-five years of age at the commencement of the Public Service Superannuation Scheme Act, 2012, and were therefore eligible for enlisting in the Scheme as at 30 June, 2023. However, the two hundred and fifty-two (252) employees had not been enlisted in the scheme.

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

836. Non-Compliance with Law on Ethnic Composition

During the year under review, the County Executive had three thousand seven hundred and sixty-seven (3,767) employees, out of which, two thousand one hundred and eighty-seven (2,187) or 58% were from the dominant ethnic community in the County. This was contrary to Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 that states that, “all public offices shall seek to represent the diversity of the people of Kenya in the employment of staff and that no Public Institution shall have more than one-third of its staff establishment from the same ethnic community.

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

837. Irregular Terms of Employment

Review of the Integrated Payroll and Personnel Database (IPPD) revealed that the County Executive had a total of three thousand seven hundred and sixty-seven (3,767) employees as at 30 June, 2023, out of whom seventy-one (71) continued to serve on probation terms despite having served for periods ranging from seventy-three (73) to three hundred and twenty-two (322) cumulative months. This was contrary to the provisions of Section B.16(1) of the Public Service Commission Human Resource Policies and Procedures Manual, 2016 on appointment on probation to pensionable establishment which gives a period of six (6) months.

In the circumstances, Management was in breach the law.

838. Non-Compliance with the One-Third Basic Salary Rule

During the year under review nine hundred and thirty-one (931) employees earned net salaries that was less than one-third of their basic salaries. This was contrary to Section 19(3) of the Employment Act, 2007 which provides that the total deductions from salaries of employees shall not exceed two-thirds of their respective basic salaries.

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

839. Irregular Operation of Revenue Bank Accounts

During the year under review, the County Executive operated five (5) revenue collection accounts held at commercial banks with five (5) Mpesa pay bill numbers for revenue collection. This was contrary to Regulation 82(1)(b) of the Public Finance Management (County Governments) Regulations, 2015, which provides that all County Government bank accounts shall be opened at the Central Bank of Kenya except for imprest accounts for petty cash. No reason was provided for operating the five (5) revenue accounts.

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

840. Unsupported Procurements

840.1 Integrated Revenue Collection and Management System and Hospital Information Management System

The County Executive awarded a tender to a company for supply, delivery, installation, customization and commissioning of an Integrated Revenue Collection and Management System and a Hospital Information Management System at a contract sum of Kshs.59,885,232. However, procurement documents in support of the contract were not provided for audit.

840.2 Renovation of the Governor's Lounge

The County Executive awarded a contract to a company for renovation of the Governor's lounge at a contract sum of Kshs.29,954,265. However, procurement documents in support of this contract were not provided for audit review.

In the circumstances, the regularity and value for money for the above procurements could not be confirmed.

841. Irregularities in the Construction of Parking Areas within Busia Municipality

Review of the payment details in the Department of Lands, Housing and Urban Development revealed that various self - help groups were paid an amount of Kshs.29,249,621 for construction of parking areas within various designated areas in Busia Municipality. However, review of documents revealed that procurement requisitions were not attached to the payment vouchers.

Further, the County Executive and One Stop Boarder Self-help Group entered into a contract for laying of cabros at One Stop Border within Busia Municipality at a contract sum of Kshs.4,707,940. However, a transfer of Kshs.7,674,828 was made to the group and thus an unexplained overpayment of Kshs.2,966,888.

In addition, another contract was entered between the County Executive and Polytechnic Parking Self Help Group for laying of cabros at polytechnic parking area within Busia Municipality at a contract sum of Kshs.7,397,720. However, a transfer of Kshs.7,674,828 was made to the group and thus an unexplained overpayment of Kshs.277,108. Physical inspection of the projects carried out in the month of August, 2023 revealed that at hospital parking lot project, Polytechnic parking lot project, one stop border post project

and Agricultural Training Centre parking project, no works were ongoing and the projects had been abandoned with only site clearance and murraming done.

In the circumstances, value for money for the above projects could not be confirmed.

REPORT ON THE EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

842. Lack of Approved Staff Establishment

Review of the June 2023 payroll revealed that during the year under review, the County Executive paid three thousand seven hundred and sixty-seven (3,767) and forty (40) employees through the Integrated Payroll and Personnel Database (IPPD) and manual payrolls respectively. Out of this number, three (3) staff were promoted while thirty seven (37) were recruited during the year. However, verification carried out revealed that the County Executive did not have an approved staff establishment during the year, and therefore the optimal staffing levels for all cadres of staff had not been established. Management did not also explain or specify the mechanisms it relied upon to identify existence of vacancies to be filled during the year.

In the circumstances, the effectiveness of internal controls relating to staff establishment could not be confirmed.

843. Weak Internal Controls in the Revenue Automation

During the year under review the County Executive automated part of its revenue collection streams through the Busia County Revenue Collection System managed by the County ICT Department with back up and support from a vendor. However, it was not possible to confirm which revenue streams had been automated and the modules in use. Further, there were no reports generated from the system detailing consolidated revenue collection from all the revenue collection streams including the arrears accruing from non-payment of revenue for the year under review. In addition, there were no well defined backup and archiving procedures that are central to data management process.

Site visit in the month of September, 2023 at Malaba Border office revealed that two (2) revenue streams: bus parking fees and transit produces cess were managed through the POS gadgets. It was noted that there were challenges in collection of fees from moving vehicles and motorcycles. Further, the POS gadgets generate more than one receipt causing conflicting reconciliations. In addition, the gadgets are linked whereby a collector can access another collector's information when generating receipts.

In the circumstances, the existence of an effective revenue automation system could not be confirmed.

844. Lack of Inventory on House Rent Revenue

During the year under review, the County Executive had house rent revenue budget estimate of Kshs.2,463,294. However, the County Executive did not contain details of all

its housing units, the occupancy, name of the occupants and employer details, rates chargeable per unit and arrears, (if any). It was therefore not possible to reconcile the revenue collected from deductions of rent payment through the payroll system.

In the circumstances, lack of an up-to-date record on house rent may lead to loss of revenue.

845. Failure to Grant Access to Business Permit System

During the year under review, the County Executive had Single Business Permit (SBP) budget estimate of Kshs.67,973,538. The SBP revenue stream has been fully automated and collections are done through the Busia County Pro Revenue System. At the time of audit in September, 2023, review of the system could not be carried out since access to the system was not granted.

In the circumstances, the revenue collected through SBP could not be confirmed.

846. Lack of an Updated Fixed Assets Register

Annex 6 to the financial statements on summary of non-current assets register reflects a balance of Kshs.9,691,573,128 as the historical cost of non-current assets of the County Government. However, valuation report and the detailed fixed assets register reflecting assets details on; name, date of acquisition, cost, supplier, unique identification number, location and custodian, were not provided for audit.

In the circumstances, the existence of an effective internal controls in safeguarding the non-current assets could not be confirmed.

847. Use of Manual Payroll

During the year under review, the County Executive operated two payrolls, a manual payroll and IPPD, to pay salaries of its permanent and pensionable staff and those on contract. The manual payroll requires manual calculation of monthly deductions such as PAYE, NHIF, and NSSF and the Net salary by the human resource officers, and may be prone to errors.

In the circumstances, the existence of an effective control in management of compensation of employees could not be confirmed.

COUNTY EXECUTIVE OF SIAYA - NO.41

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

848. Unconfirmed Compensation of Employees

The statement of receipts and payments and as disclosed in Note 3 to the financial statements reflects compensation of employees amount of Kshs.2,666,925,706. Analysis of the Integrated Personnel and Payroll Database system (IPPD) payroll revealed that five hundred and sixty-two (562) employees received arrears totalling Kshs.77,924,317 for more than one instance during the year under review yet there were no multiple salary reviews during the year to warrant the payments. Management did not provide justification for the payments.

Further, eight hundred and twenty-nine (829) employees received payment in arrears amounting to Kshs.26,138,527 during the year under review. The earnings in arrears did not relate to normal payroll payment lines and were not supported with documentation to justify their payment.

In the circumstances, the accuracy, completeness and propriety of the compensation of employees' expenditure totalling Kshs.104,062,844 could not be confirmed.

849. Use of Goods and Services

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects an amount of Kshs.1,723,881,709 in respect of use of goods and services. However, the following anomalies were observed:

849.1 Unconfirmed Domestic Travel and Subsistence Allowance

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects an amount of Kshs.425,830,173 relating to domestic travel and subsistence allowance, while the general ledger reflected an amount of Kshs.436,397,099, resulting to an unexplained and unreconciled variance of Kshs.10,566,926. Further, the following unsatisfactory matters were observed under domestic travel and subsistence allowances;

- i. An amount of Kshs.50,337,841 was paid as daily subsistence allowances to seventeen (17) members of staff. This amounted to an average of Kshs.3,000,000 per staff member in the year. This was deemed excessive as it meant that the staff members were out of their work station for a period exceeding six (6) months in the year under review.

- ii. An amount of Kshs.2,485,000 was paid to four (4) Members of the County Assembly of Siaya. However, this was irregular as the County Assembly had its own budget for such activities.

In the circumstances, the completeness and accuracy of the expenditure on domestic travel and subsistence allowances could not be confirmed.

849.2 Unconfirmed Training Expenses

The statements of receipts and payments and as disclosed in Note 4 to the financial statements reflects an amount of Kshs.104,277,620 in respect to training expenses. Review of records provided for audit revealed the following unsatisfactory matters:

- i. The County Executive of Siaya paid an amount of Kshs.7,903,000 to fifty-nine (59) Members of the County Assembly of Siaya and the secretariat as facilitation for budget implementation review at a Kisumu Hotel. The Executive established that the payment did not create a conflict of interest between the two arms of Government. However, it was not clear why the executive paid the amount yet it is the constitutional mandate of the County Assembly to conduct an independent oversight role on the executive and incur expenditure from their approved budget.
- ii. An amount of Kshs.854,000 was paid as tuition allowances to three (3) members of the County Assembly. No justification was provided for this payment.
- iii. Tuition fees were paid directly to members of staff instead of the institutions that were offering the training.
- iv. Twelve (12) staff members were each paid an amount of Kshs.1,000,000 and above for training. However, it was not clear the kind of training that these members of staff were undergoing.
- v. Eleven (11) members of staff were paid Kshs.17,631,891 as tuition allowances, and at the same time were paid Kshs.25,771,710 as daily subsistence allowance. However, the nature of the training was not disclosed and payment of daily subsistence was not justified.

In the circumstances, the accuracy, completeness and propriety of the training expenditure of Kshs.104,277,420 could not confirmed.

849.3 Inaccuracies in Insurance Costs

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects an expenditure of Kshs.203,130,936 on insurance costs. Review of records provided for audit revealed that the County Executive entered into a contract for provision of comprehensive medical Insurance, group life and last expense cover at a

renewable annual premium of Kshs.175,044,059. However, as per payment vouchers and payment schedules provided for audit total premium paid was Kshs.197,433,346 resulting to an unexplained variance of Kshs.22,389,287.

In addition, an amount of Kshs.5,697,590 was paid for motor vehicle insurance. However, details of the insured motor vehicles were not provided for audit review. Further, the other properties owned by the County Executive were not insured during the year under review, thereby exposing the County Executive assets to loss in case of a calamity.

In the circumstances, the accuracy, completeness and propriety of the insurance cost amount of Kshs.203,130,936 could not be confirmed.

849.4 Unconfirmed Specialized Materials and Services Amount

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects an amount of Kshs.296,708,998 incurred on specialized materials and services. However, the supporting documents provided for audit indicated an amount of Kshs.287,404,014, resulting to an unexplained variance of Kshs.9,304,984.

Further, expenditure of Kshs.3,085,685 and Kshs.19,070,261 relating to office equipment and computers, and motor vehicles respectively were erroneously charged to specialized materials and services.

In the circumstances, the accuracy and completeness of the expenditure on specialized materials and services could not be confirmed.

849.5 Unconfirmed Other Operating Expenses

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects an amount of Kshs.395,513,749 relating to other operating expenses. However, review of records provided for audit revealed that an amount of Kshs.396,123,169 was incurred on other operating expenses resulting to an unexplained variance of Kshs.609,420. Further, expenditures of Kshs.18,320,067, Kshs.9,543,877 and Kshs.8,000,000 relating to daily subsistence allowances, payments to hotels and payments to travel agencies respectively all totalling Kshs.35,863,944 were erroneously charged to other operating expenses.

In the circumstances, the accuracy and completeness of other operating expenses amount of Kshs.395,513,749 could not be confirmed.

849.6 Unexplained Voided Transactions

Analysis of the Integrated Financial Management Information System (IFMIS) system payments indicated that one thousand, one hundred and three (1,103) transactions amounting to Kshs.874,756,305 were voided during the year under review. However, no evidence was provided to confirm that the Controller of Budget was informed of the voiding of the payments so as to make necessary adjustments and approval. In addition, review of payment details revealed that two transactions amounting to Kshs.15,914,003 were paid but could not be traced to specific approved budget line item.

In the circumstances, the propriety of the voided transactions could not be confirmed.

850. Unconfirmed Other Grants and Transfers

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflects an amount of Kshs.443,690,505 relating to other grants and transfers. The amount includes Kshs.70,000,000 in respect to emergency Fund. However, records provided for audit reflected an amount of Kshs.22,328,126, while the Siaya County Emergency Fund records indicated an amount of Kshs.73,200,000. The resulting variances have not been reconciled or explained.

Further, analysis of the IFMIS payment details indicates that payments totalling Kshs.97,054,171 were irregularly charged to other grants and transfers although they were payments made to suppliers and individuals and were therefore not transfers.

In the circumstances, the accuracy and completeness of other grants and transfers amounting to Kshs.443,690,505 could not be confirmed.

851. Inaccuracies in the Acquisition of Assets Amount

The statement of receipts and payments and as disclosed in Note 9 to the financial statements reflects an amount of Kshs.1,399,932,650 relating to acquisition of assets. The amount includes construction and civil works amount of Kshs.366,975,466. However, supporting ledger reflects expenditure of Kshs.361,375,242 resulting in an unexplained variance of Kshs.5,600,224. Further, acquisition of assets amount includes purchase of vehicles and other transport equipment expenditure of Kshs.35,340,260, which differed from the supporting ledger reflects an amount of Kshs.34,580,000, resulting to an unexplained variance of Kshs.760,261.

In the circumstances, the accuracy and completeness of acquisition of assets expenditure of Kshs.1,399,932,650 could not be confirmed.

852. Unsupported Retentions and Deposits Balance

The statement of assets and liabilities and as disclosed in Note 15 to the financial statements reflects a balance of Kshs.1,328,997 in respect of deposits and retentions. Included in the balance is a balance of Kshs.1,097,272 in respect of deposits. However, the balance was not supported by a schedule and certificate of bank balance.

In the circumstances, accuracy and completeness of deposits balance of Kshs.1,097,272 could not be confirmed.

Emphasis of Matter

853. Pending Bills

Note 1,2 and 3 to the financial statements under other important disclosures reflects pending accounts payable, pending staff payables and other pending payables of Kshs.741,559,698, Kshs.14,017,705 and Kshs.72,521,137 respectively, all totalling Kshs.828,098,540. However, Management has not explained why the bills were not settled during the year they occurred.

Further, Note 1 to the financial statements under other important disclosures reflects pending accounts payable balance of Kshs.741,559,698, while the supporting schedules reflect a balance of Kshs.766,110,894, resulting in an unexplained variance of Kshs.24,551,196.

Failure to settle bills during the year to which they relate distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge. In addition, the accuracy and completeness of pending accounts payable balance of Kshs.741,559,698 could not be confirmed.

854. Budgetary Control and Performance

The statement of comparison of budget and actual amounts (recurrent and development combined) reflects final receipts budget and actual amounts on comparable basis of Kshs.7,282,707,041 and Kshs.6,388,024,849 respectively, resulting to under-funding of Kshs.894,682,192 or twelve (12%) per cent of the budget. Similarly, the County Executive spent Kshs.6,361,286,418 against an approved budget of Kshs.7,282,707,041 resulting to an under-expenditure of Kshs.921,420,623 or thirteen (13%) per cent of the budget.

The under-funding and under-expenditure affected the planned activities of the County Executive and affected service delivery to the citizens.

My opinion is not modified in respect of these matters.

Other Matter

855. Un-Resolved Prior Year Matters

In the audit report of the previous year, several issues were raised under Report of the Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources and Report on the Effectiveness of Internal Controls, Risk Management and Governance. However, the Management has not resolved some of the issues or explained failure to address them as required by the National Treasury Circular No.AG 3/88/VoL.II(27) dated 9 May, 2023.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

856. Non-Compliance with Fiscal Responsibility on Wage Bill

The statement of receipts and payments and as disclosed in Note 3 to the financial statements reflects an amount of Kshs.2,666,925,706 in respect of compensation of employees. The amount is forty-two (42%) percent of the County Executive total revenue of Kshs.6,388,024,849 which exceeds the recommended 35% as provided by Regulation

25(1)(a) and (b) of the Public Finance Management (County Governments) Regulations, 2015.

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

857. Stalled Projects

857.1 Construction of ECD Classroom

Review of documents provided for audit revealed that payments amounting to Kshs.2,570,332 were made to a company for construction of Early Childhood Development (ECD) classrooms block at Kirindo primary school. The contract was awarded to a company on 3 January, 2022 at a contract sum of Kshs.3,888,053 for a contract period of sixteen (16) weeks. Physical inspection of the project in November, 2023 revealed that the construction of the classrooms works had stalled and the following works were not started or completed: installation of steel windows and steel doors, floor screeding and tiling, plastering and electrical works, despite the contractor having being paid Kshs.2,570,332 by 30 June, 2023. Further, the contractor was not on site and there was no evidence provided for extension of the contract.

857.2 Construction of Siaya Town Bus Park

The County Executive entered into a contract on 7 August, 2020 with a company to construct a bus park in Siaya Town at a contract sum of Kshs.23,014,867. The expected completion date was 22 February, 2021. Review of the project file revealed that the project was terminated at the request of the contractor on 2 June, 2023 after having been paid a total of Kshs.17,582,978.

Physical inspection of the project in the month of November, 2023 revealed that the construction works had stalled and construction works abandoned.

857.3 Construction of Modern Markets

Review of contracts records provided for audit revealed that the County Executive engaged various contractors for construction of modern markets across the county in the year under review. Physical inspection of the projects carried out in September, 2023 revealed that the projects were incomplete and their contract period had lapsed as detailed below:

857.3.1 Construction of Modern Market in Ukwala Market

The contract was awarded to a commercial investment firm on 16 March, 2021 for Kshs.5,740,187.46, the contract period was sixteen (16) weeks and a total of Kshs.4,252,545 had been paid to date. Site visit to the project revealed that works including, floor works, market stalls and electrical works were incomplete. The performance bond had expired at the time of audit and the contractor had abandoned the project.

857.3.2 Construction of Nyadorera Modern Market

The contract was awarded to a firm on 15 March, 2022 at a contract sum of Kshs.11,665,784 for a period of sixteen (16) weeks. A total of Kshs.8,532,406 had been paid as at 30 June, 2023. Physical inspection of the project in November, 2023 revealed incomplete works including floor works, surface works, painting of office and construction of toilet blocks. The performance bond had expired at the time of audit and the contractor was not on site.

857.3.3 Fencing and Graveling Works at Akala and Ramba Markets

The County Executive engaged a firm to fence and construct a pit latrine at Akala market and fencing and graveling works at Ramba market at a contract price of Kshs.7,715,774 with the contract agreement made on 22 May, 2022 and expected completion date of 15 July, 2022. Review of an interim payment certificate issued on 22 June, 2022 indicated that eighty-eight (88%) percent of the works had been completed at Ramba Market Siaya township ward and a payment was made on 22 November, 2022. However, a visit to the site in October, 2023 revealed that the contractor had not completed the remaining 12% of the works and the market was already in use. There was also no signage of the project.

In addition, an interim payment certificate issued on 22 June, 2022 indicated that fifty-five (55%) percent of work had been completed at Akala Market in South Gem ward and a payment was made on 22 November, 2022. However, a visit to the site in October, 2023 revealed that the contractor had not completed the remaining 45% of the works and the market was already in use. There was also no signage of the project. Overall, only seventy-three (73%) of the works had been completed.

In the circumstances, value for money on the expenditure incurred on the stalled projects could not be confirmed.

858. Unexplained Re-location of Water Drilling and Equipping Project

Review of contract records provided for audit revealed that the County Executive entered into an agreement with a construction Company on 29 March, 2023 for the drilling and equipping of Aila VTC borehole at a contract sum of Kshs.4,479,975. The inspection and acceptance report and the invoice attached to the payment voucher indicated that works at Aila VTC borehole had been fully executed. Physical inspection carried out in August, 2023 at Aila VTC revealed that no drilling and equipping of borehole was undertaken at the institution. Management explained that the works had been executed at a different location but did not provide any documentary evidence.

In the circumstances, the existence of the project for drilling and equipping of the borehole could not be established.

859. Irregular Escalation of Project Cost

The contract for the construction of a stadium was signed on 30 August, 2018 between County Executive and a construction company at a contract sum of Kshs.394,661,767

starting 01 January, 2019 to 06 December, 2019. The contract sum was revised to Kshs.488,716,823 resulting to a variation of Kshs.94,055,056 or 24%. However, there was no evidence of recommendations by an evaluation committee for these variations contrary to Section 139(1) and (2) of the Public Procurement and Asset Disposal Act, 2015.

A new contract for roof works was entered into separately on 14 September, 2022 between the County Executive and an investments company at a contract sum of Kshs.35,512,450. This, therefore, pushed up the construction cost of stadium to Kshs.524,229,273 resulting to a variation amount of Kshs.129,567,506 or 32%.

Total payments made to the contractors as at the time of audit stood at Kshs.425,038,687 being Kshs.410,833,706 to the main contractor and Kshs.14,204,980 to the roofing contractor.

Management did not provide satisfactory reasons for the new contract and contract variations on the roof works envisaged in the original contract.

Physical inspection of the Stadium in September, 2023 revealed that the project was incomplete more than forty-four (44) months from inception. Pending works included sports pitch, main pavilion (substructure, roofing and rainwater disposal, windows, doors, electrical/mechanical engineering services), terraces, Amphitheatre, the installations of the electrical fittings, plumbing fittings and the roof works. The contract period lapsed in July, 2023.

In the circumstances, Management was in breach of the law and value for money on expenditure of Kshs.425,038,687 for the construction of Siaya County Stadium could not be confirmed.

860. Delayed Implementation of Enterprise Resource Planning (ERP) Management Information System

Review of records provided revealed that the County Executive entered into a contract on 10 August, 2021 for a period of Sixteen (16) weeks with a contractor for supply, installation, configuration, customization, testing, commissioning and support of an Enterprise Resource Planning (ERP) Management Information System at a contract sum of Kshs.72,420,000.

The service provider had been paid a total of Kshs.28,000,000 as at June, 2023. Interviews with information Communication Technology (ICT) personnel revealed that the system was still under development stage twenty-four (24) months after signing of the contract. Management did not give satisfactory reasons for delays in implementation of the ERP.

In the circumstances, value for money on the expenditure of Kshs.28,000,000 could not be confirmed.

861. Unmarked and Unfenced Acquired Land

During the year under review, the department of Health acquired land in East Yimbo for a Biotech and Research Centre from an Orphanage Ministry through the Department of Lands, Housing and Physical Planning measuring approximately 23.99H (59.27929 Acres) at a cost of Kshs.32,900,005. The county has acquired a valid title deed from the Registrar of Lands.

However, physical Inspection of the parcel of land revealed that the land was neither fenced nor beacons making it hard to determine the boundaries. This poses a major challenge of security and risks of encroachment which might lead to land disputes.

862. Irregular Promotions

Review of the County Executive IPPD payroll for the year under review revealed that twenty-eight (28) employees were re-designated from their Job groups contrary to the requirements of Section B.21(1) of the Public Service Commission Human Resource and Procedure Manual, 2016.

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

863. Long Outstanding Tax Arrears

Review of the list of pending bills provided for audit revealed that the County Executive owed Kenya Revenue Authority an amount of Kshs.142,262,146. However, this tax obligation had been outstanding for over two (2) years as at 30 June, 2023.

In the circumstances, the County Executive is at risk of incurring additional cost in terms of penalties and interest.

864. Non-Compliance with One-Third of Basic Salary Rule

Review of the payroll for the month of June, 2023 revealed that the County Executive one hundred and eighteen (118) employees earned a net salary of less than a third ($\frac{1}{3}$) of the basic salary. This was contrary Section 19(3) of the Employment Act, 2007 which provides that the total amount of all deductions which under the provisions of subsection (1), may be made by an employer from the wages of his employee at any one time shall not exceed two-thirds of such wages.

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

865. Non-Compliance with Law on Staff Ethnic Composition

Review of the payroll for the County Executive revealed that the total number of employees on the payroll were one thousand, nine hundred and fifty (1,950) out of which one thousand, six hundred and ninety-seven (1,697) or eighty-seven or 87% of the total number were members of the dominant ethnic community in the county. This was contrary to Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 that states that, "all public offices shall seek to represent the diversity of the people of Kenya in the

employment of staff and that no public institution shall have more than one-third of its staff establishment from the same ethnic community.

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

REPORT ON THE EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusions

866. Weaknesses in Inventory Management

The County Executive through the Department of Agriculture, Livestock and Fisheries procured fertilizers, maize seeds, and fish feeds at a cost of Kshs.113,402,681. Review of records provided revealed that the suppliers were distributing the items directly to sub county offices for final distribution to the intended users. Physical inspection on the receipt and delivery of the items revealed that the distribution centers did not maintain stores records such as bins cards or stock control cards to manage the inventory effectively and efficiently.

For instance, at the Rarieda and Alego- Usonga sub-county stores, although the distribution lists of beneficiaries of the 10kg NPK 23:23 fertilizers were provided, the officers in charge could not determine the exact balance in the stores at the days of verification on 31 August, 2023 and 6 September, 2023 respectively.

In the circumstances, the effectiveness of internal controls on inventories management could not be confirmed.

867. Failure to Update Asset Register

Review of the asset register provided for ICT equipment and computer accessories revealed that it did not contain details such as the name of the assets procured, serial numbers, current condition of the items and location of the equipment purchased in respect to the fifteen (15) items purchased during the year worth Kshs.9,280,798.

In the circumstances, the effectiveness of internal controls in management of ICT equipment could not be confirmed.

868. Outstanding Imprests

Management provided a list of all outstanding staff imprests which were due for surrender on or before 30 June, 2023. Review of the imprest records provided revealed the following weaknesses:

- i. Imprests amounting to Kshs.47,838,660 were outstanding for more than three hundred (300) days. Management did not provide any evidence of taking action with a view to recover the imprests.
- ii. Management issued several imprests to officers on 30 June, 2023 amounting to Kshs.9,218,750 on the eve of the closure of the financial year.

- iii. Several officers held multiple imprests. This was contrary to Regulation 93 (8) of the Public Finance Management (County Governments) Regulations, 2015 which provides that to effectively and efficiently manage and control the issue of temporary imprests, an accounting officer shall ensure that no second imprest is issued to any officer before the first imprest is surrendered or recovered in full from his or her salary.

In the circumstances, the effectiveness of internal controls on imprests management could not be confirmed.

869. Lack of an Audit Committee

Review of internal controls and governance structure for the County Executive revealed that the Executive operated without an audit committee during the year under review. The Internal Auditor reported directly to the Governor through the County Executive Committee Member (CECM) responsible for finance and economic planning structurally and functionally. This was contrary to the internal audit charter that provides that there shall be an Audit committee and the internal auditor shall report to the audit committee structurally and functionally to the CECM Finance.

In the circumstances, the internal audit function was not operating independently, and the effectiveness of internal controls and governance could not be confirmed.

870. Un-Settled Court Awards

Review of legal records provided for audit revealed that the County Executive failed to pay court awards for judgements entered against the County Executive amounting to Kshs.32,219,224.

In the circumstances, the County Executive is exposed to risk of additional costs in terms of fines, penalties and interest.

COUNTY EXECUTIVE OF KISUMU - NO.42

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

871. Anomalies in Cash and Cash Equivalents

The statement of assets and liabilities reflects cash and cash equivalents balance of Kshs.365,945,566 which, as disclosed in Note 8 to the financial statements consists of bank balances of Kshs.365,843,516 and cash balances of Kshs.102,050. However, review of the bank reconciliation statements for the various accounts held by the County Executive revealed the following anomalies:

- i. Cash and bank records including cashbooks, bank reconciliation statements and certificates of bank balances for fifteen (15) bank accounts with balances totalling Kshs.22,774,117 were not provided for review.
- ii. The bank reconciliation statement for the Kisumu County Dairy Enterprises Development Account maintained at Central Bank of Kenya (CBK) reflects payments in the cash book not recorded in the bank statement (unpresented cheques) totalling Kshs.991,761 and the dates they were later presented to the bank were not provided for audit review.
- iii. The bank reconciliation statement for the Kisumu County Transforming Health Bank Account revealed payments in bank statement not in cash book of Kshs.10,107,604 in respect of interbank transfers. No explanation was provided on how expenditure was incurred without being accounted for in the cash book. Further, the Management did not explain the nature of the payments and why they had not been posted to the cash book as at 30 June, 2023.
- iv. The bank reconciliation statements for six (6) bank accounts as at 30 June, 2023 reflects balances totalling Kshs.27,130,581 while Note 8A to the financial statements reflects Nil balance. Management made a disclosure to the bank accounts under other important disclosures which was not adequately explained.

In the circumstances, the accuracy and completeness of the cash and cash equivalents balance of Kshs.365,945,566 could not be confirmed.

872. Misclassification of Expenditure

The statement of receipts and payments reflects an amount of Kshs.1,234,220,223 in respect to use of goods and services and as disclosed in Note 3 to the financial statements.

The amount includes an expenditure of Kshs.19,249,924 relating to communication, supplies and services out of which Kshs.7,722,638 was spent on procurement of computers and printers.

In addition, included in the amount is expenditure of Kshs.177,814,736 on domestic travel and subsistence out of which several expenditure items, totalling Kshs.66,883,865 were not of domestic travel and subsistence in nature and others which were not adequately supported as follows;

Description	Amount (Kshs)
Payment as Daily Subsistence Allowance for a Trip in Israel	1,816,036
Study Visa to Israel	2,220,560
Payment to ICPAK as Training Expenses	327,000
Payment for Income Tax	4,282,800
Payments to a Commercial Bank	53,420,906
Wages Remittances	741,400
Payment as Staff Stall Allowances	874,500
Payment to County Assembly's Agriculture Committee	924,000
Payment to a Construction Company as Retention Money Refund for the Kabayi Irrigation Scheme	1,634,663
Payment for Catering Items in Cash	642,000

In the circumstances, the accuracy and classification of use of goods and services amount of Kshs.74,606,503 could not be confirmed.

873. Unsupported use of Goods and Services

The statement of receipts and payments reflects an amount of Kshs.1,234,220,223 in respect of use of goods and services as disclosed in Note 3 to the financial statements. Review of documents provided revealed the following anomalies;

873.1 Domestic Travel and Subsistence Allowances

The use of goods and services expenditure includes an amount of Kshs.177,814,736 incurred on domestic travel and subsistence. An expenditure of Kshs.3,918,900 relating to resource mobilization was paid for board committees, subsistence allowances, catering services, conferences and seminars. However, applications for imprests, list and signed attendance registers of participants, breakdown of items purchased in receipts/invoices and itinerary for field visits were not provided for review. Further, Seven (7) members of staff were paid Kshs.16,491,985 as domestic travel and subsistence allowances which translates to an average of Kshs.2,000,000 per staff member during the year under review. However, the amount appears exaggerated as it implies that the staff members were away from their work stations for between 100 and 200 days during the year, which is not practical.

873.2 Communication, Supplies and Services

The amount also includes an expenditure totalling Kshs.6,128,710 paid to three (3) consultancy firms that included an audit firm. However, it was not clear what kind of communication services were being offered by an audit firm and how the services were procured.

873.3 Rent and Rates

Further, included in the use of goods and services expenditure is an amount of Kshs.11,331,274 relating to rent and rates. Review of payment vouchers provided revealed that Kshs.1,217,018 was paid in respect of car hire for County visitors for various activities. However, no plausible justification was provided for use of privately hired vehicles despite the County Executive and other related agencies having operational vehicles. Further, payments amounting to Kshs.3,720,000 were made in respect to logistic services. However, supporting documents were not provided for review.

873.4 Unsupported Training Expenses

The use of goods and services expenditure also includes an amount of Kshs.20,193,911 relating to training expenses which further includes an amount of Kshs.5,828,300 paid to three (3) members of staff for training and accommodation allowances. However, the same staff members are indicated to have received an amount of Kshs.7,348,090 on daily subsistence allowances while on official duty. It was not clear what was the kind of training being offered to these officers. It is also not clear how the three individuals managed to be on official duty, while at the same time they were attending training. In addition, Kshs.510,151 was paid to the Commissioner of Domestic Taxes and charged to training expenses.

873.5 Hospitality, Supplies and Services

The use of goods and services includes an amount of Kshs.111,126,700 paid for hospitality, supplies and services which further includes an amount of Kshs.4,800,000 paid to a member of staff. However, Management has not explained why the amount was paid to the member of staff instead of being paid directly to the service providers.

874. Unsupported Legal Expenses

Included in the use of goods and services amount is other operating expenses of Kshs.241,138,696 out of which Kshs.44,600,165 was incurred on legal services. Review of the expenditure revealed the following anomalies:

- i. Documents such as list of pending legal cases, outstanding legal fees per case, stage of proceedings of each case, fees paid up to date per case, breakdown of legal fees in fee notes and evidence of court attendance, rate as per Advocates Remuneration Roll, statements or ledgers of Advocates accounts and case files showing the value of each case were not provided for review.
- ii. The Management engaged a legal consultant to defend the County in an employment case seeking reinstatement of over thirty (30) former employees. Review of the fee note raised amounting to Kshs.6,960,000 revealed that Kshs.2,000,000 was paid during the year under review. However, the pending bills schedule provided reflected that the whole amount of Kshs.6,960,000 was still outstanding as at 30 June, 2023. Further, documents provided indicated that there

was a notice of appeal on 2 November, 2017 by the claimants but the Management did not provide any update on the status of the appeal.

- iii. Similarly, Management engaged a law firm for gazettelement of various appointments and registration of Lake 42 Ventures at a cost of Kshs.1,740,000. However, it was not clear why the Management engaged the firm on a function meant for the County Executive legal office.
- iv. Review of payments amounting to Kshs.2,000,000 and Kshs.3,000,000 respectively indicated that Management contracted a firm to provide services for drafting Kisumu County Economic and Social Council, Kisumu County Law Office and Kisumu Village Bills. However, the procurement documents on how the legal firm representing the County Executive was identified and appointed as well as contractual agreement were not provided for review. Management also engaged Advocates to prepare First Spouse Bill and Kisumu County Investment and Development Regulations at a cost of Kshs.4,000,000. However, the firm was identified through direct procurement. No reason was provided by Management for engaging in a role that would ideally be processed by the County Assembly. Further, the status of the enactment of the bills by the County Assembly was not provided for review.

In the circumstances, the accuracy, completeness and regularity of use of goods and services expenditure of Kshs.82,985,078 could not be confirmed.

875. Unsupported Voided Transactions

Review of expenditure analysis and voided payments register obtained from the Integrated Financial Management Information Systems (IFMIS) revealed that eight hundred and eleven (811) payment transactions with a total expenditure of Kshs.1,063,432,081 had been voided during the year under review. However, no documentary evidence was provided to support authorization for voiding of the transactions which had been approved and funded by the Controller of Budget. In addition, the details of the payments made in place of those that were voided together with approvals from Controller of Budget were not provided for review.

In the circumstances, the accuracy and propriety of the voided transactions amounting to Kshs.1,063,432,081 cancellations could not be confirmed.

876. Compensation of Employees

The statement of receipts and payments reflect compensation of employees amount of Kshs.4,374,160,138 as disclosed in Note 2 to the financial statements. Review of records in respect of the expenditure revealed the following anomalies;

876.1 Unsupported Increase in Compensation of Employees

Comparison of the salaries and wages paid in June, 2022, July, 2022 and August, 2022 revealed unexplained variation. The wages paid in July, 2022 amounted to

Kshs.435,316,300 which was an increase of Kshs.118,842,497 or 38% from previous month's wages of Kshs.316,473,803.

Similarly, there was an increase in the wages by Kshs.47,183,061 or 11% in the month of August to Kshs.482,499,361 from previous months wages. Further, a comparison between June, 2022 and June, 2023 IPPD data revealed that one thousand, two hundred and sixty-eight (1,268) employees were in the payroll for June, 2023, yet they were not in the previous year's payroll. Records on new recruitments provided for audit review indicated that only two hundred and thirty (230) employees were newly appointed resulting to one thousand and thirty eight (1,038) new employees whose evidence of appointment was not provided for review.

876.2 Overpayment of Salaries and Allowances

Review of payment and human resource records revealed the following matters;

- (i) Thirty-three (33) employees had an over payment of basic pay of Kshs.1,769,730.
- (ii) For the twelve (12) months from July, 2022 to June, 2023 five (5) employees had an over payment of house allowance of totalling Kshs.224,900.
- (iii) Two (2) employees had an overpayment of Kshs.12,000 in respect of commuter allowance.
- (iv) Sixteen (16) employees had an overpayment of leave allowance of Kshs.304,181.
- (v) Analysis of the IPPD data for the year under review revealed that sixty-three (63) employees received arrears amounting to Kshs.5,660,993 on allowances which they were not entitled to.

876.3 Variances in Compensation of Employees

The statement of receipts and payments reflects compensation to employees of Kshs.4,374,160,138. However, the amount is at variance with the payroll ledger amount of Kshs.4,633,007,878 resulting to unreconciled and unexplained variance of Kshs.258,847,740. Further, records provided for audit revealed that an amount of Kshs.232,706,482 was paid by a commercial bank on behalf of the County Executive in a financing arrangement. However, an amount of Kshs.26,141,258 remained unreconciled between the payroll ledger and the statement of receipts and payments.

In the circumstances, the accuracy and completeness of the compensation to employees amount of Kshs.4,374,160,138 could not be confirmed.

Emphasis of Matter

877. Budgetary Control and Performance

The statement of comparison of budget and actual amounts (recurrent and development combined) reflects final receipts budget and actual on comparable basis of Kshs.11,111,397,362 and Kshs.8,533,526,659 respectively, resulting to an under-funding of Kshs.2,577,870,703 or 23% of the budget. Similarly, the County Executive spent an amount of Kshs.8,439,183,251 against an approved budget of Kshs.11,111,397,362, resulting to an under-expenditure of Kshs.2,672,214,111 or 24% of the budget. Management has attributed the low absorption due to delayed disbursements by the National Treasury coupled with delayed clearances by the Controller of Budget.

The under-funding and under-expenditure affected the planned activities and may have impacted negatively on service delivery to the public.

878. Delayed Transfers from the County Revenue Fund

The statement of receipts and payments reflects exchequer releases totalling Kshs.8,533,526,659 and as disclosed in Note 1 to the financial statements which includes an amount of Kshs.594,888,816 received by the County Executive from The National Treasury towards the end of the month of June, 2023. In addition, other exchequer releases amounting to Kshs.1,389,758,573 were disbursed by The National Treasury in the month of July, 2023 for the budgeted funds for 2022/2023 financial year. The late exchequer releases had adverse effects on the implementation of the planned activities and projects by the County Executive.

879. Pending Bills

The financial statements under other important disclosures reflects pending bills totalling Kshs.2,038,281,553 as disclosed in Note 14 (1) in respect of construction of buildings, construction of civil works, supply of goods and services. However, review of the supporting documents revealed that pending accounts payables opening balance is indicated as Kshs.2,429,762,663 while the audited financial statements for 2021/2022 reflected a balance of Kshs.2,416,382,496 resulting to unreconciled and unexplained variance of Kshs.13,380,167. Analysis of the supporting schedule revealed that four (4) firms had the pending bills balance in excess of the contract amount and no explanation was provided for this anomaly.

In addition, pending bills amounting to Kshs.1,932,521,289, which should have been paid as a first charge in 2022/2023 financial year were still outstanding as at 30 June, 2023. Included in the balance are some pending bills dating back to the year 2014. Management did not provide an explanation why the long outstanding bills were not taken as a first charge and prioritized for payments in the subsequent years.

Further, failure to settle bills during the year to which they relate adversely affects service delivery for the subsequent year since pending bills forms first charge in the budget for the subsequent year.

My opinion is not modified in respect of these matters.

Other Matter

880. Unresolved prior Year Matters

In the audit report of the previous year, several issues were raised under report on Financial Statement, Report on Lawfulness and Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, the Management did not provide any explanations for the delay in revolving the issues.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

881. Long Outstanding Imprests

The statement of assets and liabilities reflects outstanding imprests and advances balance of Kshs.41,505,499 which includes imprest totalling Kshs.14,250,776 which have been outstanding for more than one year, dating back to 2013/2014 financial year. Management has not provided any explanation for not recovering the long outstanding imprests from the salaries of the defaulting officers. Further, several officers held multiple imprests totalling Kshs.2,571,187. This was contrary to Regulation 93(5) and (8) of the Public Finance Management (County Government) Regulations, 2015 which requires that imprest be surrendered or accounted for within 7 working days after returning to duty station and prohibits issuing of new imprests to officers with outstanding imprests. In addition, the ageing analysis provided for audit indicated that the movement of the imprest balances reflected a decrease from the prior year balance of Kshs.54,120,090 to Kshs.31,084,115. However, no evidence of subsequent surrender or recovery of outstanding imprests of Kshs.12,614,591 was provided for audit review.

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

882. Training Undertaken Without Needs Assessments

Review of the operations of the Human Resource Section of the County Executive revealed that there was no comprehensive training needs assessment in place. This was contrary to Section 33 of the Public Service Recruitment and Training Policy which requires that all trainings be based on comprehensive training needs assessment that should be carried out on annual basis.

In the circumstances, the training may not have been effective in the enhancement of service delivery to the public.

883. Lack of Staff Establishment

The County Executive did not have an approved staff establishment in place for confirmation on whether the current staffing level was optimal. This was contrary to Section B6(3) of the County Public Service Human Resource Manual, 2013 which states that County Executive should have appropriate organizational structure in each Department, optimal staffing level, schemes of service and career progression guidelines.

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

884. Lack of an Annual Recruitment Plan

An analysis of the payroll for the financial year under review revealed that the County Executive recruited ten (10) Chief Officers and eighteen (18) Departmental Directors. However, the Human Resource Department did not prepare and submit the recruitment plans to the County Public Services Board. This was contrary to Section B (2)(1) of the Human Resource Policies and Procedures Manual for the Public Service of May, 2016 which requires every public entity to prepare Human Resource Plans to support achievement of goals and objectives in their Strategic plans and that the plans shall be based on comprehensive job analysis and shall be reviewed every year to address emerging issues and needs.

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

885. Lack of Human Resource Plans

The County Public Service Board operated without Human Resource Plans as required by Section B2 of the Human Resource Policies and Procedures Manual for the Public Service, 2016 that requires every department to prepare human resource plans out of which annual recruitment plans will be developed and forwarded to County Public Service Board at the beginning of each financial year to enable planning to fill the vacancies. Further, the Management did not develop, update and maintain a skills inventory for all officers in their respective state departments for purposes of identifying the available, and the required skills to guide training, recruitment and succession management decisions.

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

886. Retention of Staff Beyond Mandatory Retirement Age

Review of the payroll provided for audit revealed that thirty-four (34) employees who had attained the retirement age of sixty (60) years were still appearing in the June, 2023 payroll. This was contrary to Section D.21 of the Human Resource Policies and Procedures Manual, 2016 on mandatory retirement age which states that all officers shall retire from the service on attaining the mandatory retirement age of sixty (60) years, and sixty (65) years for persons with disabilities. Management did not provide reasons for the irregular retention of the employees beyond the mandatory retirement age.

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

887. Non-Compliance with One-Third Rule on Salary Deductions

Review of the County Executive payroll for the year revealed that in the month of June, 2023, ninety-four (94) employees earned a net salary of less than 1/3 of their basic salary contrary to Section C.1(3) of the Public Service Commission (PSC) Human Resource Policies and Procedures Manual, 2016, which states that public officers shall not over-commit their salaries beyond two thirds (2/3) of their basic salaries.

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

888. Non-Compliance with Guidelines on Acting Positions

Review of Human Resource documents revealed that Management paid thirty (30) of it's officers special duty allowance for a duration exceeding six (6) months. This was contrary to Section C.15 of the Public Service Commission Human Resource Policies and Procedures Manual, 2016, which states that the payment of special duty allowance will not be payable to an officer for more than six (6) months. Further, review of payroll records revealed that twenty-nine (29) officers were performing duties of posts that were more than two (2) grades higher than their substantive grades contrary to Section C 15(3) of the Public Service Commission Human Resource Policies and Procedures Manual for the Public Service, 2016 which states that officers shall not be called upon to perform duties of a post that is more than two (2) grades higher than the officer's substantive grade.

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

889. Failure to dispose Grounded Motor Vehicles and Machineries

Review of the status of the County Executive's fleet of motor vehicles and machineries revealed that defective and unserviceable motor vehicles have been grounded in parking yards in the County Executive parking for a considerable long period of time. However, no explanation was given on why the unserviceable motor vehicles and transport equipment's have not been bonded and earmarked for disposal in line with Section 163(1) of the Public Procurement and Asset Disposal Act, 2015 which requires an accounting officer to establish a disposal committee as and when prescribed for the purpose of disposal of unserviceable, obsolete, or surplus stores, equipment, or assets.

Further, the County Executive had not prepared an annual disposal plan of items declared as unserviceable, surplus, or obsolete, asset or equipment. This was contrary to Regulation 176(1) of the Public Procurement and Asset Disposal Regulations, 2020 which requires an Accounting Officer to ensure that an annual assets disposal plan is prepared of items declared as unserviceable, surplus or obsolete stores, asset or equipment.

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

890. Irregular Payments to the Council of Governors

Review of payment records revealed that an amount of Kshs.3,000,000 was paid to the Council of Governors. The amount comprises of Kshs.2,000,000 paid towards annual intergovernmental contribution and Kshs.1,000,000 being annual contributions towards legal fees. However, Management did not provide justification for the payments since the Council has its own budget as provided by Section 37 of the Inter-Governmental Relations Act, 2012, which states that operational expenses in respect of the structures and institutions established by the Act shall be provided for in the annual estimates of revenue and expenditure of the National Government.

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

891. Irregular Payment to Kisumu All Stars Members Football Players

An expenditure of Kshs.5,128,560 was incurred in respect of Kisumu All Stars football players and the technical bench personnel. Information provided indicated that the employees had been engaged as revenue officers but deployed in the Department of Sports as support staff. In addition, evidence of the tasks for which they were paid, their job descriptions, duty stations and their terms of engagement were not provided for review.

In the circumstances, the value for money regularity of the expenditure of Kshs.5,128,560 on compensation to employees could not be confirmed.

892. Excess Staff for the Office of the Governor and Deputy Governor

Review of records obtained from the Human Resource Management indicated that the Governor and Deputy Governor's office had a total number of forty-seven (47) employees who were Governor's appointees. This is a contravention of the Transition Authority and the Salaries and Remuneration Commission requirements on limit of staff to be appointed by the Governor. Included in the list of Governor's appointees are eight (8) liaison officers who were deployed in the sub-counties to act as focal point of contact with the local communities, leaders and other stakeholders and perform other duties assigned to them by the Governor. However, such designations are not in the Salary and Remuneration Commission Job Description guidance for the County Governments.

Further, the County Public Service Board (CPSB) appointed ten (10) members to the Town Management Committees in Municipalities of Katito Pap-Onditi, Kombewa Bodi, Maseno-Holo, Muhoroni-Chemelil and Ahero-Awasi. However, no information was provided regarding the designations, terms of engagement and their remuneration.

In the circumstances, the regularity of the recruitment of the members of the committees could not be confirmed.

893. Unused Automated Revenue System

Included in the expenditure for acquisition of assets is an amount of Kshs.10,000,000 paid to a consultant for provision of automation of e-Revenue Management System. The

firm was awarded the tender in September, 2018 at a contract sum of Kshs.64,202,500. Payment records provided for audit indicate that the service provider made a payment demand of Kshs.32,101,250 on 21 March, 2019 and the first installment of Kshs.19,853,019 was paid in the financial year ended 30 June, 2019. However, the inspection and acceptance reports were not provided for review. In addition, information and explanations provided by the user department indicated that deliverables for phase III had not been met on go live on the liquor licensing module.

Further, Management had incurred an expenditure of Kshs.29,853,019 by the time of audit in the month of November, 2023 and the Department of Revenue does not have access to the system while the Management has already initiated procurement of a new system. The Management was in breach of the contract for delayed payments and the County Executive risks incurring avoidable costs in form of penalties and interest.

In the circumstances, value for money for the amount of Kshs.29,853,019 spent on non functional Revenue Management System could not be confirmed.

894. Procurement of Fuel from Non-Prequalified Suppliers

An amount of Kshs.2,662,655 was paid to various service providers of fuel, oil and lubricants. However, the County Executive awarded these orders to suppliers who were not prequalified under the respective categories contrary to Section 106(2)(a) of Public Procurement and Asset Disposal Act, 2015. Further, a framework agreement was not used as the preferred procurement method for fuel and there was no evidence of mini competition performed amongst the framework suppliers' contrary to Section 114(3)(b) of the Public Procurement and Asset Disposal Act, 2015.

Further, the procurement of fuel under quotation valued at Kshs.3,000,000 was made outside the e-procurement system contrary to Regulation 49(2) of the Public Procurement and Asset Disposal Regulations, 2020 which provides that the conduct of e-procurement procedures for the supply of goods, works and services shall be carried out by a procuring entity using an e-procurement system, which is integrated to the State Portal. In addition, fuel was directly procured by the Department of Education at a cost of Kshs.900,000 contrary to Section 91 of the Public Procurement and Asset Disposal Act, 2015 which provides that open tendering shall be the preferred procurement method for procurement of goods, works and services. No justification was provided for the direct procurement.

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

895. Unjustified Procurement Method

During the year under review, Management awarded a tender for the supply and delivery of BT and Hybrid Cotton Seeds at a cost of Kshs.3,625,000. However, Management used Request for Quotation instead of open tender to procure the items whose cost were beyond the prescribed threshold of Kshs.3,000,000. This was contrary to Regulation 26 of the Public Procurement and Asset Disposal Regulations, 2020 which states that the threshold matrix shall be as provided for in the second schedule and Section 45(3)(b) of the Public Procurement and Asset Disposal Act, 2015 which states that all procurement

processes shall be undertaken by a procuring entity as per the threshold matrix prescribed.

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

896. Procurement Done Outside e-Procurement Portal

The County Executive expended Kshs.16,806,552 on research studies, project preparation, design and supervision. However, review of the procurement records indicated that Management did not procure the goods through e-procurement as required under Regulation 49(2) of the Public Procurement and Asset Disposal Regulations, 2020 and the Executive Order No. 2 of 2018, Part IV which provide that procuring entities shall undertake all their procurement through the e-procurement module on IFMIS.

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

897. Unsupported Tender Evaluation and Awarding Process

Review of sampled payment vouchers revealed that goods amounting to Kshs.29,281,455 were supplied and delivered, but the Management did not provide the following procurement records for review;

- i. Tender and Evaluation Committee reports, signed and initialed on each page as well as the full names and designation of the members as per Section 80(1) of the Public Procurement and Asset Disposal Act, 2015 that requires the evaluation committee to evaluate and compare the responsive tenders.
- ii. Letter, of notification of award to the successful tenderer which was issued in accordance with Section 87 of the Public Procurement and Asset Disposal Act, 2015 which requires that a person submitting the successful tender be notified under subsection (1), the accounting officer of the procuring entity also notify in writing all other persons submitting tenders that their tenders were not successful, disclosing the successful tenderer as appropriate and reasons thereof.
- iii. Letters of acceptance from the successful bidder as per Section 87(2) of the Public Procurement and Asset Disposal Act, 2015.
- iv. Notification to unsuccessful bidders in accordance with Section 87(3) of the Public Procurement and Asset Disposal Act, 2015.
- v. Market survey reports in accordance with Regulation 90(1) (c)(ii) of the Public Procurement and Asset Disposal Regulations, 2020 which states that an accounting officer shall not enter into a contract under Section 104 of the Act unless it is satisfied that the offer is at the prevailing real market price.

In the circumstances, the regularity of the expenditure amounting to Kshs.29,281,455 on purchase of goods could not be confirmed.

898. Irregularities in Framework Agreements

The Department of Finance and Economic Planning entered into framework agreements with various suppliers for provision of hotel and accommodation services and security and guard services on 27 February, 2023 and 19 May, 2023. However, review of procurement records revealed that the agreements for five (5) firms were not signed or dated by the said service providers and witnessed contrary to Section 135(1) of the Public Procurement and Asset Disposal Act, 2015 which states that the existence of a contract shall be confirmed through the signature of a contract document incorporating all agreements between the parties and such contract shall be signed by the Accounting Officer or an officer authorized in writing by the Accounting Officer of the procuring entity and the successful tenderer. In addition, no evidence was provided for review to confirm that the Head of Supply Chain Management issued a Professional Opinion and that the same was approved by the accounting officer as required before the extension award on hotel and accommodation services.

Further, procurement documents which include regret letters sent to the unsuccessful bidders, notification of award and acceptance of the award letters and contract agreement were not provided for review.

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

899. Irregular Commitments and Expenditures

Procurement records provided for review indicated that expenditure commitments and contracts totalling Kshs.5,497,005 made in June, 2023 were done contrary to Regulation 50(1) of the Public Finance Management (County Governments) Regulations, 2015, which states that all commitments for supply of goods and services shall be done not later than 31st May each year except with express approval of the accounting officer.

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

900. Unutilized Medical Equipment

Procurement documents provided for audit indicate that the Management entered into agreement with a firm for supply and delivery of medical equipment at a cost of Kshs.17,179,900 at the Pap Onditi Nyakach Sub-County Hospital on 20 June, 2022. Management paid Kshs.11,028,900 and Kshs.6,151,000 on 16 January, 2023 and 29 June, 2023 respectively. However, the distribution list indicating the recipients and stores records such as S3 forms and S11 forms indicating how the items were received and issued were not provided for review.

In addition, the appointment to departmental inspection and acceptance committee was made on 16 March, 2023 and pointed out that the meeting was to be held on 23 March, 2023. However, it was not clear if the meeting was held as no report of the committee was provided for review, contrary to Section 48(4)(e) of the Public

Procurement and Asset Disposal Act, 2015 which states that the inspection and acceptance committee shall issue interim or completion certificates or goods received notes, as appropriate and in accordance with the contract. Further, physical inspection carried out in the month of August, 2023 revealed that the equipment was delivered on 8 August, 2022 but had been lying idle for thirteen (13) months.

In the circumstances, value for money for the amount of Kshs.17,179,900 spent on medical equipment could not be confirmed.

901. Un-Procedural Termination of Construction of a Cancer Center

As reported in the previous year, Management entered into a contract with a firm for proposed construction of a Cancer Centre at Jaramogi Oginga Odinga Teaching and Referral Hospital at a contract price of Kshs.165,622,113. The contract was signed on 11 May, 2020 for a period of eighteen (18) months ending November, 2021. However, the project status report provided for review dated 17 February, 2022 reflected 61% progress of works twenty-one (21) months after the lapse of the contract. Information provided indicated that the Management of the Hospital communicated to the contractor indicating that the client is sufficiently convinced that the project had been frustrated by factors beyond the Client, Contractor and the Project Manager. Therefore, the contract was terminated by mutual consent. However, the termination was contrary to Regulation 141(4) of the Public Procurement and Asset Disposal Regulations, 2020 which states that an accounting officer of a procuring entity may approve the termination of a contract upon request by the Head of Procurement function. The request for approval shall clearly state the reasons for termination, the contractual grounds for termination and the cost of terminating the contract. The Management did not provide for review the requisite details on the termination of the project.

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

902. Acquisition of Assets

902.1 Delayed Completion of Namba Kapiyo-Lolwe Road to Bitumen Standards

The County Executive of Kisumu entered into a contract with the National Youth Service (NYS) for upgrading to bitumen standard the Namba Kapiyo–Lolwe 8 kms road at a cost of Kshs.221,183,468 for a period of twelve (12) months effective 19 October, 2021. An amount of Kshs.130,892,628 was paid during the year under review.

Review of the expenditure records revealed that an amount of Kshs.142,045,912 or 64% of the contract sum had already been paid to the contractor. Physical inspection carried out in August, 2023 revealed the following:

- i. The contract period had expired and there was no evidence of approval for contract extension. In addition, the project was ongoing but at a slow pace.
- ii. Only 4.3 km have been tarmacked out of the 8km required. Cement treatment for subbase and base had been done for 1.8km from the 4.3km stretch that had already

been tarmacked. The earth works had been done for the whole 8km stretch. Culverts had been partly installed with the works pending on the 1.9kms that had only been cleared.

- iii. There was no evidence that the Project Management Committee held any site meetings to assess the implementation of the project.

902.2 Poorly Implemented Road Projects

A contract for construction of Kabete-Magadi, road was awarded to a contractor in respect of opening, grading, gravelling and installation of 600mm culverts for the 1.5km road. An amount of Kshs.2,998,233 was paid towards the project during the year under review. During projects inspection exercise carried out in August, 2023, it was noted that the first 500m stretch was not gravelled as per the bill of quantities. Further, the second culvert installed was poorly done, no formwork was done and it remained exposed making the road impassable. The last 300m stretch was not gravelled to standard with a half noted to have been encroached for farming activities.

Further, Kshs.3,999,603 was paid for improvement of Walter-Nyamgun Access Road. During project verification exercise in August, 2023, it was noted that backfilling in one of the culverts was not done as it was exposed. It was not clear how and why the certificate of completion was issued yet the works were incomplete as per the bill of quantities.

In the circumstances, value for money on the expenditure of Kshs.6,997,836 on the projects could not be confirmed.

902.3 Construction of Water Projects

A contract was awarded for drilling and equipping of water supply at Kamori. The contract was for the supply and installation of a 5m² plastic storage tank including all pipe works, stop cocks and surrounding guide rail to secure the tank in place. The contractor was paid Kshs.3,025,219 during the year under review. However, physical inspection revealed that the contractor had not supplied or installed the tank. Further, it was noted from the PMC minutes that the water levels at the drilled borehole were too low which was an indication that the project's feasibility study was poorly done.

Similarly, Management awarded a contract to a contractor for laying of pipes and installing a tank at the Wanganga Primary School being Wanganga Water Project Phase II. Physical inspection of the project in August, 2023 revealed that piping works done via a church to the secondary school were vandalized. No evidence was provided by the Management to indicate measures which were in place to secure installations from vandalism.

In the circumstances, the public may not obtain value for money spent on this project.

903. Provision of Comprehensive Medical Cover

The County Executive of Kisumu made a payment of Kshs.112,539,497 to the National Hospital Insurance Fund (NHIF) in respect of provision of a comprehensive medical group

life and last expense. The insurance cover sought was intended to cover principal members if in employment at the commencement of the cover and be on family-shared basis covering the principal member and dependents. The amount paid was for liability and premiums in respect of three thousand five hundred and nineteen (3,519) employees' medical insurance cover during the financial year under review. However, the medical cover agreement duly signed between the Executive and the Insurer was not provided for review.

In the circumstances, the existence of a contract between the County Executive and the Insurer could not be confirmed.

904. Installation, Testing and Commissioning of an Automated Asset Verification System

Included in the amount of Kshs.1,301,697,011 for the construction and civil works is Kshs.7,638,640 paid to a contractor for installation, testing and commissioning of asset verification, tagging and management system at a cost of Kshs.19,596,600. However, the following anomalies were noted:

- i. There was no signed contract agreement provided for audit and the Management explained that the agreement was determined from the letter of contract award. This was contrary to Section 135 of Public Procurement and Asset Disposal Act, 2015 which states that the written contract shall be entered into within the period specified in the notification but not before fourteen (14) days have elapsed following the issuance of that notification provided that a contract shall be signed within the tender validity period. Further, in the absence of a valid contract, disputes arising will not be legally enforceable.
- ii. A report generated from the system indicated that the system was not adequate as it generalized the location of some assets. The system could also not capture depreciation charged to the assets.
- iii. Project file provided for review indicated that the system was to be completed and handed over within two (2) months. However, there was no evidence on the handing over of the system. It was also noted that the system lacked sign off certification which collect proof that work completed is authorised.
- iv. No service level agreement was provided for audit and the Management has not explained when the same will be done.
- v. Payment records indicates that Kshs.7,638,640 has been paid towards the project.

In the circumstances, value for money for the amount of Kshs.7,638,640 spent on this project could not be confirmed.

905. Non-remittance of Statutory Deductions

Review of schedules for remittance of statutory deductions for the year under review revealed that Management either failed to remit or delayed in remitting amounts due to

Kenya Revenue Authority (KRA) and Local Authority Provident Trust (LAP-Trust) amounting to Kshs.93,699,562 as at 30 June, 2023. This was contrary to Section 19(4) of the Employment Act, 2007 which provides that an employer who deducts an amount from an employee's remuneration in accordance with subsection (1)(a), (f), (g) and (h) shall pay the amount so deducted in accordance with the time period and other requirements specified in the law, agreement, court order or arbitration as the case may be.

In addition, payment analysis provided for review indicated that the County remitted Kshs.183,094,747 to the National Hospital Insurance Fund (NHIF) during the year under review. However, third party confirmations from the NHIF indicated that the Management made remittances amounting to Kshs.178,054,347 resulting in an unexplained and unreconciled variance of Kshs.5,040,400.

In the circumstances, delayed remittances are likely to attract interest and penalties.

906. Failure to Deduct and Remit PAYE

Review of manual payroll revealed that PAYE was not deducted and submitted from salaries of thirteen (13) employees yet they were not registered as persons living with disabilities. This was contrary to Section 37(1) of the Income Tax Act, 2012 which requires an employer paying emoluments to an employee to deduct therefrom, and account for tax thereon, to such extent and in such manner as may be prescribed.

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

907. Lack of Competitive Bidding

Review of the supporting documents revealed that an amount of Kshs.11,764,015 was included on foreign travel and subsistence allowance to two travel agency companies. However, it was not clear how the two agencies were identified. Further, there was an expenditure of Kshs.48,071,296 relating to printing, advertising and information supplies and services which further includes Kshs.10,300,000 paid to two companies and Kshs.499,000 paid to a hotel. In addition, it was also not clear how the two companies were identified. This was contrary to Section 71(1) of the Public Procurement and Asset Disposal Act, 2015 which states that the head of procurement function shall maintain and continuously update lists of registered suppliers, contractors and consultants in various specific categories of goods, works or services according to its procurement needs.

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

908. Non-Compliance with the Law on Fiscal Responsibility on Wage Bill

The statement of receipts and payments reflects employee costs amount of Kshs.4,374,160,138 and as disclosed in Note 2 to the financial statements. This expenditure is equivalent to 51% of the total revenue of the County Government for the year under review totalling Kshs.8,533,526,659. The exceedingly high rate was contrary to Regulation 25(1) of Public Financial Management (County Governments) Regulations,

2015 which sets the threshold for the expenditure item at 35%. The excessive use of resources in payment of personnel emoluments constrained the capacity of the County Executive to fund services and development projects beneficial to the public.

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

909. Avoidable Legal Expenditure

The statement of receipts and payments reflects use of goods and services amount of Kshs.1,234,220,223 and as disclosed in Note 3 to the financial statements which includes other operating expenses amounting to Kshs.241,138,696 out of which Kshs.17,461,066 relates to legal fees. However, the following unsatisfactory matters were noted: -

- i. Analysis of the payment vouchers revealed that Management paid an advocate Kshs.2,461,066 while the Court award was Kshs.1,922,708 subject to an interest of 14% per annum for any delayed payment. Management Attributed the additional payment to interest amounting to Kshs.538,358 on defrayment of delayed payments. This led to loss of public funds which could have been avoided.
- ii. In addition, Management engaged an advocate in a case against Municipal Council of Kisumu and County Government of Kisumu. By consent, the Court orders of 25 August, 2021, the outstanding decretal debt was fixed at Kshs.115,000,000 with settlement in instalments of Kshs.30,000,000 as 1st and 2nd and Kshs.55,000,000 as 3rd and final instalment. The Management made a payment of Kshs.15,000,000 being 1st payment in the year under review. The County Executive is at risk of incurring significant interest costs and penalties with the continued delay in payment.
- iii. The pending bills amount of Kshs.2,038,281,553, includes legal fees and other related costs amount of Kshs.35,207,455 of the total bills for several on-going court cases but the Management did not provide details for the same therefore, the existence and authenticity of these cases could not be confirmed.

In the circumstances, the regularity and value for money on te legal fees could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

910. Deposits and Retention

Note 10 to the financial statements reflects deposits and retentions balance of Kshs.76,990,376 being contractors' retention funds held at the Central Bank of Kenya. However, Management did not maintain a retention monies and deposits register. Further, ageing analysis for the balances to establish how long the payables had been outstanding were not provided for review.

In the circumstances, the effectiveness of internal controls and risk management on deposits and retentions could not be ascertained.

911. Variances in Staff Records

Review of records relating to compensation of employees revealed that during the year under review, the County Executive had two (2) payroll systems in operation – a manual payroll and an Integrated Personnel and Payroll Database (IPPD) system. The payrolls reflected four thousand, three hundred and thirty-six (4,336) employees in the IPPD system, while three hundred and sixty-three (363) employees were in the manual payroll, all totalling four thousand six hundred and ninety-nine (4,699). However, the Human Resource Management Department staff listing had a total of five thousand, five hundred and forty-four (5,544) resulting to an unexplained variance of eight hundred and forty-five (845) officers. Further, the Departmental returns as at June, 2023 indicated a total of five thousand and thirty (5,030) employees.

In the circumstances, the effectiveness of controls on payroll management could not be confirmed.

912. Integrated Personnel and Payroll Database (IPPD) Payroll

912.1 Payment of Arrears

Review of payroll data provided by the Management revealed that ninety-six (96) employees received arrears more than once in the financial year under review totalling Kshs.11,087,550.

912.2 Employees Skipping Job Groups and Change of Job Groups

Review of the Integrated Personnel and Payroll Database revealed that four hundred and twenty-five (425) employees were re-designated from their job groups during the year under review. However, Management did not provide the recommendations from the respective supervisors, staff appraisal forms, minutes of the interviews conducted and approvals from the County Public Service Board for audit.

In addition, review of the Integrated Personnel and Payroll Database (IPPD) revealed that seven (7) employees had their job groups changed more than once during the year under review. However, Management did not provide the recommendations from the respective supervisors, staff appraisal forms, minutes of the interviews conducted and approvals from the County Public Service Board for audit.

912.3 Bank Amount Paid Greater than the IPPD Recalculated Net Pay

Review of IPPD payroll payment records in respect of compensation of employees revealed that one hundred twenty-six (126) employees were paid more money in the bank as compared to the actual net pay. It is not clear why the net pay as per the payroll was different from bank remittance schedule.

912.4 Data Integrity Issues

Review of personnel records for the year under review revealed that the County Executive had four hundred and thirty-six (436) employees with no job group. Further, four hundred and seventy-one (471) employees had no duty stations allocated to them. However, Management did not explain the reasons for non-compliance with the Human Resource Manual.

In the circumstances, the effectiveness of internal controls on payroll management could not be confirmed.

913. Payment of Salaries Outside IFMIS and IPPD

A comparison between the manual and IPPD payrolls established that there were nine (9) employees who were paid in both manual and IPPD payrolls in specific months during the year under review. Review of the payroll data indicated that salaries amounting to Kshs.773,945 were paid through the manual payroll and Kshs.443,316 in the IPPD payroll to the same officers. In addition, Analysis of the manual payroll revealed that sixty-eight (68) employees were paid arrears amounting to Kshs.11,670,129 through the manual payroll system. This was contrary to Clause 6.3 of the County Financial Accounting and Reporting Manual which requires salaries, allowances and/or arrears of the County Government staff to be processed on the Integrated Personnel and Payroll Database.

In the circumstances, the existence of effective internal controls in payment of salaries could not be confirmed.

COUNTY EXECUTIVE OF HOMA BAY - NO.43

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

914. Inaccuracy of Transfers from the County Revenue Fund (CRF)

The statement of receipts and payments reflects transfers from CRF amounting to Kshs.8,294,677,144 as further disclosed in Note 1 to the financial statements. However, the County Revenue Fund financial statement reflects transfers to the County Executive and other transfers totalling Kshs.7,870,981,661 and Kshs.419,462,108 respectively totalling Kshs.8,290,443,769 resulting in an unreconciled variance of Kshs.4,233,375.

In the circumstances, the accuracy and completeness of transfers from CRF amounting to Kshs.8,294,677,144 could not be confirmed.

915. Unsupported Adjustments to Financial Statements

The Management submitted the financial statements on 30 September, 2023. The financial statements were revised and resubmitted on 2 February, 2024. Review of the revised statements revealed that other grants and transfers amounting to Kshs.282,717,338 was revised from Kshs.414,272,635 earlier reported. Further, Note 10 to the revised financial statements reflects Financing Locally Climate Action Programme Led (FLOCA) amounting to Kshs.9,286,362 which was adjusted from Kshs.16,000,000 earlier reported. However, the adjustments were not supported by approved journal entries and expenditure schedules.

In the circumstances, the accuracy and completeness of other grants and transfers totalling Kshs.282,717,338 and Financing Locally Climate Action Programme Led (FLOCA) amounting to Kshs.9,286,362 could not be confirmed.

916. Inaccuracy of Transfers to Homa Bay Municipality Board

The statement of receipts and payments reflects transfers to Government Entities-County Funds amounting to Kshs.198,600,000. The amount includes transfers to Homa Bay Municipality Board totalling Kshs.3,500,000. However, the Homa Bay Municipality financial statements reflects receipts from the County Executive amounting to Kshs.22,281,737 resulting to unreconciled variance of Kshs.18,781,737.

In the circumstances, the accuracy of transfers to Homa Bay Municipality Board amounting to Kshs.3,500,00 could not be confirmed.

Emphasis of Matter

917. Pending Accounts Payable

Other Important Disclosures Note 15.1 to the financial statements reflects pending accounts payable bills amounting to Kshs.955,548,525 as further disclosed in Annex 3 to the financial statements. Review of records revealed that the payables includes Kshs.882,328,436 relating to the previous year which were not settled as the first charge on the County Revenue Fund. 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. Further, the County Executive owed Kenya Revenue Authority Kshs.1,913,856,589, which has not been disclosed. No satisfactory explanation was provided on how Management plan to clear the debt.

Failure to fully disclose and settle bills during the year to which they relate distorts the financial statements and adversely affects the budgetary provisions for the subsequent years as they form a first charge.

My opinion is not modified in respect of this matter.

Other Matter

918. Unresolved Prior Year Matters

In the report of the Auditor-General for the financial year 2021/2022, several issues were raised under the Report on the Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, Management has not resolved the issues or provided any explanation for the delay.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

919. Compensation of Employees

919.1 Non-Compliance with the Law on Fiscal Responsibility on Wage Bill

The statement of receipts and payments reflects compensation of employees amounting to Kshs.4,276,764,163 or fifty-two (52) percent of the total revenue of Kshs.8,294,677,144. This was contrary to Regulations 25(1)(b) of the Public Finance Management (County Governments) Regulations, 2015 which states that the expenditure on wages and benefits should not exceed 35% of the County Government total revenue.

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

919.2 Staff Salary Payments Outside Integrated Payroll and Personnel Database (IPPD)

The statement of receipts and payments reflects compensation of employees amounting to Kshs.4,276,764,163. Review of records revealed that salaries of Kshs.8,104,029 were processed manually outside the IPPD system. This was contrary to The National Treasury Circular No.13/2012 of 28 August, 2012.

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

920. Use of Goods and Services

920.1 Irregular Payments to Council of Governors

The statement of receipts and payments reflects use of goods amounting to Kshs.971,136,710. The amount includes contracted professional services amounting to Kshs.115,721,486 as disclosed in Note 5 to the financial statements. The contracted professional services expenditure include subscription to the Council of Governors totalling Kshs.5,850,000. This was contrary to Section 37 of the Intergovernmental Relations Act, 2012 which states that the operational expenses in respect of the institution established the Act shall be incurred by the National Government.

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

920.2 Unsupported Environmental Assessment Consultancy for the Special Economic Zone

The statement of receipts and payments reflects use of goods and services amounting to Kshs.971,136,710. The amount includes contracted professional services totalling Kshs.115,721,486 as disclosed in Note 5 to the financial statements. The contracted professional services expenditure includes Kshs.2,950,000 incurred on environmental assessment consultancy for the Special Economic Zone. However, Management did not provide the environmental assessment report for audit.

In the circumstances, value for money on the expenditure of Kshs.2,950,000 could not be confirmed.

920.3 Unsupported Payment of Legal Expenses

The statement of receipts and payments reflects use of goods and services amounting to Kshs.971,136,710. The amount includes contracted professional services expenditure totalling Kshs.115,721,486 as disclosed in Note 5 to the financial statements. The contracted professional services expenditure includes legal fees totalling Kshs.38,886,000 paid to various law firms for representing the County Executive in various legal disputes/court cases during the year under review. Review of records revealed that there are forty-seven (47) court cases against the County Executive. However, the details of the court cases including the subject matter, case files, fee notes and the financial implication such cases may have on the County Executive were not provided for audit. Further, all the forty-seven (47) court cases and matters were being

handled by external law firms. No satisfactory explanation was given as to why the legal services were outsourced.

In the circumstances, value for money may not be achieved from outsourced legal services amounting to Kshs.38,886,000.

921. Acquisition of Assets

The statement of receipts and payments reflects acquisition of assets amounting to Kshs.2,076,703,613 as further disclosed in Note 9 to the financial statements. Review of records revealed the following anomalies:

921.1 Other Infrastructure and Civil Works

921.1.1 Incomplete Landscaping and Drive Way Works at Kigoto Milling Plant

The acquisition of assets includes other infrastructure and civil work amounting to Kshs.647,349,790 as disclosed in Note 9 to the financial statements. Review of records revealed that an expenditure totalling Kshs.6,329,138 was incurred on landscaping and drive way works at Kigoto milling plant. However, physical inspection conducted on 26 July, 2023 revealed that the works were incomplete and surface water drainage and vegetation works with bill of quantities valued at Kshs.710,230 had not been done.

In the circumstances, the value for money on the expenditure of Kshs.6,329,138 could not be confirmed.

921.1.2 Incomplete Drilling and Equipping of Borehole, Installation of Underground Water Tank, Installation of Overhead Water Tank and Water Pump at Kigoto

The other infrastructure and civil work expenditure includes Kshs.4,503,017 paid to a contractor for drilling and equipping of borehole, installation of underground water tank, installation of overhead water tank and water pump works at Kigoto at a contract sum of Kshs.7,382,054. However, physical inspection conducted on 26 July, 2023 revealed that the project was incomplete and installation of underground water tank and equipping it with solar had not been done. In addition, the grain handling facility was closed due to lack of grains for the last two months.

In the circumstances, the value for money on the expenditure of Kshs.4,503,017 could not be confirmed.

921.1.3 Incomplete Fencing and Construction of Gate at Kigoto Maize Milling Plant

The other infrastructure and civil works expenditure includes Kshs.4,728,786 paid to a contractor for fencing and construction of Gate at Kigoto Maize Milling plant. However, physical inspection revealed that the gate was not complete, and the contractor was not on site.

In the circumstances, the value for money on the expenditure of Kshs.4,728,786 could not be confirmed.

921.1.4 Incomplete Construction of Sentry House, Changing Rooms, Generator Room and General Repairs at Kigoto Maize Milling Plant

The other infrastructure and civil works expenditure includes Kshs.4,979,700 paid to a contractor for construction of sentry house, changing rooms, generator room and general repairs. However, physical inspection in the month of August, 2023 revealed that the sentry house and main gate works were incomplete, and the contractor was not on site. Management explained that the contractor was not on site due to delayed payment of the certified works.

In the circumstances, the value for money on Kshs.4,979,700 incurred on Kigoto Maize Milling Plant could not be confirmed.

921.1.5 Incomplete Landscaping, Driveway and Parking at the New Governor Offices

Included in the other infrastructure and civil works expenditure is Kshs.12,410,550 paid to a contractor for landscaping, construction of driveway and parking at the Governor's new offices. However, physical inspection at the time of audit in August, 2023 revealed that sections of landscaping, construction of the driveway and parking had not been completed.

In the circumstances, the value for money on the expenditure of Kshs.12,410,550 could not be confirmed.

921.2 Stalled Construction of a Staff House at God Agulu Health Centre

The statement of receipts and payments reflects acquisition of assets amounting to Kshs.2,076,703,613. The amount includes construction of building nonresidential totalling Kshs.31,698,178 as disclosed in Note 9 to the financial statements. Review of construction records revealed that a local contractor was awarded tender for the construction of a single staff house at God Agulu Health Centre at a contract sum of Kshs.1,999,992. As at the time of audit, August, 2023, the contractor had been paid Kshs.631,200. However, physical inspection on 2 August, 2023 revealed that the project was incomplete and roof trusses were done while wall finishing, fixing of windows and doors, ceiling finishes had not been done. In addition, the contractor had not been on site for the last one month despite the pending works.

In the circumstances, the value for money on the expenditure totalling Kshs.631,200 on construction of staff house could not be confirmed.

921.3 Refurbishment of Buildings-Non-Residential

The statement of receipts and payments reflects acquisition of assets amounting to Kshs.2,076,703,613. The amount includes refurbishment of building non-residential totalling Kshs.283,901,982 as disclosed in Note 9 to the financial statements. Review of records revealed the following anomalies:

921.3.1 Renovation of Magao Kotieno Health Centre in Karachuonyo - Kendu Bay Town Ward

The refurbishment of buildings-nonresidential expenditure includes Kshs.1,491,180 incurred on renovation and electrification of Magao Kotieno Health Centre in Karachuonyo - Kendu bay Town Ward. However, physical inspection revealed that painting of the outer wall and fixing of doors to the portioned rooms had not been done.

In the circumstances, the value for money on the expenditure amounting to Kshs.1,491,180 could not be confirmed.

921.3.2 Construction of General Ward at Koliech Dispensary

The refurbishment of buildings-non-residential expenditure includes Kshs.3,529,322 for the construction of general ward at Koliech Dispensary at a contract sum of Kshs.4,133,068. The works commenced on 8 June, 2021 and were expected to be completed on 8 December, 2021. The contractor had cumulatively been paid Kshs.3,529,322. However, physical inspection of the project carried out on 1 August, 2023 confirmed that the works were yet to be completed more than (18) months after expiry of the contract period. Painting of the walls and ceiling board, and installation of 10,000 litres rain water collection tank had not been done and the electrical works partially done.

In the circumstances, value for money on the expenditure of Kshs.3.529.322 could not be confirmed.

921.3.3 Construction of Osiepe Dispensary

The refurbishment of buildings non-residential expenditure includes Kshs.3,200,000 expenditure incurred on construction of Osiepe Dispensary in South Kasipul at a contract sum of Kshs.4,649,411. The contract period was between March, 2020 to August, 2020. However, physical inspection on 1 August, 2023 revealed that the project had stalled at 50% completion level and the contractor had not been on site for the last three (3) years.

In the circumstances, the value for money of the expenditure of Kshs.3,200,000 could not be confirmed.

921.3.4 Construction of Eye Classroom at Kamasi Primary School

The refurbishment of buildings-non -residential expenditure includes Kshs.1,513,301 paid to a contractor for the construction of Kamasi Primary School EYE Classroom to completion. However, physical verification in August 2023, revealed that he construction works were stalled and the contractor was not on site. The doors and windows were fitted without panes, both the internal and external walling had not been done while the electrical works, floor works and finishes had not started.

In the circumstances, the value for money on the expenditure of Kshs.1,513,301 could not be confirmed.

921.3.5 Incomplete Construction of Homa Bay County Stadium

The refurbishment of buildings-non- residential expenditure includes payments totalling Kshs.49,678,406 for installation of flash mask, perimeter wall and earthworks at Homa Bay County Stadium. Review of records revealed that, the main contract for the construction of Homa Bay Stadium was awarded to a local contractor at a contract sum Kshs.369,781,250 which was later varied to Kshs.460,772,557. The main contract was sub-contracted to various subcontractors undertaking different aspects of the contract. A total of Kshs.355,363,113 had been paid as per the payment certificates raised at the time of audit in August, 2023.

Further, installation of high mast flood lights at the stadium was awarded to a local contractor at a contract sum of Kshs.48,108,278 with payments made amounting to Kshs.16,800,000 out of the value of works certified of Kshs.31,000,000.

In addition, the contract for the construction of stadium perimeter wall, stadium gates, drive way and parking was also awarded to a local contractor at a contract sum at Kshs.32,020,050 with payments of Kshs.26,070,356 certified and paid.

The contract for earth works, culverts, drainage works, landscaping and stone pitching was awarded to various contractors. Works totalling Kshs.6,808,050 had been certified and paid.

Field inspection in the month of August, 2023 revealed that although the facility had been launched to the public for use and branded, the following unsatisfactory matters were noted: -

- i. Playing surface and pavilion finished, four (4) High-mask floodlights installed, Mechanical and electrical works were yet to be completed.
- ii. Fencing of the stadium, gates installation works was still ongoing.
- iii. Equipping of the stadium pavilion with PVC chairs cabro which entailed high-quality PVC seats fixed at the pavilion was ongoing.
- iv. Construction of parking lot was ongoing.

In the circumstances, the regularity and value for money on the expenditure Kshs.49,678,406 incurred on the project could not be confirmed.

922. Incomplete Water Projects

As previously reported, the County made payments totalling Kshs.37,328,320 to various local contractors in respect of drilling of boreholes, extension of water pipelines and rehabilitation of water pans within the County in the previous years. Physical inspection revealed instances of poor workmanship, delays in completion and abandonment of project site by contractors.

In the circumstances, value for money spent on the water project could not be confirmed.

923. Un-surrendered Imprests

The statement of assets and liabilities reflects accounts receivables – outstanding imprests amounting to Kshs.5,406,100 as further disclosed in Note 14 to the financial statements. However, the imprest were not surrendered within seven (7) days after the imprest holders had returned to their duty station. This was contrary to Regulation 93(5) of the Public Finance Management (County Governments) Regulations, 2015 which requires a holder of a temporary imprest to account or surrender the imprest within seven (7) working days after returning to duty station.

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

924. Failure to Implement Budgeted Projects

Review of projects implementation status report as at 30 June, 2023 revealed that projects budgeted for Kshs.69,110,066 were not implemented by the County Executive during the year under review as shown below:

Project Activity	Budgeted Amount Kshs.
Completion of eight (8) Ward Administration Offices	22,000,000
Phase I Development of the Homa Bay Municipal Fire Station	12,000,000
Financial Systems Strengthening Project	14,771,967
Completion of Arujo animal feed processing plant.	20,338,099
Total	69,110,066

In the circumstances, the public did not obtain benefits which would have accrued from the implementation of these projects.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

925. Lack of Staff Establishment

A review of human resource records revealed that the County Executive has been operating without an approved staff establishment to ensure that appropriate systems, procedures, structures, skilled and competent staff are in place at the optimal level to deliver its mandate to the public.

In the circumstances, optimal staffing levels, appropriate systems and skills development could not be confirmed.

926. Lack of ICT Policy

Review of IT environment and its controls revealed that there is no ICT Policy in place to govern IT environment.

In the circumstances, the integrity, security and reliability of the County Executive's financial data including its Management Information System could not be confirmed.

927. Lack of an Assets Register

Annexure 4 to the financial statements reflects non-current assets with a historical cost balance of Kshs.7,600,275,533 as at 30 June, 2023. However, review of records revealed that non-current asset register had not been prepared in the prescribed format. This was contrary to Regulation 136 (1) of the Public Finance Management (County Governments) Regulations, 2015 which states that the Accounting Officer shall be responsible for maintaining a register of assets under his or her control or possession as prescribed by the relevant laws. Further, the register of land and buildings did not have a record of each parcel of land and the terms on which it is held, with reference to the conveyance, address, area, dates of acquisition, disposal or major change in use, capital expenditure, leasehold terms, maintenance contracts and other pertinent management details as required under Regulation 136(2) of the Public Finance Management (County Governments) Regulations, 2015.

In addition, assets inherited from all the defunct Local Authorities in the County have not been disclosed, coded or tagged for ease of identification and tracking.

In the circumstances, safe custody of assets and completeness of the fixed asset register could not be confirmed.

928. Lack of an Audit Committee

The County Executive has not established an Audit Committee. This was contrary to Section 155(5) of the Public Finance Management Act, 2012 which provides for the establishment of an Audit Committee in the unconstructed the County Executive did not benefit from the assurance and advisory services from the internal audit function as well as oversight from the Audit Committee.

In the circumstances, the effectiveness of internal controls, risk management and governance could not be confirmed.

929. Voided Transactions

Analysis of the system payments indicated that five hundred and sixteen (516) transactions totalling Kshs.1,419,709,419 were voided during the year 2022/2023. Further, Management provided for audit, documentation supporting the voiding of transactions of Kshs.1,173,861,054. In addition, Management has indicated, without providing evidence, that the voiding of the remaining transactions of Kshs.245,848,365 was as a result of lack of sufficient vote heads after upload of the second and third supplementary budgets for the year.

In the circumstances, the effectiveness of internal controls over voided transactions for the year ended 30 June, 2023 could not be confirmed.

COUNTY EXECUTIVE OF MIGORI - NO.44

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

930. Use of Goods and Services

930.1 Unsupported Specialized Materials and Services

The statement of receipts and payments and as disclosed in Note 3 to the financial statements reflects an amount of Kshs.2,033,783,858 in respect of use of goods and services. Included in this expenditure is an amount of Kshs.408,059,758 relating to specialised materials and services, out of which an amount of Kshs.4,599,611 paid to various local suppliers of pharmaceutical materials were not supported by inspection and acceptance certificates.

In the circumstances, the accuracy and propriety of expenditure of Kshs.4,599,611 on specialized materials and services could not be confirmed.

930.2 Unsupported Insurance Expenses

The statement of receipts and payments and as disclosed in Note 3 to the financial statements reflects use of goods and services expenditure of Kshs.2,033,783,858. Included in this amount is an expenditure of Kshs.47,738,838 in respect of insurance services, out of which Kshs.16,967,179 was paid to a local insurance company for motor vehicle insurance. However, valuation reports for the motor vehicles forming the basis for premiums charged by the insurer were not provided for audit review.

In the circumstances, the accuracy and propriety of the expenditure of Kshs.16,967,179 on insurance services could not be confirmed.

931. Unsupported Transfer to Other Government Units

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects an amount of Kshs.500,793,860 in respect of transfers to other Government entities. However, except for amount of Kshs.120,000,004 to Ward Development Fund, Car and Mortgage Fund Kshs.178,000,000, level IV Hospitals Kshs.18,767,130 and Kshs.22,435,305 to Municipalities, the rest of the transfers are to entities that are not self-accounting and hence utilization of these amounts totalling Kshs.180,358,551 were not supported by separate financial statements.

In the circumstances, the accuracy and regularity of the transfer to other Government entities amounting to Kshs.180,358,551 could not be confirmed.

932. Acquisition of Assets

932.1 Lack of Title Deeds on Acquired Parcels of Land

The statement of receipts and payments reflects acquisition of assets amount of Kshs.1,569,602,854 which includes acquisition of land worth Kshs.35,617,670 as disclosed in Note 7 to the financial statements. Review of records revealed that the payments related to purchase of ten (10) parcels of land at various locations for construction of bus parks. However, Management did not provide for verification the title deeds for the purchased parcels of land.

In the circumstances, the ownership and completeness of the parcels of land valued at Kshs.35,717,670 could not be confirmed.

932.2 Unsupported Purchase of Certified Seeds, Breeding Stock and Live Animals

The statement of receipts and payments reflects acquisition of assets balance of Kshs.1,569,602,854 which includes purchase of certified seeds, breeding stock and live animals amounting to Kshs.10,075,000 as disclosed in Note 7 to the financial statements. Review of records revealed that an amount of Kshs.6,895,950 was paid to a local supplier for supply and delivery of Sahiwal breeding bulls. However, the expenditure was not supported by notification of award and regret letters as well as the contract documents.

In the circumstances, the propriety, accuracy and completeness of purchase of certified seeds breeding stock and live animals' expenditure of Kshs.6,895,950 could not be confirmed.

933. Inaccuracies in Cash and Cash Equivalents

The statement of financial position and as disclosed in Note 8A to the financial statement reflects an amount of Kshs.1,086,773,881 in respect of bank balances which erroneously includes a balance of Kshs.895,602,125 relating to amount held in the County Revenue Fund (CRF) bank account. However, Management did not explain how the amount was recognized in the statement of financial assets and liabilities.

In the circumstances, accuracy of the cash and cash equivalent balance of Kshs.1,086,773,881 could not be confirmed.

934. Unexplained Variances - Conditional Grants

The County received Kshs.288,697,311 from CRF being conditional grants for various projects during the year under review. However, no separate accountability statements were provided for review to support the implementation of these projects. In addition, reconciliation of receipts to the closing bank balance for these projects revealed variances of Kshs.67,192,729, Kshs.8,506,500, Kshs.5,500,000, Kshs.26,997,368 and Kshs.11,000,000 in respect of National Agriculture Value Chain, THUSCP, ASDSP, NARGIP and Climate Change projects respectively. Management did not reconcile or explain the variances.

In the circumstances, the accuracy and completeness of the conditional grants amount of Kshs.288,697,311 could not be confirmed.

935. Non-Adherence to Cut-Off

The Management made payments amounting to Kshs.2,058,069,309 between 1 July, 2023 and 11 July, 2023 but were accounted as transactions for financial year ended 30 June, 2023. Although Management explained that the payments were made to clear commitments made prior to 30 June, 2023 and were authorised by The National Treasury, the financial statements have been prepared on cash basis of accounting and therefore these transactions were effective after cut-off date.

In the circumstances, the expenditure of Kshs.2,058,069,309 could not be confirmed.

936. Unsupported Transfer to Migori County Referral Hospital

Note 4 to the financial statements reflect an amount of Kshs.18,767,130 as transfers to level 4 hospitals which include a payment of Kshs.12,163,150 to Migori County Referral Hospital. However, the hospital's financial statements reflects an amount of Kshs.5,039,280 as transfers from County Government resulting in an unreconciled and unexplained variance of Kshs.7,123,870.

In the circumstances, accuracy and completeness of transfers to hospitals amount of Kshs.18,767,130 could not be confirmed.

937. Unsupported Voided Transactions

Analysis of the system payments indicated that 336 transactions of Kshs.322,564,149 were voided during the year 2022/2023. However, the current status of the transactions was not provided for review.

In the circumstances, the status of voided transactions amount of Kshs.322,564,149 could not be confirmed.

Emphasis of Matter

938. Budgetary Control and Performance

The statement of comparison of budget and actual amounts: recurrent and development combined reflects final receipts budget and actual amount on comparable basis of Kshs.10,356,987,742 and Kshs.7,962,977,852 respectively, resulting to under-funding of Kshs.2,934,009,890 or 23% of the budget. Similarly, the County Executive spent an amount of Kshs.7,386,271,614 against budgeted expenditure of Kshs.10,356,987,742 resulting in under performance of Kshs.2,970,716,128 or 29% of the budgeted receipts.

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

939. Long Outstanding Pending Accounts Payable

Annexure 2 to the financial statements reflects pending bills balance of Kshs.754,609,930. During the year under review, the total pending bills were Kshs.1,354,678,334, out of which, Management settled Kshs.600,068,404, leaving a balance of Kshs.754,609,930. 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. Further, failure to settle bills during the year to which they relate distorts the financial statements and adversely affects the budgetary provisions for the subsequent years as they form a first charge.

940. Late Exchequer Releases/Transfers from CRF

Note 1 to the financial statement reflects exchequer releases or transfers from CRF totalling Kshs.7,760,377,638 which includes Kshs.866,636,767 received by the County Government towards the end of the month of June, 2023.

In addition, other exchequer releases of Kshs.2,058,069,309 were disbursed by the County Revenue Fund in the month of July, 2023 to fund budgeted activities in the year under review.

Late exchequer releases adversely affected implementation of the planned activities and projects.

My opinion is not modified in respect of these matters.

Other Matter

941. Prior Year Matters

In the audit report of the previous year, several paragraphs were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, Management has not resolved some of the issues raised and did not provide any explanations for the delay.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

942. Compensation of Employees

942.1 Payments of Salaries Outside the Integrated Personnel and Payroll Database (IPPD)

The statement of receipts and payments reflect compensation of employees' expenditure amount of Kshs.2,971,740,018 which includes basic salaries to permanent employees of Kshs.2,638,928,925 as disclosed in Note 2 to the financial statements. However, review of records revealed that salaries amounting to Kshs.67,047,847 for twenty-five (25) employees were paid outside the Integrated Personnel and Payroll Database (IPPD) system. This was contrary to Clause 6.3 of the County Financial Accounting and Reporting Manual, which requires salaries, allowances and/or arrears of the County Government staff to be processed on the Integrated Personnel and Payroll Database. Management did not provide explanation for these payments.

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

942.2 Non-Adherence to Fiscal Responsibility Principle on Staff Expenses

The statement of receipts and payments reflects compensation of employees' expenditure amount of Kshs.2,971,740,018 as disclosed in Note 2 to the financial statements. This translates to 38% of the total County revenue of Kshs.7,760,377,638 and thus exceeding the recommended limit of 35%. This was contrary to Regulation 25(1) (a) of the Public Finance Management (County Governments) Regulations, 2015 which requires that the County Executive Committee members with the approval of the County Assembly shall set a limit on the county governments expenditure on wages and benefits for its public office pursuant to Section 107(2) of the Act (b) the limit set under paragraph (a) shall not exceed 35% of the county government total revenue.

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

942.3 Non-Absorption of Casuals in the Health Services Department

The statement of receipts and payments reflects compensation of employees amount of Kshs.2,971,40,018 which includes Kshs.34,807,530 in respect of basic wages of temporary employees out of which an amount of Kshs.33,387,355 is in respect of casual labour in the Health Services department. The amount represents 96% of the total County's basic wages of temporary employees. The casuals have been on board for long contrary to provisions of Public Human Resource Policy B.16 on employment of Casuals which require that casual workers shall be engaged only on urgent short-term tasks with the approval of the County Public Service Board. Casual workers shall not be engaged for more than three months, as stipulated in the Employment Act (2007).

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

942.4 Non-Compliance with Staff Ethnic Diversity

An analysis of the Integrated Personnel and Payroll Database (IPPD) records for the month of June, 2023 revealed that Migori County has a workforce of three thousand two hundred and sixty-six (3,266), out of which two thousand three hundred and forty-eight (2,348) or 72% are members of the dominant community which was contrary to Section 7(2) of National Cohesion and Integration Act, 2008 which requires that the staff establishments of public entities to reflect the diversity of the people of Kenya and no public institution shall have more than one third of its staff establishment from the same ethnic community.

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

943. Use of Goods and Services

943.1 Irregular Payment to the Lake Region Economic Bloc

The statement of receipts and payments and as disclosed in Note 3 to the financial statements reflects use of goods and services expenditure of Kshs.2,033,783,858 which includes other operating expenses amount of Kshs.167,544,568 out of which, Kshs.2,000,000 was paid to support the annual summit of the Lake Region Economic Bloc which was not supported by approval.

In the circumstances, the value for money and regularity of the expenditure of Kshs.2,000,000 could not be confirmed.

943.2 Irregular Payment to The Council of Governors

The amount of Kshs.2,033,783,858 includes other operating expenses amount of Kshs.167,544,568 out of which, Kshs.3,000,000 was paid to the Council of Governors for the purpose of meeting its operation expenses, contrary to Section 37 of the Intergovernmental Relations Act, 2012, which provides that the operational expenses in respect of the structures and institutions established in this Act shall be provided for in the annual estimates of the revenue and expenditure of The National Government to cater for (a) the Summit; (b) the Council of County Governors; (c) the Technical Committee, Secretariat and the sectoral working group established by the Technical Committee; and (d) the sectoral working groups established by the Council.

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

943.3 Avoidable Payment of Legal Fees

The statement of receipts and payments and as disclosed in Note 3 to the financial statements reflects use of goods and services expenditure of Kshs.2,033,783,858. Included in this amount is an expenditure of Kshs.167,544,568 in respect of other operating expenses, out of which Kshs.44,993,654 was in respect of legal fees. However, Management did not provide adequate explanations for outsourcing the legal services despite having in place the office of the County Attorney of three legal officers.

In the circumstances, value for money may not have been achieved from the expenditure of Kshs.44,993,654 on legal fees amounting to.

944. Delayed Construction of Siabai Earth, Giribe Dams and Lower Kuja Woks

The statement of receipts and payment reflects other grants and transfers amount of Kshs.310,351,024 which includes other current transfers, grants, donations and subsidies of Kshs.275,604,091 as disclosed in Note 5 to the financial statements. The latter amount further includes Kshs.45,626,347, Kshs.21,841,943 and Kshs.22,444,447 paid to local contractors for the construction of Siabai Earth Dam, Giribe Dam and Lower Kuja Woks at a contract sum of Kshs.45,626,347, Kshs.45,646,022 and Kshs.71,919,215 respectively all dated on 28 May, 2021. Physical verification carried out during the month of June, 2023 revealed that although the projects were completed and handed over to the local communities, the dams were not in use as the main pipes and pumps had been vandalized.

In the circumstances, value for money incurred on three projects of Kshs.163,191,584 could not be confirmed.

945. Acquisition of Assets

The statement of receipts and payments reflects acquisition of assets amount of Kshs.1,569,602,854 which includes construction and civil works amount of Kshs.106,779,318 as disclosed in Note 7 to the financial statements. However, review of records provided for audit revealed the following anomalies:

945.1 Non-Operational Projects

945.1.1 Market Shade Project at Gupimo

Review of records revealed that included in Kshs.106,779,318 is amount of Kshs.2,730,582 paid to a local contractor through the Department of Trade for construction of a Market Shade Project at Gupimo at contract sum of Kshs.2,730,582. However, field verification at the time of audit inspection in the month of August, 2023 revealed that the project was complete but not in use.

945.1.2 Extension of Ngege, Lichota Pipeline

Audit review revealed that the Department of Water and Energy paid an amount of Kshs.4,738,267 for pipeline extension of Ngege, Lichota pipeline. However, audit inspection revealed that there was no running water in the extended pipelines due to vandalized pumps and dilapidated pipelines.

945.1.3 Drilling and Equipping of Kokuku Water Project

Audit review revealed that the Department of Water and Energy paid an amount of Kshs.3,999,989 towards drilling and equipping of Kokuku Water Project. However, field verification audit inspection revealed that there was no running water in the drilled borehole due to vandalized pumps and dilapidated pipelines.

In the circumstances, value for money incurred on the projects amounting to Kshs.11,468,838 could not be confirmed.

945.2 Construction of Buildings

The statement of receipts and payments reflects acquisition of assets amount of Kshs.1,569,602,854 which includes construction of buildings totalling Kshs.184,296,391 as disclosed in Note 7 to the financial statements. However, review of records provided revealed the following anomalies:

945.2.1 Incomplete Projects in Hospitals and Health Centres

Audit review of documents revealed that the Department of Health and Sanitation engaged various local contractors to construct facilities at five health facilities within the County at a total contract sum of Kshs.5,740,209. However, audit inspection revealed that the works were incomplete and at various stages of implementation despite their contract period having expired.

945.2.2 Incomplete Intensive Care Unit (ICU) at County Referral Hospital Migori

Audit review of records revealed that an amount of Kshs.19,430,614 was paid to a local contractor towards completion of Intensive care unit (ICU) Phase III at County Referral Hospital Migori. However, physical verification revealed that the unit was not in use as it had not been equipped.

In the circumstances, the benefits expected from the project has not have been realized and value for money has not been achieved.

945.2.3 Incomplete Construction of Ikerege/Bukira Administration Office Block

Review of records revealed that the department of Public Management Service and ICT engaged a local contractor to construct Ikerege/Bukira administration block at a contract sum of Kshs.9,764,103. The contract commenced on 27 March, 2023 with an expected completion date of 27 August, 2023. The contractor had been cumulatively paid an amount of Kshs.4,188,400. However, audit inspection in the month of August, 2023 revealed that the project was incomplete and ongoing.

In the circumstances, the benefits expected from the project has not been realized and the value for money already incurred of Kshs.4,188,400 has not been achieved.

945.2.4 Completed and Idle Bongu ECDE Classroom

Review of records revealed that the Department of Education transferred amount of Kshs.500,000 towards completion of ECDE classrooms at Bongu primary school. However, field verification revealed that the project at Bongu was complete but not in use due to rising lake water levels during the rainy season making it inaccessible. In the circumstances, the benefits expected from the expenditure on the project have not been realized by the members of the public.

945.3 Purchase of Specialized Plant, Equipment and Machinery

The statement of receipts and payments reflects acquisition of assets balance of Kshs.1,569,602,854 which includes purchase of specialized plant, equipment and machinery amount of Kshs.89,894,259 as disclosed in Note 7 to the financial statements. Review of records revealed that the County Government through the Department of Water and Energy, paid a total of Kshs.14,262,300 to a local contractor towards repair and maintenance of solar street lights within the County. However, field verification revealed that the street lights in Rongo, Awendo and Migori towns were brought down during the construction of Kisii/Isebania road.

In the circumstances, the public has not obtained value for money on the incomplete and unutilized projects.

945.4 Delay in Finalization of the Kehancha Municipality Development Plan

The statement of receipts and payments reflects acquisition of assets balance of Kshs.1,569,602,854 which includes research studies, project preparation design and supervision amount of Kshs.14,332,500 as disclosed in Note 7 to the financial statements. Review of records revealed that expenditure of Kshs.14,332,500, being part payment to a local consultancy firm towards preparation of Kehancha Municipality development plan. However, preparation of the plan had not been finalized as per the original work plan.

In the circumstances, the public has not obtained value for money on the expenditure of Kshs.14,332,500 spent on the implementation of the development plan.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

946. Anomalies in the Revenue Automation System

As reported in previous year, the County Government of Migori procured an automated revenue management system from a vendor in the year 2022/2021 at a contract sum of Kshs.23,000,000. However, review of the system revealed several internal control weaknesses as highlighted below: -

- i. The system has not been rolled out in all Nyatike and Kuria West sub counties.
- ii. Market collections, bus park collections still operate on cash and there is need for them to operate on the cashless method.
- iii. The revenue targets have not been mapped on the system to compare actual verses targets.
- iv. Lack of adequate manpower (Revenue Collectors).
- v. The system is not adequately secured against cyber-attacks including session management, SSL, two-factor authentication, 3-d secure, card security standards,

PCI, DSS and CISP. Thus, the system uses an insecure HTTP protocol that can be accessed from any network.

- vi. The system has not been enabled to capture all logs. It only captures one who accessed the system, the time the person has logged in, and activities done in the system. However, it does not capture system activities; device identity or location if possible and system identifier; records of successful and rejected system access attempts; records of successful and rejected data and other resource access attempts; changes to system configuration; use of privileges; network addresses and protocols; and records of transactions executed by users in applications.
- vii. The data backup is still hosted by the vendor hence the County has no control over the system.
- viii. Some of the revenue streams have been automated and integrated.

In the circumstances, Management cannot guarantee the integrity and reliability of the revenue automation system.

947. Lack of an Approved Staff Establishment

An audit of the Migori county staff complement revealed that the County does not have an approved staff establishment. Lack of an approved staff establishment implies that the County is yet to determine the skills and optimal staffing levels required to achieve its goals and objectives.

In the circumstances, it was not possible to ascertain whether the County Executive has the optimal staffing levels.

948. Non-Compliance with Asset Register Format

The financial statements and as disclosed in annex 3-summary on non-current asset register reflects assets valued at Kshs.14,597,276,949. However, Management did not maintain an asset register in the format required by Regulation 136.(1)(2) and (3) of Public Finance Management (County Government) Regulations, 2015 and The National Treasury in that the asset register does not give details of when the assets were acquired, their value and location.

In the circumstances, the effectiveness of the controls over management fixed assets could not be confirmed.

949. Grounded Motor Vehicles and Machineries

Review of status report of the County Government fleet of motor vehicles and machineries indicate sixty (60) vehicles and machineries across the departments were grounded and unserviceable in various garages within and outside Migori County and had not been disposed.

In the circumstances, the grounded vehicles and machines continue to deteriorate in value due to delayed disposal and the County is at risk of incurring loss.

950. Lack of Risk Management Policy and Strategy

Management has not put in place an approved risk management policy and risk management framework including strategies and procedures put in place to assess, identify, measure, prioritize and mitigate risks in the entity.

In the circumstances, Management lacks a mechanism to help in detecting and mitigation of any possible risk in the institution and operations may be disrupted.

951. Lack of Approved Information Technology Security Policy

Review of the County Government of Migori Information Technology Systems revealed that revenue collection has been automated to manage its operations. However, the County did not have an approved IT policy for governance and management of ICT resources. In addition, there is no ICT steering committee in place to assist in the development of ICT policy framework to enable the County to realize long-term ICT strategic goals. Further, Management has not instituted appropriate access controls needed to minimize breaches of information confidentiality, data integrity and loss of business continuity in line with Regulation 110 of the Public Finance Management (County Governments) Regulations, 2015.

In the circumstances, effectiveness of internal controls on management of ICT could not be confirmed.

952. IFMIS Data Analysis Report-Voided Transactions

Analysis of the system payments indicated that 336 transactions of amounts totalling Kshs.322,564,149 were voided during the year 2022/2023. Management has indicated, without providing evidence that the voiding of these transactions were because of the following reasons: -

- i. Central Bank of Kenya directive to void all pending transactions in IFMIS and Internet Banking System due to non-release of exchequer disbursements,
- ii. To correct payee bank account for the beneficiary accounts entered incorrectly.
- iii. When the transactions are charged to wrong vote heads, the transactions are voided
- iv. Change of priory activities resulting to supplementary budgets sometimes affects transactions already captured in IFMIS hence resulting to voiding.

In the circumstances, the effectiveness of the controls over voiding of transactions for the year ended 30 June, 2023 could not be confirmed.

COUNTY EXECUTIVE OF KISII - NO.45

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

953. Unsupported Expenditure on Salaries and Allowances

The statement of receipts and payments reflects compensation of employees amount of Kshs.5,053,599,742 as disclosed in Note 3 to the financial statement which includes payments totalling Kshs.381,310,505 paid in August, 2022, relating to salaries and allowances for the month of June, 2022. However, payment vouchers in support of the salaries and allowances were not provided for audit review. Management explained that the payment vouchers were submitted to the Ethics and Anti-Corruption Commission (EACC), which formally requested for them.

In the circumstances, the accuracy and completeness of the expenditure of Kshs.381,310,505 could not be confirmed.

954. Unsupported Expenditure on Domestic Travel and Subsistence

The statement of receipts and payments reflects use of goods and services amount of Kshs.925,015,903 as disclosed in Note 4 to the financial statements which includes domestic travel and subsistence amount of Kshs.160,176,216 out of which, Kshs.1,498,470 was spent on air travel for eleven (11) senior officers of the County Executive. However, requisitions, approvals, air tickets, boarding passes and the purposes for which the officers travelled were not provided for review. Further, procurement documents showing how the service provider was identified and selected were not provided for audit.

Further, review of imprest analysis revealed that eighteen (18) staff were paid multiple imprest amounting to Kshs.57,388,888 in form of domestic travel and subsistence. Management explained that these were group imprests issued to officers on behalf of multiple other officers which was not supported by duly documented evidence. In addition, the amount of Kshs.57,388,888 includes Kshs.33,300,130 whose supporting requisitions, approvals, work tickets, and the purposes for which the officers travelled were not provided for audit.

In the circumstances, the accuracy, completeness and regularity of the expenditure of Kshs.58,887,358 could not be confirmed.

955. Unsupported Insurance Costs

The statement of receipts and payments reflects use of goods and services amount of Kshs.925,015,903 as disclosed in Note 4 to the financial statements which includes insurance costs amount of Kshs.279,214,737 out of which, Kshs.1,904,205 was paid to a local insurance company to cover County motor vehicles, plant and machinery. Management provided notification of award letter, contract agreement, standard

purchase order, invoice and delivery note. However, procurement documents, showing how the company was identified and selected were not provided for audit.

In the circumstances, the accuracy, completeness and regularity of the expenditure of Kshs.1,904,205 could not be confirmed.

956. Unsupported Payment to the Lake Region Economic Bloc

The statement of receipts and payments reflects use of goods and services amount of Kshs.925,015,903 as disclosed in Note 4 to the financial statements which includes other operating expenses amount of Kshs.128,311,986 out of which, Kshs.450,000 was paid on 16 January, 2023 to support the annual summit of the Lake Region Economic Bloc. However, expenditure returns together with the related supporting documents were not provided for audit.

In the circumstances, the accuracy, completeness and regularity of the expenditure of Kshs.450,000 could not be confirmed.

957. Unsupported Expenditure on Construction of Roads

The statement of receipts and payments reflects acquisition of assets amount of Kshs.271,486,383 as disclosed in Note 7 to the financial statements which includes construction of roads amount of Kshs.109,951,676 which further includes an amount of Kshs.8,350,659 whose payment vouchers and relevant supporting documents were not provided for audit.

Further, an amount of Kshs.6,512,786 whose procurement documents showing how the respective contractors were identified, such as invitation to tender advertisement, bids submitted, tender opening meeting minutes, tender evaluation reports and professional opinions, were not provided for audit.

In the circumstances, the accuracy, completeness and regularity of the expenditure of Kshs.14,863,445 could not be confirmed.

958. Unsupported Overhaul and Refurbishment of Construction and Civil Works

The statement of receipts and payments reflects acquisition of assets amount of Kshs.271,486,383 as disclosed in Note 7 to the financial statements which includes overhaul and refurbishment of construction and civil works amount of Kshs.12,749,747 which further includes Kshs.5,876,935 whose procurement documents showing how the respective contractors were identified, such as invitation to tender advertisement, bids submitted, tender opening meeting minutes, tender evaluation reports and professional opinions, were not provided for audit.

In the circumstances, the accuracy, completeness and regularity of the expenditure of Kshs.6,375,935 could not be confirmed.

959. Inaccuracies in KRA Payments in Arrears

The statement of receipts and payments reflects other payments amount of Kshs.29,896,052 which, as disclosed in Note 8 to the financial statements, represents Kenya Revenue Authority (KRA) payments in arrears. However, IFMIS records and payment voucher indicated tax arrears payment to KRA of Kshs.30,000,000 resulting in an unreconciled variance of Kshs.103,948.

Further, records provided indicated that the total outstanding tax as at 20 April, 2023 was Kshs.40,345,481 which included an amount of Kshs.5,102,660 in respect of penalties and interest as a result of non-payment of tax on time.

In circumstances, the accuracy and completeness of other payments amounting to Kshs.29,896,052 could not be confirmed.

960. Unexplained Voided Transactions

Review of the Integrated Financial Management Information System (IFMIS) revealed that nine hundred and twenty-three (923) transactions amounting to Kshs.261,015,318 were voided. Information provided for audit also indicated that the Controller of Budget (COB) had approved payments of the voided transactions. Management did not satisfactorily explain why the payments were voided yet they had been approved.

In the circumstances, the regularity of voided payments amounting to Kshs.261,015,318 could not be confirmed.

961. Misallocations in Transfers/Grants to Other Government Agencies

Further, analysis of the IFMIS payment details indicated that payments totalling Kshs.48,479,698 were made to suppliers and the expenditure irregularly charged to transfers/grants to other Government agencies. Grants/transfers to other Government agencies accounts are supposed to transfer funds from one Government agency to another, but not make payments to suppliers or individuals. No explanation has been provided for this anomaly.

In the circumstances, the accuracy and completeness of the transfers/grants to other government agencies could not be confirmed.

962. Irregular Use of Funds from Kisii County Alcoholic Drink Control Fund

Review of records provided indicated that the County Executive irregularly withdrew Kshs.6,850,000 from the Kisii County Alcoholic Drink Control Fund for use in its operations which was not as per the intentions of the Kisii Alcoholic Control Fund Act, 2015. In addition, payment vouchers and the relevant supporting documents were not provided for audit to account for the withdrawn funds. Further, the expenditure on these funds is not reflected in the County Executive's financial statements for the year under review. Management, has provided evidence showing that Kshs.6,500,000 of the amount withdrawn of Kshs.6,850,000 has been refunded during the year 2023/2024.

In the circumstances, the accuracy and completeness of the financial statements could not be confirmed.

Emphasis of Matter

963. Budgetary Control and Performance

The statement of comparison of budget and actual amount reflects final receipts budget and actual on comparable basis of Kshs.11,113,855,495 and Kshs.8,534,420,528 respectively, resulting in an underfunding of Kshs.2,579,434,967 or 23% of the budget. Similarly, the County Executive spent Kshs.8,222,239,538 out of the approved expenditure budget of Kshs.11,113,855,495, resulting in an under-expenditure of Kshs.2,891,615,957 or 26% of the budget.

The underfunding and under-expenditure constrained execution of planned activities and delivery of services to the public.

964. Pending Accounts Payable

Note 1 to the financial statements on pending accounts payable, under other important disclosures, reflects balance brought forward as at 1 July, 2022 of Kshs.1,393,854,413, addition for the year of Kshs.30,724,339, paid during the year of Kshs.233,664,776 and balance carried forward as at 30 June, 2023 of Kshs.1,190,913,975. Further, review of records from the Kenya Revenue Authority indicated that the County Executive owed the Authority an amount of Kshs.1,566,035,619. However, Annex 2 on analysis of pending accounts payables does not disclose the unpaid debts to KRA. No satisfactory explanation was provided on the debt exposure and Management's plan to clear the debt could not be confirmed.

In addition, review of financial records revealed that the County Executive owed the Local Authorities Provident Fund (LAPFUND) an amount of Kshs.23,288,547 in unremitted deductions as at 30 June, 2023. As a result, the ability of LAPFUND to service retirement benefits, as and when such benefits fall due to the existing employees, may have been adversely affected.

My opinion is not modified in respect of these matters.

Other Matter

965. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, the Management has not resolved the issues or given any explanation for failure to adhere to the reporting format prescribed by the Public Sector Accounting Standards Board.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

966. Non-Compliance with the Public Finance Management Fiscal Responsibility

The statement of comparison of budget and actual amounts: development reflects total actual expenditure of Kshs.660,743,789 which is 8% of the total expenditure of Kshs.8,222,239,538 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 requires development expenditure to be at least 30% of total expenditure.

Further, the compensation of employees expenditure of Kshs.5,053,599,742 is 49% of the County Executive's total revenue amount of Kshs.10,331,361,445. This was contrary to Regulation 25(1)(b) of the Public Finance Management (County Governments) Regulations, 2015 which sets a maximum limit of 35%.

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

967. Management of Outstanding Imprests and Advances

The statement of financial assets and liabilities reflects outstanding imprest and advances balance of Kshs.27,815,980 as at 30 June, 2023. However, analysis of the supporting schedule revealed that the balance includes long outstanding imprests amounting to Kshs.18,868,099 relating to the period from 29 September, 2022 to 31 May, 2023. This was contrary to Regulation 93(5) of the Public Finance Management (County Governments) Regulations, 2015, which states that a holder of a temporary imprest shall account or surrender the imprest within seven (7) working days after returning to duty station. Further, the supporting schedule indicated that the imprests of Kshs.27,815,980 were held by one hundred and eighty (180) officers, each with between four (4) and nineteen (19) imprests, contrary to Regulation 93(4)(b) of the Public Finance Management (County Governments) Regulations, 2015, which stipulates that before issuing temporary imprests, the Accounting Officer shall ensure that the applicant has no outstanding imprests.

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

968. Management of Human Resources

968.1 Recruitment of Staff Outside the Approved Staff Establishment

Review of records revealed that Management paid a total of Kshs.3,333,000, being five (5) months' salaries to five (5) officers under the Governor's Service Delivery Unit, appointed on 7 February, 2023. The officers comprise a chairperson, vice-chairperson and three members. However, it was noted that these positions did not exist in the County Executive's Approved Staff Establishment. In addition, they were not subjected to a competitive recruitment process as they were directly appointed to their positions,

contrary to Section B.6(3) of the County Public Service Human Resource Manual of May, 2013 which requires the recruitment process to give due consideration to the: appropriate organizational structure in each Department; optimal staffing levels; and schemes of service and career progression guidelines.

In the circumstances, Management did not comply with the guidelines of the Approved Staff Establishment.

968.2 Over-Employment of Members Staff

Review of records revealed that Management paid an amount of Kshs.1,625,768, being salaries of three (3) employees who were among the five (5) advisors appointed under the Executive Office of the Governor on 7 February, 2023. However, the positions of the three (3) advisers, namely: Advisor-Agriculture, Livestock, Fisheries and Extension Service; Advisor-Stakeholder, Public Participation and Special Programs; and Advisor-Youth, Gender and Sports, were not provided for in the Salaries and Remuneration Commission Circular Ref. No: SRC/TS/CGOVT/3/16 dated 29 July, 2013 on Remuneration and Benefits for staff serving in the County Government.

968.3 Non-Implementation of Approved Promotions

Review of records revealed that the County Government Public Service Board approved the promotion of one hundred and three (103) officers from various departments on 6 July, 2022 and the decision was communicated to the County on 7 July, 2022. The County Secretary on 28 July, 2022 instructed the Director Human Resource Management to effect the promotions. However, as at 31 October, 2023, these promotions had not been effected allegedly due to budgetary constraints.

In the circumstances, effectiveness of internal controls on management of staff promotion could not be confirmed.

968.4 Non-Compliance with Law on Ethnic Composition in Staffing

Review of the Integrated Personnel and Payroll Database (IPPD) records for the month of June, 2023 revealed that the County Executive had a workforce of 5,757 out of which, 5422 or 94% of the total workforce, were members of the dominant community in the County. This was contrary to the provisions of Section 7(2) of the National Cohesion and Integration Act, 2008, which provides that no public establishment shall have more than one third of its staff from the same ethnic community.

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

968.5 Failure to Observe One Third of Basic Salary Payment Rule

Review of the payroll for the month of June, 2023 revealed that Nine (9) 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 may be made by an employer from the wages of his employee at any time shall not exceed two thirds of such wages.

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

968.6 Delayed Confirmation in Employment

Review of the payroll for the month of June, 2023 revealed that one hundred and twenty-eight (128) officers had been on probation for more than six (6) months, contrary to Section B.13(1) of the County Public Service Human Resource Manual 2013, which requires that an officer be put on probation for a period of six (6) months as provided for in the employment Act, 2007.

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

968.7 Payment of Staff Below Minimum Monthly Wage

Review of the payroll for the month of June, 2023 revealed that nine hundred and one (901) employees were earning a monthly pay of less than Kshs.14,025 which is the minimum monthly wage set in the Regulation of Wages (General) (Amendment) Order of May, 2022 for employees working in Kisii County, resulting in total underpayment of Kshs.1,038,885 per month.

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

968.8 Irregular Recruitment of County Officers

Review of records revealed that Management paid a total of Kshs.5,785,830 to one hundred and thirty (130) new officers. However, requisition of labour from user departments, advertisement for job vacancies, job application documents, shortlist and interview reports for interested candidates, minutes from the County Public Service Board authorizing the appointment of successful candidates were not provided for audit. Further, ten (10) County Executive Committee Members (CECMs) were appointed out of which, seven (7) were men representing 70% of the total, and three (3) were women representing 30% of the total. This was contrary to Section 35(2)(a) of the County Governments Act, 2012, which prohibits the appointment of more than two thirds of the County Executive Committee Members from one gender. Further, all the appointed CECMs were from the same ethnic community and none represented the minorities, marginalized groups and communities, contrary to the provisions of Section 35 (2)(b) and (c) of the County Governments Act, 2012.

In addition, the County Executive recruited fourteen (14) Chief Officers (COs) out of whom, ten (10) were of the male gender representing 71% and four (4) were of the female gender representing 29% of the total. This was contrary to Section B.26(2) of the County Public Service Human Resource Manual of May, 2013, which prohibits the filling of vacant positions by more than 66.7% of persons from one gender. Furthermore, all the appointed chief officers were from the same ethnic community and none represented the minorities and marginalized groups.

In the circumstances, Management was in breach of the law

968.9 Failure to Align the Schemes of Service to Suit the County Executive

Review of the County Executive's Schemes of service revealed that they were prepared by the National Government for use by its officers before County Governments were established. The schemes of service do not include all the cadres of staff employed by the County Executive nor incorporate the changes that have occurred within the County Executive's staff establishment over the years.

In the circumstances, it has not been possible to confirm that the County Executive has an optimal staffing level.

969. Procurement of Works, Goods and Services

969.1 Consultancy Services on County Staff Head Count

Review of records revealed that an amount of Kshs.4,571,950 was paid in respect of a contract for provision of consultancy services on county staff head count which were directly procured on 29 November, 2022 at a contract sum of Kshs.4,935,000. However, Management did not justify the use of direct procurement method, given that the procurement did not meet the conditions set in Section 103 (2) of the Public Procurement and Asset Disposal Act, 2015. Further, the final report from the exercise and minutes of the ad hoc evaluation committee envisaged in Section 104 (b) of the Public Procurement and Asset Disposal Act, 2015 were not provided for audit.

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

969.2 Procurement of Goods and Services

Review of records revealed that an amount of Kshs.8,854,648 spent on the various goods and services were not supported with tender evaluation reports, approved professional opinions and other related procurement documents.

In the circumstances, the value for money on the expenditure of Kshs.8,854,648 could not be confirmed.

969.3 Late Commitment for Supply of Services

Review of records revealed that Management incurred an expenditure amounting to Kshs.2,290,000 in respect of two (2) contracts the County Executive entered into on 8 June, 2023 for the editing, designing and printing of communication strategy at a contract sum of Kshs.1,300,000 and on 5 June, 2023 for developing a draft communication policy at a contract price of Kshs.990,000. This was contrary to Regulation 50(1) of the Public Finance Management (County Governments) Regulations, 2015, which requires all commitments for supply of goods or services to be done not later than the 31 May each year except with the express approval of the accounting officer in writing.

In the circumstances Management was in breach of the law.

969.4 Procurement of Printing of Bursary Forms

Review of records revealed that an amount of Kshs.2,895,000 was incurred in respect of a contract entered into by the Department of Education, Labour and Manpower Development for printing of 50,000 pieces of bursary forms, 100 reams of photocopying papers and 1000 pieces of envelopes (A3). However, the request for quotations lacked specifications in respect of the quality of paper for each of the three categories of stationery required.

In the circumstances, the value for money on the expenditure of Kshs.2,895,000 could not be confirmed.

969.5 Procurement of Construction and Civil Works

Review of records revealed that the County Executive procured works on construction of Suguta water project at a cost of Kshs.1,267,764 supply of plastic water tanks at Kshs.1,178,500 and construction of Ikoro phase II water project Kshs.999,500 all amounting to Kshs.3,445,764. However, the procurement documents such as invitation to tender advertisement, bids submitted, tender opening meeting minutes, tender evaluation reports and professional opinions, were not provided for audit review.

In the circumstances, the value for money on the expenditure of Kshs.3,445,764 could not be confirmed.

969.6 Procurement Using Un-Prequalified Suppliers

Review of records revealed that an amount of Kshs.2,400,587 was paid to two (2) firms by the Department of Energy, Water, Environment and Natural Resources. Out of the amount, Kshs.1,402,235 was for the construction of Nyang'iti Borehole, while the amount of Kshs.998,352 was for the extension of Endereti Water Project. The companies were procured through the request for quotations method of procurement. However, the companies were not in the list of prequalified suppliers of the County Executive, contrary to Section 106 (2) of the Public Procurement and Asset Disposal Act, 2015, which require the accounting officer to give the request for quotations to persons that are registered by the procuring entity.

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

969.7 Unjustified Procurement of Smartphones

Review of records revealed that an amount of Kshs.1,125,000 was incurred on five (5) smart phones and one (1) tablet procured by the County Executive and Public Service Board. The gadgets were issued to various officers. However, no need-assessment report for the gadgets, explanation or justification was provided to support the purchase of the expensive, high-end gadgets. In addition, the County Executive did not have a policy/circular on the purchase of smartphones for officers.

In the circumstances, the regularity at the expenditure of Kshs.1,125,000 could not be confirmed.

969.8 Unsupported Procurement of ICT Equipment

Review of the records revealed that an amount of Kshs.1,744,600 was utilized on purchase of computers, printers and other IT equipment. However, tender evaluation reports, approved professional opinions and other related procurement documents in support of the expenditure were not provided for audit review.

In the circumstances, value for money on the expenditure of Kshs.1,744,600 could not be confirmed.

969.9 Non- Publication of Procurement Contracts

Review of the procurement contracts of the County Executive revealed that procurement contracts totalling Kshs.63,746,221 were not published on County Executive's notice boards and websites as required. Further, no evidence was provided to indicate that the contracts were reported to the Public Procurement and Review Authority. This was contrary to Regulation 131 (a) and (b) of the Public Procurement and Asset Disposal Regulations, 2020, which stipulates that an Accounting Officer of a procuring entity shall, publish and publicize all procurement contracts at its notice boards and websites within fourteen days after signing the contract; and report all signed contracts to the Authority within fourteen days after the end of every month in the format provided by the Authority.

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

970. Irregular payments

970.1 Payment to the Council of Governors

Review of records revealed that an amount of Kshs.5,000,000 was paid to the Council of Governors for the purpose of meeting its operation expenses, contrary to Section 37 of the Intergovernmental Relations Act, 2012, which provides that the operational expenses in respect of the structures and institutions established in this Act shall be provided for in the annual estimates of the revenue and expenditure of the National Government.

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

970.2 Use of Public Funds on irregular Domestic Travel

Review of records revealed that an amount of Kshs.8,277,600 was incurred by the County Executive's staff while carrying out various activities in Kisumu which could have been done in Kisii.

In the circumstances, the value for money on the expenditure of Kshs.8,277,600 could not be confirmed.

971. Delays in Completion of Projects

971.1 Magena Vegetable Aggregation and Marketing Centre

Review of records revealed that an amount of Kshs.15,434,873 was paid to a local company for the construction of Magena Vegetable Aggregation and Marketing Centre under the Department of Agriculture, Livestock, Fisheries and Veterinary Services, and the National Agricultural and Rural Inclusive Growth project (NARIGP). The contract was awarded on 13 December, 2022 at a contract sum of Kshs.42,460,075. The contract period was set at fourteen (14) weeks. However, physical verification on 7 August, 2023 revealed that the project was not complete. The percentage completion was 95%. Some of the outstanding works included installation of the cold room and table tops among others.

In the circumstances, the value for money on the expenditure of Kshs.15,434,873 could not be confirmed.

971.2 Marani Vegetable Aggregation and Marketing Centre

Review of records revealed that an amount of Kshs.16,368,717 paid to a local company for the construction of Marani Vegetable Aggregation and Marketing Centre, under the Department of Agriculture, Livestock, Fisheries and Veterinary Services, and the National Agricultural and Rural Inclusive Growth Project (NARIGP). The contract was awarded on 13 December, 2022 at a contract sum of Kshs.42,304,745. The contract period was set at fourteen (14) weeks. However, physical verification of the project on 7 August, 2023 revealed that the project was not complete. The percentage completion was 95%. Some of the outstanding works include installation of the cold room and table tops among others.

In the circumstances, value for money on the expenditure of Kshs.16,368,717 could not be confirmed.

971.3 Ogembo Cooling Plant

Review of records revealed that an amount of Kshs.597,410 was paid to a contractor for the construction of a cooling plant at Ogembo, under the Department of Agriculture, Livestock, Fisheries and Cooperative Development. The contract was awarded at a contract sum of Kshs.3,197,410 on 15 November, 2019 for a contract period of three months. However, physical verification on 9 August, 2023 revealed that the project was still incomplete with electrical wiring and fittings being outstanding. Further, it was not possible to ascertain the current project status and total payments made since an updated project status report and payments reconciliation report were not provided for audit review.

In the circumstances, the value for money on the expenditure totalling Kshs.32,401,000 incurred on the projects could not be confirmed.

972. Stalled Projects

972.1 Construction of the Governor's Residence

Review of records revealed that the County Executive had spent a total of Kshs.14,000,000 in Phase I and II of the construction of the Kisii Governor's Residence. However, physical inspection of this project on 9 August, 2023 revealed that the project had stalled and no progress had been made from the last audit inspection done on 14 July, 2022. Further, the updated project status report had not been provided for audit.

In the circumstances, the value for money on the expenditure of Kshs.14,000,000 incurred on the project could not be confirmed.

972.2 Ward Offices

Review of the projects under the Department of County Administration Corporate Services and Stakeholder Management revealed four (4) projects namely Bogeka ward office Kshs.2,601,349, Masige West ward office Kshs.2,675,000, Machoge Bassi ward office Kshs.4,507,347 and Kenyenia town hall Kshs.6,500,000 all amounting to Kshs.16,283,696 had stalled.

In the circumstances, the value for money on the expenditure of Kshs.16,283,696 could not be confirmed.

972.3 Construction of Sameta Library

Review of records revealed that an amount of Kshs.443,250 was paid by the Department of Culture and Social Services in respect to the construction of Sameta Library, which was awarded to a company at a contract sum of Kshs.9,820,000 in the financial year 2015/2016. As at 30 June, 2023, a total of Kshs.4,517,690 had been paid to the contractor. However, physical inspection of the project in August, 2023 revealed that the project had been abandoned and the contractor was not on site.

In the circumstances, the value for money on the expenditure of Kshs.4,517,690 incurred on the project could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

973. Internal Control Weakness in the Procurement Process

The County Executive spent Kshs.1,346,000 on portraits during the year under review. However, review of the procurement process revealed that tender opening, evaluation, and inspection and acceptance of delivered goods were done by committees comprising of the same officers without any segregation of duties.

In the circumstances, the internal controls over the procurement of the portraits were not effective.

974. Grounded Motor Vehicles and Machineries

Annex 3- on summary of non-current assets register reflect transport equipment balance of Kshs.726,879,441. However, review of the status of the County Executive's fleet of motor vehicles and machineries revealed that sixty-three (63) motor vehicles and heavy machinery out of an inventory list of two hundred and seventy (270), representing 23% of the entire fleet, were grounded and unserviceable across the various departments. In addition, the Management had not prepared an annual disposal plan as required by Regulation 176(1) of the Public Procurement and Asset Disposal Regulations, 2020.

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

COUNTY EXECUTIVE OF NYAMIRA - NO.46

REPORT ON THE FINANCIAL STATEMENTS

Basis for Adverse Opinion

975. Inaccuracies in the Financial Statements

The financial statements presented by the County Executive of Nyamira had the following inaccuracies:

975.1 Inaccuracies in Cash and Cash Equivalents

The statement of assets and liabilities and as disclosed in Note 9A reflects cash and cash equivalents of Kshs.454,717,850. Review of cash book balance of Kshs.77,472,612 in respect of Nyamira County Deposit revealed that the bank balance included deposits balance of Kshs.11,404,909 received after 30 June, 2023 and hence not part of the cash balance.

In the circumstances, the accuracy and completeness of cash and cash equivalents of an amount of Kshs.454,717,850 could not be confirmed.

975.2 Unconfirmed Budget Adjustments on the Statement of Comparison of Budget and Actual Amounts Combined

Review of the statement of comparison of budget and actual amounts combined, reflects an amount of Kshs.7,094,885,582 in respect of final revenue and expenditure budget which includes original budget and adjustments of amounts of Kshs.5,921,849,700 and Kshs.1,173,035,882 respectively. However, the budget adjustments was not supported with supplementary budgets.

In the circumstance, the accuracy of budget adjustment of Kshs.1,173,035,882 reflected in the statement could not be confirmed.

976. Unreconciled Transfers from the County Revenue Fund

The statement of receipts and payments as disclosed in Note 1 to the financial statements, reflects an amount of Kshs.5,438,497,002 in respect of transfers from County Revenue Fund (CRF) which includes amounts of Kshs.4,566,049,030 and Kshs.872,447,972 in respect for CRF transfers to County Executive and County Assembly respectively. However, review of CRF bank statements account revealed total amount of Kshs.6,089,804,538 resulting in an unexplained and unreconciled variance of Kshs.651,307,536.

In the circumstances, the accuracy and completeness of an amount of Kshs.5,438,497,002 in respect of transfers from the CRF could not be confirmed.

977. Compensation of Employees

The statements of receipts and payments reflects an amount of Kshs.2,637,804,452 in respect of compensation of employees as disclosed in Note 3 to the financial statements. However, the following anomalies were noted; -

977.1 Variance Between the Financial Statement and Supporting Schedules

The statement of receipts and payments reflects an amount of Kshs.2,637,804,452 in respect of compensation of employees. However, review of supporting documents including payroll and payment vouchers revealed an amount of Kshs.2,697,895,105 resulting to unexplained and unreconciled variance of Kshs.60,090,653.

In the circumstances, the accuracy and completeness of Kshs.2,637,804,452 in respect of compensation of employees could not be confirmed.

977.2 Unsupported Payment of Personal Allowances Paid as Part of Salary

Included in the amount for compensation of employees is an amount of Kshs.709,386,963 in respect of personal allowances paid as part of salary. However, review of the payroll revealed that some health workers received extraneous and health workers allowance amounting to Kshs.2,600,000 and Kshs.13,550,000 respectively during the year. Similarly, some employees were also paid house allowance and special house allowance amounting to Kshs.788,600 and Kshs.537,801 respectively during the year. The Management did not provide supporting documents, explanations and approved circular on salary structure supporting the payments of these salary allowances.

In the circumstances, the accuracy and completeness of an amount of Kshs.17,476,401 in respect of personal allowances paid as part of salary could not be confirmed.

978. Inaccuracies in Use of Goods and Services

The statement of receipts and payments reflects use of goods and services amount of Kshs.605,566,674 as disclosed in Note 4 to the financial statements. The following matters were noted; -

978.1 Domestic Travel and Subsistence Expenses

The amount includes Kshs.197,870,963 in respect of domestic travel and subsistence. However, review of the expenditure supporting schedules revealed total amount of Kshs.406,331,116 resulting to an unexplained and unreconciled variance of Kshs.208,460,153. Further, an amount of Kshs.154,250,238 in respect to changes in retention was included as domestic travel and subsistence expenditure. The supporting schedule included expenditure incurred through reallocations from thirty-five (35) sub-components and a total amount of Kshs.8,652,500 was paid after the cut off period of 30 June, 2023. In addition, review of the domestic travel and subsistence supporting documents revealed that payments totalling Kshs.5,181,800 had their payment vouchers

not supported with attendance lists, retreat reports and the retreat venue was not disclosed.

In the circumstances, the accuracy and completeness of the expenditure of Kshs.197,870,963 in respect of domestic travel and subsistence could not be confirmed.

978.2 Foreign Travel and Subsistence

Included in the use of goods and services amount of Kshs.605,566,674 is an amount of Kshs.2,634,776 in respect of foreign travel and subsistence. However, review of the supporting expenditure schedules revealed amounts totalling Kshs.3,834,776 resulting to an unexplained and unreconciled variance of Kshs.1,200,000. Further review of the supporting schedule revealed that total amount of Kshs.1,697,598 relates to training expenses. In addition, an amount of Kshs.1,200,000 was paid in respect of air tickets from Nairobi-Kisumu – Mombasa which relates to domestic travel and not foreign travel.

In the circumstances, the accuracy and completeness of the expenditure of Kshs.2,634,776 in respect of foreign travel could not be confirmed.

978.3 Printing, Advertising and Information Supplies and Services

The use of goods and services amount also includes an amount of Kshs.21,023,739 in respect of printing, advertising and information supplies and services. However, review of the expenditure supporting schedules revealed total amount of Kshs.31,193,469 resulting to an unexplained and unreconciled variance of Kshs.10,169,730. Further, review of the supporting expenditure schedules revealed that amounts totalling Kshs.9,519,730 were paid to various staffs in respect of domestic travel and subsistence which were not supported with authority for reallocations.

In the circumstances, the accuracy and completeness of the expenditure of Kshs.21,023,739 in respect of printing, advertising and information supplies and services could not be confirmed.

978.4 Rent and Rates

The statement of receipts and payments and as disclosed in Note 4 to the financial statements, reflects use of goods and services of Kshs.605,566,674. Included in the amount is Kshs.7,281,570 in respect of rent and rates. However, review of the supporting documents including invoices revealed that expenditure of Kshs.2,908,630 relates amount incurred in the previous audited financial year 2021/2022 which were not included as pending bills as was detailed in Annex 3 of the previous year audited financial statements. Further, payment of an amount of Kshs.240,000 was incurred on 26 April, 2023 for lease agreement that had expired.

In the circumstances, the accuracy and regularity of the expenditure of Kshs.3,148,630 could not be confirmed.

978.5 Hospitality Supplies and Services

The statement of receipts and payments and as disclosed in Note 4 to the financial statements, reflects the use of goods and services of an amount of Kshs.605,566,674 which includes an amount of Kshs.28,670,068 in respect of hospitality supplies and services. However, review of the expenditure supporting schedules revealed total amount of Kshs.55,808,048 resulting to an unexplained and unreconciled variance of Kshs.27,137,980. Further, review of the supporting expenditure schedules revealed amounts totalling Kshs.27,438,780 were paid to various staff in respect of domestic travel and subsistence which were not supported with authority for reallocations.

In the circumstances, the accuracy and completeness of the expenditure of Kshs.28,670,068 could not be confirmed.

979. Unsupported Expenditure – Use of Goods and Services

979.1 Unsupported Purchase of Pharmaceuticals and Non-Pharmaceuticals

Included in the use of goods and services amount of Kshs.605,566,674 as disclosed in Note 4 to the financial statements is specialized materials and services of an amount of Kshs.109,354,934. Review of the supporting documents including payment vouchers revealed that amounts totalling Kshs.48,831,238 were made to the Mission for Essential Drugs and Supplies (MEDS) for supply of various pharmaceuticals and non-pharmaceuticals. However, the payment vouchers were not supported by requisition from user health facilities, inspection and acceptance reports and distribution lists.

In the circumstances, the accuracy and completeness of the expenditure of Kshs.48,831,238 could not be confirmed.

979.2 Office and General Supplies and Services

The statement of statement of receipts and as disclosed in Note 4 to the financial statements, and payments reflects use of goods and services of an amount of Kshs.605,566,674 which includes an amount of Kshs.41,119,448 in respect of office and general supplies and services. However, review of the supporting expenditure schedules revealed that amounts totalling Kshs.4,595,925 were paid to various staff in respect of domestic travel and subsistence which were not supported with authority for reallocations.

In the circumstances, the accuracy and completeness of the expenditure of Kshs.4,595,925 could not be confirmed.

979.3 Insurance Costs

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects use of goods and services amount of Kshs.605,566,674. Included in the amount is insurance costs of Kshs.12,970,660 in respect of premium paid to an underwriter firm, for an estimated value of risk covered of Kshs.311,400,050 under seven

policies. Further, review of the vehicle inventories showed that the insurance cover included ten motor vehicles valued at Kshs.41,520,000 with an estimated premium of an amount of Kshs.1,729,421. However, the County Executive did not provide ownership documents for the ten vehicles.

In the circumstances, the accuracy and completeness of unsupported expenditure amounting to Kshs.55,256,584 could not be confirmed.

980. Misclassification of Expenditure – Use of Goods and Services

980.1 Other Operating Expenses

The statement of receipts and payments and as disclosed in Note 4 to the financial statements, reflects use of goods and services of an amount of Kshs.605,566,674 which includes an amount of Kshs.35,036,563 in respect of other operating expenses. However, review of the supporting expenditure schedules revealed that amounts totalling Kshs.12,878,550 were paid to various staff in respect of domestic travel and subsistence which were not supported with authority for reallocations.

In the circumstances, the accuracy and completeness of the expenditure of Kshs.12,878,550 in respect of other operating expenses could not be confirmed.

980.2 Training Expenses

The statement of receipts and payments and as disclosed in Note 4 to the financial statements, reflects use of goods and services amount of Kshs.605,566,674 which includes an amount of Kshs.62,341,903 in respect of training expenses. However, review of the expenditure schedules revealed that an amount of Kshs.3,533,300 was relocated to payment of domestic travel and subsistence but was not supported by authority. Further review of the supporting documents including payment vouchers, revealed that the expenditure was not supported by training need assessments from individual staff trained as required by Section H.3 (1) of the Public Service Commission Human Resource manual of May, 2016 which states that training in the Public Service shall be based on training needs assessment. Further, section H.3 (3) states that selection of trainees for all training programmes will be based on identified needs and will emphasize on training for performance improvement that address individual, organizational and national goals.

In the circumstances, the accuracy and completeness of the expenditure of Kshs.3,533,300 in respect of training expenses could not be confirmed.

981. Inaccuracies in the Transfers to Other Government Entities

The statement of receipts and payments and as disclosed in Note 5 to the financial statements, reflects transfers to other government entities of an amount of Kshs.1,202,660,606. Included in the amount is Kshs.138,212,634 and Kshs.70,000,000 in respect of transfers to Municipality of Nyamira and Mortgage respectively. However, review of the supporting documents for transfer to Municipality of Nyamira including recurrent account bank statements revealed transfers of an amount of Kshs.2,339,915

resulting to an unexplained and unreconciled variance of Kshs.135,872,719. Further, review of the Nyamira County mortgage account bank statements revealed transfers of an amount of Kshs.91,196,549 resulting to an unexplained and unreconciled variance of Kshs.21,196,549. In addition, transfers to scholarships and other education benefits of Kshs.122,000,000 were not supported with expenditure transfers schedules and bank statements.

In the circumstances, the accuracy and completeness of transfer to other government entities of Kshs.1,202,660,606 could not be confirmed.

982. Inaccuracies in Other Grants and Transfers

The statement of receipts and payments and as disclosed in Note 6 to the financial statements, reflects other grants and transfers amount of Kshs.376,232,494. However, review of the supporting schedules and recurrent bank statements revealed an amount of Kshs.294,957,800 resulting in unexplained and unreconciled variances of Kshs.81,274,694.

Further, other grant and transfers of an amount of Kshs.272,326,114, Kshs.10,281,637 and Kshs.27,624,743 in respect of Transfers to NAGRIP, ASDP account SPA and Transfers to other County health facilities respectively were not supported by expenditure requisition, bank statements and expenditure returns.

In the circumstances, the accuracy and completeness of Kshs.376,232,494 in respect of other grants and transfers could not be confirmed.

983. Unreconciled Variances - Social Security Benefit

The statement of receipts and payments and as disclosed in Note 7 to the financial statements, reflects an amount of Kshs.388,425,737 in respect of social security benefits (Government Pension and Retirement benefits). However, review of the supporting schedule revealed an amount of Kshs.207,040,743 resulting in an unexplained and unreconciled variance of Kshs.181,384,994.

In the circumstances, the accuracy and completeness of Kshs.388,425,737 in respect of social security benefits could not be confirmed.

984. Acquisition of Assets

984.1 Misclassification of Expenditure - Construction and Civil Works

The statement of statement of receipts and payments and as disclosed in Note 8 to the financial statements, reflects acquisition of assets amount of Kshs.607,154,558 which includes an amount of Kshs.99,964,393 in respect of construction and civil works. However, review of the supporting expenditure schedules and payment vouchers revealed that an amounts of Kshs.3,062,410 was paid to various officers, which relates to domestic travel and subsistence which was not supported by authority for reallocations.

In the circumstances, the accuracy and completeness of the expenditure of Kshs.3,062,410 in respect of construction and civil works could not be confirmed.

984.2 Inaccuracies in Purchase of Certified Seeds, Breeding Stock and Live Animals

The statement of statement of receipts and payments and as disclosed in Note 9 to the financial statements, reflects acquisition of assets amount of Kshs.607,154,558 which includes an amount of Kshs.1,421,000 in respect of purchase of certified seeds, breeding stock and live animals. However, review of the expenditure supporting schedules revealed total amount of Kshs.5,021,000 resulting to an unexplained and unreconciled variance of Kshs.3,600,000. Further, review of the supporting expenditure schedules revealed amounts totalling Kshs.3,600,000 were paid to two firms which relates to construction and civil works and were not supported by authority for reallocations.

In the circumstances, the accuracy and completeness of the expenditure of Kshs.1,421,000 in respect of purchase of certified seeds, breeding stock and live animals could not be confirmed.

985. Unsupported Outstanding Imprest

The statement of assets and liabilities reflects Nil balance in respect of receivables which includes outstanding imprests. However, review of the imprest register revealed that Kshs.7,752,100 was surrendered but the corresponding supporting payment vouchers were not provided for audit review. Further, review of the bank reconciliation statements provided for audit in support of cash and cash equivalents revealed that payments of Kshs.237,389,047 were made in cash book but not in the bank (unpresented cheques) which relates to unsurrendered imprests.

In the circumstances, the accuracy and completeness of a Nil balance in respect of unsurrendered imprest could not be confirmed.

986. Cash and Cash Equivalents Balance

986.1 County Revenue Fund Account

The statement of assets and liabilities reflects cash and cash equivalents balance of Kshs.454,717,851 and as disclosed in Note 9A to the financial statements, which includes Kshs.197,133,728 in respect of the County Revenue Fund Account. The bank reconciliation statement for the account as at 30 June, 2023 reflects payments of Kshs.133,167,927 in cashbook not in bank statements (unpresented cheques). However, details of the payments including dates when the transaction were incurred were not provided for audit review.

986.2 Recurrent Account

The statement of assets and liabilities and as disclosed in Note 9A to the financial statements, reflects cash and cash equivalents balance of Kshs.454,717,851 which

includes Kshs.1,043 in respect of the County Recurrent Account. However, the bank reconciliation statement as at 30 June, 2023 reflects payments totalling Kshs.237,389,047 which were made in cashbook but not in the bank in the period between 4 July, 2023 and 14 July, 2023. Further, the supporting detailed schedule for the payments were not provided for audit review.

986.3 Development Account

The statement of assets and liabilities and as disclosed in Note 9A to the financial statements, reflects cash and cash equivalents balance of Kshs.454,717,851 which includes Kshs.208,431 in respect of the Development Account. The bank reconciliation statement as at 30 June, 2023 reflects payments made in cashbook but not in the bank statement totalling Kshs.130,646,014. However, the cashbook and the bank reconciliation statement did not reflect the dates and references of the transactions. Further, the reconciliation statement reflects payment in bank not in cashbook of Kshs.20,833,830 which does not indicate the payee, date and reference of the transaction.

986.4 Nyamira County Climate Change Fund Operations Account

The statement of assets and liabilities and as disclosed in Note 10A to the financial statements, reflects cash and cash equivalents balance of Kshs.454,717,851 which includes Kshs.29,838,024 in respect of the Nyamira County Climate Change Fund Operations Account. The bank reconciliation statement as at 30 June, 2023 reflects payments made in cashbook but not in the bank statement totalling Kshs.1,594,996. However, the cashbook and the bank reconciliation statement did not reflect the dates of the transactions, payees and amount paid.

986.5 Nyamira County Salaries Account

The statement of assets and liabilities and as disclosed in Note 10A to the financial statements, reflects cash and cash equivalents balance of Kshs.454,717,851 which includes Kshs.1,066,349 in respect of the Nyamira County Salaries Account. The Management explained that the amount was salaries that had not been forwarded to the employees accounts. However, the details of their names and personal numbers of the employees were not been provided for audit verification. It was further noted that the cash books are not regularly checked by the supervising accountants.

In the circumstances, the accuracy and completeness of the cash and cash equivalents balance of Kshs.454,717,851 could not be confirmed.

987. Unsupported Deposits Balance

The statement of assets and liabilities as at 30 June, 2023 reflects deposits and retention balance of Kshs.77,472,613. However, review of the supporting schedule provided for audit reflects Kshs.78,226,580, resulting to an unexplained and unreconciled variance of Kshs.753,967. Further, the schedule did not indicate for each creditor, the details of

contract number, project name, fee note or interim payment certificate or reference of the payment from which the retention money was deducted.

In the circumstances, the accuracy and completeness of the deposits and retention balance of Kshs.77,472,613 could not be confirmed.

988. Unbudgeted Expenditure on Construction of Roads

The statement of receipts and payments and as disclosed in Note 8 to the financial statements, reflects acquisition of assets amount of Kshs.607,154,558 which includes Kshs.129,304,872 in respect of construction of roads. Review of the expenditure revealed amount of Kshs.41,138,169 for road construction that was not approved in the annual budget for 2022/2023 and was not reported in Annex 2 of the previous year 2021/2022 audited financial statements in respect of pending bills.

In the circumstances, the regularity of Kshs.41,138,169 in respect of construction of roads could not be confirmed.

989. Over Payment on Purchase of Vehicles

The statement of receipts and payments and as disclosed in Note 8 to the financial statements, reflects acquisition of assets amount of Kshs.607,154,558 which includes an amount of Kshs.31,151,451 in respect of purchase of vehicles and other transport equipment. Review of expenditure revealed that the County Government procured three (3) motor vehicles at a cost of Kshs.23,665,751. However, review of supporting documents including invoices showed that the vehicles were purchased at a cost of Kshs.7,485,700 each, totalling Kshs.22,457,100 resulting to an overpayment of Kshs.1,208,651.

In the circumstances, the accuracy and regularity of Kshs.1,208,651 in respect of purchase of vehicles could not be confirmed.

990. Undelivered Vaccines

The statement of receipts and payments and as disclosed in Note 8 to the financial statements, reflects acquisition of assets amount of Kshs.607,154,558 which includes an amount of Kshs.1,421,000 in respect of purchase of certified seeds, breeding stock and live animals. However, review of the supporting documents including delivery note revealed that out of 35,000 vaccines ordered, 29,960 vaccines worth Kshs.1,385,720 were not delivered and stores ledger and issue vouchers were not provided for audit.

Further, the supplier was paid in advance before delivery contrary to Regulation 98(2) of Public Finance Management Act, 2015, which requires that, advance payment shall not be paid to supplier of services and goods unless provided for in the contractual terms and conditions contained in a valid contract signed between the procuring entity and the supplier.

In the circumstances, the accuracy and occurrence of expenditure of Kshs.1,421,000 could not be confirmed.

Emphasis of Matter

991. Budgetary Control and Performance

The statement of comparison of budget and actual amounts (recurrent and development combined) reflects final receipt budget and actual comparable basis amounts of Kshs.7,094,885,582 and Kshs.5,718,136,200 respectively resulting in under-funding of Kshs.1,376,749,382 or 15% of the budget. Similarly, the statement reflects final budget expenditure and actual on comparable basis amounts of Kshs.7,094,885,582 and Kshs.5,817,844,520 respectively resulting into under-absorption of Kshs.1,277,041,062 or 18% of the budget.

The under-funding and under-expenditure affected the planned activities and may have impacted negatively on service delivery to the residents of Nyamira County.

992. Overstatement of Contingent Liabilities

Annex 8 of the financial statements reflects contingent liabilities balance of Kshs.34,462,950. However, the details provided on contingent liabilities includes 10 fee notes and 2 Nos (decree) court awards for cases that have been determined and are not contingent in nature. This implies that the County is obliged to make payment and avoid further expenses in penalties. Further, the County has one hundred and twenty-two (122) active court cases and seventy (70) matters accrued and pending obligations of an amount that is yet to be determined.

993. Unremitted Retirement Contributions

Review of Annex 2 to the financial statements reflects pending accounts payable of Kshs.339,703,949 as at 30 June, 2023. However, the balance excluded an amount of Kshs.82,484,098 in respect of unremitted pension contribution owed to LAPFUND for the period between April, 2013 and December, 2022. Review of the correspondences provided for audit revealed that out of the unremitted balance had accrued interest amount of Kshs.76,209,527.

Further, the County Executive owed LAPFUND a total of Kshs.310,956,550, being pension contributions arising from the four Defunct Local Authorities, namely, Town Council of Keroka Kshs.59,846,050, County Council of Nyamira Kshs.52,066,590, Town Council of Nyamira (Kshs.181,911,413) and Town Council of Nyansiongo (Kshs.17,132,497).

The County Government has neither provided a budget for the unremitted funds nor engaged LAPFUND to find a solution for the pension contributions arising from the four Defunct Local Authorities. The amount owed to LAPFUND is likely to escalate due to the interest factor.

994. Pending Bills

Annex 2 to the financial statements reflects balance of Kshs.339,703,949 in respect of pending accounts payable. However, review of the invoices and completion certificates of certified works revealed a re-computed balance of Kshs.582,053,849, resulting to an unexplained variance of Kshs.242,349,900. Further, pending payment vouchers totalling Kshs.502,634,421 were not provided for audit. In addition, review of supporting documents revealed that a balance of Kshs.28,413,675 was in respect of recurrent and development expenditures for previous financial year 2021-2022. Failure to clear pending bills in the year to which they relate distorts the budget of the following year as they constitute a first charge on the budget. The County therefore is at risk of incurring significant and unquantified interest costs and penalties associated with delays in settling the invoiced bills.

My opinion is not modified in respect of these matters.

Other Matter

995. Unresolved Prior Year Matters

As disclosed under the progress on follow up of auditor's recommendations section of the financial statements, the prior year audit issues remained unresolved as at 30 June, 2023. Management has not provided satisfactory reasons for the delay in resolving the issues.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

996. Composition of Employees

996.1 Non-Compliance with Fiscal Responsibility Principles on Wage Bill

The statement of receipts and payment reflects compensation of employees amount of Kshs.2,637,804,452 which constitute 46% of total revenue of Kshs.5,718,236,200 collected during the year under review. This is 11% above the limit of 55% contrary to Regulation 25(1) (a) and (b) of the Public Finance Management (County Governments) Regulations, 2015 which requires that the County Executive Committee members with the approval of the County Assembly shall set a limit on the county government's expenditure on wages and benefits for its public office pursuant to Section 107(2) of the Act and, (b) the limit set under paragraph shall not exceed 35 per cent of the county government total revenue.

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

996.2 Non-Compliance with Law on Ethnic Composition

The County has a total staff of three thousand nine hundred and fifty-five (3955) officers. However, the staff number comprised of three thousand seven hundred and thirty-four (3734) from the dominant ethnic group forming 94.4% of staff composition. This was contrary to Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 which stipulates that all public establishment shall seek to represent the diversity of the people of Kenya and that no public establishment shall have more than one third of its staff from the same ethnic community.

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

996.3 Non-Deduction of the Pay as You Earn Tax

Review of the payroll for the month of June, 2023, revealed that twenty-six (26) officers with total annual gross pay of Kshs.10,130,440, were not remitting Pay as You Earn (PAYE) tax despite being eligible. This was contrary to Regulation 22(2)(a) of the Public Finance Management (County Governments) Regulations, 2015 which requires accounting officers to comply with any tax, levy, duty, pension, commitments and audit commitments as may be provided for by legislation. In addition, no income tax exemption certificate has been provided to support their non-payment of PAYE to the Kenya Revenue Authority.

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

996.4 Non-Compliance with the Third Rule on Basic Salary

Review of the payroll for the month of June 2023 revealed that thirty-two (32) officers were earning Nil basic salary and a net salary less than one third of their respective basic pays .This was contrary to Section 19(3) of the Employment Act, 2012 and Section C.1(3) of the Human Resource Policies and Procedures Manual for the Public Service, 2016 which provides that the total amount of all deductions which may be made by an employer from the wages of his or her employee at any one time shall not exceed two-thirds of such wages or such additional or other amounts as may be prescribed .

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

996.5 Delay in Confirmation of Staff in Employment

Review of the payroll for the month of June, 2023 revealed that one thousand seven hundred and eighteen (1,718) or 43% of the employees, have been on probation for a period between six (6) months and 33 years months confirmation. This was contrary to Section B.13 (1) of the County Human Resource Manual 2013 which states that, "an officer shall be put on probation for a period of 6 months as provided for in the Employment Act, 2007. No explanation has been provided for this anomaly.

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

997. Irregular Transfers to the County Assembly

The statement of receipts and payments reflects transfers to other Government entities of Kshs.1,202,660,607 which includes a balance of Kshs.872,447,972 in respect of transfers to the County Assembly of Nyamira, which is equivalent to 15% of the County government's total revenue of Kshs.5,718,236,200. However, the amount transferred exceeds the 7% limit as provided in Regulation 25(1)(f) of the Public Finance Management (County Governments) Regulations, 2015 which states that the approved expenditure of a County Assembly shall not exceed seven (7)% per cent of the total revenue of the County Government or twice the personnel emoluments of that County Assembly, whichever is lower.

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

998. Acquisition of Assets

998.1 Irregular Re-Allocation of Development Funds

The statement of comparison of budget and actual amounts reflects final budget of Kshs.2,185,411,679 in respect to development budget and actual amount on comparable basis of Kshs.1,461,159,488. However, review of the IFMIS payment details in respect of development reveal payments amounting to Kshs.375,860,058, Kshs.59,456,832 and Kshs.8,413,867 in respect of other grants, payment to various staffs and other operating expenses totalling Kshs.443,730,756 or 27% reallocated to recurrent expenditure contrary to Section 43(1)(6) of the Public Finance Management Act, 2012 which states, inter alia, that an accounting officers may not reallocate funds which are appropriated for capital expenditure except to defray other capital expenditure.

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

998.2 Delay of the Development of Nyamira County Spatial Plan Project

The County Government contracted consultancy services for preparation and development of Nyamira County Spatial Plan (2020-2030) at contract sum was Kshs.74,999,973 for a contract period of eighteen (18) months from 15 July, 2020 to 15 January, 2022. However, although the contract period had expired, 70% of the work had not been executed and no explanation was provided for the delay. Further, at the time of audit in November, 2023, the firm had not submitted the draft and final plans despite the contract period being extended to 15 December, 2023. In addition, Kshs.22,499,991 or 30% of the contract sum was to be paid on submission of the situational report. However, an amount of Kshs.25,499,991 was paid during the year resulting in an overpayment of Kshs.3,000,000. Delay in completion of contracts on time may lead to increased avoidable costs of interest and penalties and may deny public benefits that would have accrued from the completed the project.

In the circumstances, the Executive may not obtain value for money and expected benefits from the projects.

998.3 Irregular Procurement of Supply, Delivery, Installation and Commissioning of Solar Powered Street Lights within Nyamira Municipality

The County Government contracted and paid two contractors a total of Kshs.11,260,000 for the supply and installation of solar street lights in Nyamira Municipality. However, review of the supporting documents including certificate of completion revealed that the supply and installation of solar street lights were carried out and completed at the same time indicating that the contract was split contrary to Regulation 43(1) of Public Procurement and Asset Disposal Regulation, 2020, which requires procurement entity shall not split or structure its contracts for the purpose of avoiding the use of procurement procedures outlined in the Act.

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

998.4 Grounded Motor Vehicles and Machinery

Review of motor vehicle records provided for audit revealed that the County owns fifty-nine (59) grounded motor vehicles and machinery of estimated value of Kshs.14,380,000. However, the County has not prepared an annual disposal plan of items declared as unserviceable, surplus or obsolete, obsolescence stores, asset or equipment. This was contrary to Regulation 176(1) of the Public Procurement and Asset Disposal Regulations, 2020 stipulates that an accounting officer of a procuring entity shall ensure that an annual assets disposal plan is prepared of items declared as unserviceable, surplus or obsolete, obsolescent store, assets and equipment.

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

998.5 Delayed Completion of Construction of Eye Hospital at Nyamwetureko

The County Government awarded a contract for the construction of eye hospital at Nyamwetureko at a contract sum of Kshs.35,104,864 for contract period of 20 months with completion date of March, 2022. Review of the financial records and audit physical verification on 28 October, 2023 revealed that the contractor had been paid cumulative sums of Kshs.15,127,212 translating to 43.09% of the work done. Further, review of records indicated that the contractor requested for an extension of the contract period citing a delay of 8 months due to Covid 19 pandemic. An approval for extension from the Project Implementation Committee through the head of procurement department was however not provided for audit and it is not clear whether the contract period will be extended or the contract will be terminated all together.

In the circumstances, the County Executive may not obtain value for money and the expected benefits from the projects to the public may not be realized.

998.6 Delayed Completion of Construction of Inpatient Block at Manga Sub County

The County Government awarded contract for the construction and completion of inpatient wards block at Manga Sub-county Hospital at a contract sum of Kshs.34,237,845 for a contract period of thirty-six (36) weeks commencing 28 March, 2019 with an initial completion date of March, 2022. On 8 November, 2019, the Project Manager issued a warning notice to the contractor because of abandoning the works and later a default notice on 9 November, 2021 stating that the contract should be terminated on grounds of breach of contract, however the completion date was revised to 25 September, 2023. Audit verification of the project inspection on 31 October, 2023, revealed that the contractor was not on site and the work was 41% complete. During the year, Kshs.6,276,510 had been paid to the contractor.

In the circumstances, the County executive may not obtain value for money and the expected benefits from the projects to the public not be realized.

998.7 Abandoned Construction and Completion of Nyamira County Referral Hospital Covid -19 Isolation Complex

The County Government awarded contract for the construction of Nyamira County Referral Hospital Covid -19 Isolation complex at a contract sum of Kshs.95,860,834 for a contract period of sixteen (16) weeks with an initial completion date of February, 2021. Review of the financial records including the payment vouchers and procurement records revealed that the contractor had been paid cumulative sums of Kshs.65,777,029 or 68.6% of the contract sum whereas the County Quantity Surveyor report dated 13 September, 2023 indicated that work is only 29% complete. The Project Implementation Committee had approved extension of contract period to 26 August, 2022. However, audit verification of the project on 30 October, 2023 revealed that the contractor was not on site and the works remained incomplete and abandoned. Further, review of the correspondences revealed that the contractor has sued the County Government for failing to settle an invoice of Kshs.6,001,142. In addition, the contractor's performance security bond of Kshs.4,793,041 and advance payment guarantee of Kshs.19,172,166 both placed at Prime Bank expired on 26 August, 2022.

In the circumstances, the County Executive may not obtain value for money and the expected benefits from the projects to the public may not be realized.

998.8 Abandoned Construction of Twin Houses at Motagara Health Centre

The County Government awarded contract for construction and completion of a twin staff house at Motagara health facility at a contract sum of Kshs.3,990,155 for a period of 180 days with an initial completion date of December, 2019. Review of records indicated that the Project Implementation Committee approved the extension of the contract period to 31 January, 2023. At the time of audit in November, 2023, the contractor had been paid Kshs.2,180,815 which is equivalent to 55% of the contract sum. Audit inspection of the Project on 9 November, 2023 revealed that that the contractor was not on site and works remained incomplete. Further, review of the Project file revealed that the Project implementation committee for the project is currently not in place and the performance

security bond was not listed as a requirement in the tender documents. The project therefore remained abandoned.

In the circumstances, the County Executive may not obtain value for money and the expected benefits from the projects to the public may not be realized.

998.9 Stalled Construction of Nyabite Retail Market

The County Government of Nyamira awarded a contract for construction of Nyabite Retail Market at a contract sum of Kshs.4,515,300 on 13 April 2016 for a contract period of three (3) months from the date of agreement. However, the contractor commenced work on 4 February, 2019 due to delay in budgetary provision and accomplished 75% of the work as at 7 July, 2020 and was paid Kshs.2,715,168. After the payment, the contractor vacated the site. A warning notice was issued on 30 July, 2020 by the County Quantity Surveyor to the contractor to resume work but was not responded to. Audit verification on 2 November, 2023 revealed that the floor, wall surface and worktop stalls were incomplete and the site remained abandoned.

In the circumstances, the County Executive may not obtain value for money and the expected benefits from the projects to the public may not be realized.

998.10 Delayed Completion of Nyamira County Headquarters

As previously reported, the County Government entered into a contract with a contractor for the construction of Nyamira County Headquarters at a contract sum of Kshs.382,970,401 for a contract period of three (3) years starting 31 December 2018. The contractor took possession of the project site to 31 December, 2021. The contract period was later extended by six (6) months to 30 June, 2022. As at 30 June, 2023, a total of Kshs.197,438,129 or 52% of the contract sum against 51% of the work done had been paid. However, audit verification conducted on 31 October, 2023 revealed that no work was going on and the contractor was not on site. Further, the performance security balance of Kshs.19,148,520 issued from an Insurance Company expired on 30 June, 2022 and has not been renewed which exposes the County Government of Nyamira to greater loss if the contract is not fully or well executed as required by Section 2 of the Public Procurement and Asset Disposal Act, 2015. In addition, the project's motor vehicle and its ownership documents were not provided for audit.

In the circumstances, the County Executive may not obtain value for money and the expected benefits from the projects to the public may not be realized.

998.11 Delayed Completion of Outpatient Department and Inpatient Wards at Ekerenyo Sub-County Hospital

The County Executive awarded contract for the construction and completion of outpatient department and inpatient wards block at Ekerenyo Sub-county Hospital at a contract sum of Kshs.34,589,321, which was signed on the 12 August, 2020. Review of the contract file indicated that there was a request for contract extension period of fifty (52) weeks from the 28 October, 2022 to 28 October, 2023. However, there was no evidence that the request was granted. Audit verification of the project carried out on 31 October, 2023,

revealed that the contractor was not on site and no work was ongoing. The report of the implementation committee, indicated that the contractor had been paid Kshs.12,480,341 or 36% of the contract sum against 36% of work done. The contract period has since expired and work not completed. The Management failed to provide explanation for the delay in completion of the project.

In the circumstances, the County Executive may not obtain value for money and the expected benefits from the projects to the public may not be realized.

998.12 Delayed Completion of Road Upgrade

County Government of Nyamira awarded contract to a local firm for the upgrading of the Public works offices - CDF offices - Nyamira hospital junction road including gravelling to bitumen standard. The contract sum was Kshs.82,859,330 for a period of twelve (12) months from 30 April, 2021 to 4 April, 2022. The contractor requested for an extension of time for twenty-six (26) weeks with effect from 30 June, 2023 to a revised completion date of 30 December, 2023 which was granted. Audit verification of the road on 2 November, 2023 revealed that the contractor was not on site and had completed 65% of the work with accumulative amount of Kshs.54,112,427 having been paid. Further, the contractor has not submitted the performance bond to cover the period of the remaining works which exposes the County Government of Nyamira to greater loss if the contract is not fully or well executed as required by Section 2 of the Public Procurement and Asset Disposal Act, 2015.

In the circumstances, the County Executive may not obtain value for money and the expected benefits from the projects to the public may not be realized.

999. Over-Employment in Departmental Positions

Review, of human resource records revealed that the County Executive of Nyamira advertised various vacancies vide advertisement No. NCPSB/CECM/01/09/2022 of 1 September, 2022. The total number of positions advertised were 95. However, the county employed a total number of one hundred and twenty-four (124), resulting in over-employment of twenty-nine (29) people whose total monthly wage bill is Kshs.6,270,480. This was contrary to Section B.6 (3) (i) of the County Public Service Human Resource Manual 2013 which states that, "In the recruitment process, due consideration will be given to appropriate organizational structure in each department. Further, the County does not maintain an approved staff establishment.

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

REPORT ON THE EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1000. Unsupported Change in Date of Birth of Staff in the County Payroll

Review, of human resource records and payroll revealed that the County of Nyamira had one staff whose date of birth was indicated as 11 January, 1960. However, review of the

payroll for the month of October, 2023 revealed that her date of birth was changed to 7 January, 1965. Management indicated and explained that there was a mix up of dates in her documents which was not supported by documents including National Identity card, birth certificates and academic certificates.

In the circumstances, the effectiveness of internal controls on payroll management could not be confirmed.

1001. Non-Implementation of the Recommendations of Legislative Oversight Committees

Review of the reports of the County Executive by the Public Investment and Accounts Committee of the County Assembly of Nyamira for financial years ended 30 June, 2017 and 30 June, 2020 respectively revealed unresolved issues raised by the committee on pending bills, maintenance of the fixed assets register and ethnic diversity in staff establishment. However, the Management did not provide report on how the raised issue were implemented.

In the circumstances, the effectiveness of internal controls on implementation of public investment and Accounts Committee recommendations could not be confirmed.

COUNTY EXECUTIVE OF NAIROBI CITY - NO.47

REPORT ON THE FINANCIAL STATEMENTS

Basis for Adverse Opinion

1002. Variances Between the Financial Statements and the IFMIS Trial Balance

Review of the IFMIS trial balance and the financial statements balances provided for audit revealed totals of financial statements items totalling Kshs.129,378,258,740 and totals as per trial balance of the same items totalling Kshs.262,711,937,121 resulting to unexplained variance of Kshs.133,073,077,288.

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

1003. Variances Between the Financial Statements and the Ledger

The statement of receipts and payments reflects total payments amounting to Kshs.29,245,339,097. However, review of the ledger balances in comparison with the reported amounts in the financial statements revealed variances between the two sets of information.

In the circumstances, the accuracy and completeness of the payments reflected in the statement of receipts and payments could not be confirmed.

1004. Misclassification of Expenditure

Review of the ledgers for various expenditures items in respect of use of goods and services, other grants and transfers and acquisition of assets revealed that the Management charged items to account codes which were not approved under the chart of accounts resulting to misclassification of expenditure totalling Kshs.319,547,787.

In the circumstances, the accuracy and completeness of the financial statements could not be confirmed.

1005. Inaccuracies in Cash and Cash Equivalents

The statement of assets and liabilities reflects cash and cash equivalents balance of Kshs.1,441,968,898 as disclosed in Note 9A to the financial statements. Review of records provided for review in respect to the bank balances revealed the following anomalies:

- i. The KRB-RMLF bank account with a balance of Kshs.818,197,395 had inaccurate opening balance leading to a variance of Kshs.147,074,329.

- ii. The recurrent bank account had inaccuracies in the bank reconciliation statements leading to a calculated closing negative balance of Kshs.364,816,676 which differs with the reported Nil balance.
- iii. The revenue bank account had a variance between the reported Nil balance and the recalculated balance of Kshs.1,939,022,373. The Nil opening balance also differed with prior year audited balance of Kshs.1,272,610,648.
- i. The Youth Poly PRJ Grant account with a balance of Kshs.31,313,192 had been dormant for the last two years.
- iv. The reported bank balances for the various bank accounts held in forty-three (43) commercial banks as disclosed in Note 9A with a total balance of Kshs.561,016,196 were not supported by cash books, bank reconciliation statements, certificates of bank balance and board of survey reports.
- v. In addition, review of certificates of bank balances revealed that the County Executive operated an account in a local bank with a closing balance of Kshs.3,482,618 as at 30 June, 2023. However, the bank account and the corresponding cash balance had not been reported in the financial statements while the cash book, bank reconciliation statements and the board of survey reports were not provided for audit review.

In the circumstances, the accuracy and completeness of cash and cash equivalents balance of Kshs.1,441,968,898 could not be confirmed.

1006. Unsupported Payments for Nairobi Metropolitan Services Contracts

The statement of receipts and payments reflects payments amounting to Kshs.3,547,600,112 in respect of acquisition of assets as disclosed in Note 7 to the financial statements which includes payments in respect of expenditure incurred by the Nairobi Metropolitan Services (NMS) in respect of civil works and construction of roads amounting to Kshs.424,747,460 and Kshs.195,865,298 respectively all totalling Kshs.620,612,758. However, no documentation was provided for audit to confirm regularity of the expenditure.

In the circumstances, the accuracy and completeness of acquisition of assets payments amounting to Kshs.620,612,758 could not be confirmed.

1007. Unsupported Utilities, Supplies and Services

The statement of receipts and payments as disclosed in Note 3 to the financial statements reflects use of goods and services amount of Kshs.7,672,936,323 which includes an amount of Kshs.403,963,357 in respect of utilities, supplies and services. However, review of the ledger and the bank statements revealed transactions amounting to Kshs.31,663,334 recorded as paid during the financial year but were not traced to the bank statements. Further, review of sampled payment vouchers totalling Kshs.163,693,995 revealed that the payments were not supported with a register/ ledger

for the account numbers being billed and subsequently paid for nor were they supported with invoices and bills to confirm the propriety of the expenditure.

In the circumstances, the accuracy and completeness of the payments in respect of utilities amounting to Kshs.163,693,995 could not be confirmed.

1008. Unsupported Payments for Goods and Services

Review of bank statements reflects that various suppliers were paid Kshs.60,866,140 for the supply and delivery of goods which included flood lights and drainage materials. However, these payments were not traced to the ledgers while the payment vouchers were not provided for review. Further, deliveries could not be traced to the stores records.

In addition, Management did not provide requisite procurement records and AIE approvals for the said expenditure.

In the circumstances, the accuracy, completeness and regularity of the use of goods and services payments amounting to Kshs.60,866,140 could not be confirmed.

1009. Inaccuracies in Compensation of Employees

The statement of receipts and payments and as disclosed in Note 2 to the financial statements reflects compensation of employee expenditure for the year totalling Kshs.11,185,475,652. Review of the IPPD payrolls for the twelve (12) months revealed that the County Executive paid a total of Kshs.8,769,711,062 being basic wages of permanent employees and personal allowances paid as part of salary. However, the amount differs with the reported amounts in Note 2 to the financial statements of Kshs.10,031,889,268 resulting to an unexplained variance of Kshs.1,262,178,205. Further, the amount of compensation of employees' expense for the year totalling Kshs.11,185,475,652 differs with the total payments traced to the salaries bank statement amount of Kshs.9,793,541,055 resulting in an unreconciled variance of Kshs.1,391,934,597.

In addition, compensation of employee includes Kshs.161,007,644 and Kshs.92,798,635 relating to basic wages of temporary employees and personal allowances paid in kind respectively. However, Management did not provide documents in support of the reported expenditure.

In the circumstances, the accuracy and completeness of the expenditure on compensation of employees amounting to Kshs.11,185,475,652 could not be confirmed.

1010. Misclassification in Compensation of Employees

Review of transactions in respect to payments made from the salary account revealed that the County Executive paid Kshs.226,033,110 through forty-six (46) transactions to institutions and individuals in the form of imprests and other payments whose nature, purpose and relationship with compensation of employees' could not be ascertained.

In the circumstances, the accuracy and completeness of the compensation of employees expenditure could not be confirmed.

Emphasis of Matter

1011. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects a final receipts budget and actual on comparable basis amount of Kshs.39,613,916,280 and Kshs.30,485,249,863 respectively resulting in under-funding of Kshs.9,128,666,417 or 23% of the budget. Similarly, the County Executive spent Kshs.29,245,339,097 against an approved budget of Kshs.39,613,916,280 resulting to under-expenditure of Kshs.10,368,577,183 or 26% of the budget.

The under-funding and under-expenditure affected the planned activities and may have imported negatively on service delivery to the public.

1012. Pending Bills

Note 15 on other important disclosures reflects opening pending bills balance of Kshs.99,372,372,918 additions for the year of Kshs.17,820,142,546 payments or adjustments of Kshs.18,975,058,162 and closing balance of Kshs.98,267,457,303. Review of the pending bills at Annex 2 reflects that pending accounts related to construction of buildings, civil works, supply of goods and services amounted to Kshs.30,240,535,938. Management did not explain why the bills were not settled during the year when they occurred.

Further, analysis of the revenue against the legal fees revealed that eleven (11) advocates out of a legal list of eight hundred and thirty-two (832) cases, are owed a total of Kshs.10,741,451,631 which is more than the total County own source revenue collected of Kshs.10,561,592,492. The eleven (11) lawyers also represent 50% of the legal pending bills. In addition, a further one hundred and twenty-one (121) lawyers out of the of eight hundred and thirty-two (832) cases, equivalent to 14% of the total legal cases, are owed by the County Executive a total amount of Kshs.10,216,529,826.

Failure to settle 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.

1013. Inaccuracies in Pending Accounts Payables

Note 15 to the financial statement reflects pending accounts payables balance of Kshs.98,267,457,303, with Kshs.18,975,058,162 being paid or adjustments during the year under review. However, Notes 15.1, 15.2 and 15.3 reflects paid or adjustments during the year under review of Kshs.2,663,124,392, Kshs.80,237,379 and Kshs.2,998,870,560 respectively all totalling Kshs.5,742,232,331 which is at variance with paid or adjustments balance of Kshs.18,975,058,163 in Note 15 resulting to unexplained variance of Kshs.13,232,825,831.

In the circumstances, the accuracy and completeness of pending accounts payables balance of Kshs.98,267,457,303 could not be confirmed.

My opinion is not modified in respect of these matters.

Other Matter

1014. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, the Management has not resolved the issues and no explanation for the failure was provided to adhere to the reporting format prescribed by the Public Sector Accounting Standards Board.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1015. Failure to Prepare and Submit Separate Fund Financial Statements

During the year under review, Management did not prepare and submit financial statements for the Funds whose enabling legislation requires that they prepare books of accounts for audit. The funds include; Disaster and Emergency Fund, Nairobi City County Betting, Lotteries and Gaming Control Board and Ward Development Fund. However, the Fund's operations were combined together with the County Executive's financial statements.

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

1016. Non-Submission of Budgetary Reports

Note 1 to the financial statement reflects withdrawal of Kshs.30,485,249,863 from the County Revenue Fund during the financial year under review. However, the County Treasury did not submit monthly financial and non-financial budgetary reports to the Auditor General as required under Regulation 54 (1) of the Public Finance Management (County Governments) Regulations, 2015.

Further, no projection of expected expenditure and revenue collection with necessary explanation of material variances on expenditures and respective steps taken to ensure that the projected expenditure and revenue remain within budget has been provided for audit.

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

1017. Revenue Management System Operating without a Valid Contract

During the year ended 30 June, 2023, the County Executive operated a revenue management system named Nairobi Pay. The system automated the entire revenue streams in the County and held all information on critical matters such as land details, customer records, unpaid debts and all matters related to revenue. However, no records were provided for review to show how the Management engaged the vendor and the terms of service delivery which exposed the County Executive to possible information confidentiality breach, integrity and availability of the system for service delivery. In particular, the County did not have a valid contract with the vendor nor did they have any service level agreement (SLA) defining the terms of support of the revenue system contrary to Section 68 (2)(d) of the Public Finance Act of 2012 which requires that the accounting officer ensure that all contracts entered into by the entity are lawful and are complied with.

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

1018. Irregularities in Acquisition of Assets

The statement of receipts and payments reflects acquisition of assets amount of Kshs.3,547,600,112 as disclosed in Note 7 to the financial statements. Review of payment vouchers in respect of construction of roads and civil works totalling Kshs.566,973,601 provided for audit review revealed various gaps which include non-compliance with procurement law, unsupported or failure to attach relevant documents in supports of payments, delayed and stalled projects.

In the circumstances, the value for money on the funds used in the construction of roads and civil works could not be confirmed.

1019. Irregularities in Projects Implementation

Review of construction projects undertaken by the County Executive of Nairobi City revealed that projects costing a total of Kshs.1,365,490,591 in respect of construction of various hospitals had, were incomplete, not started and land on which the projects were to be placed was encroached. Further, review of documents provided for review in respect of construction of health facilities revealed that a contractor was engaged to construct three (3) health facilities at a contract sum of Kshs.869,400,000 during the 2020/2021 financial year. The projects included construction and equipping of Pumwani Lucky Summer Dispensary, construction and equipping of Pumwani Majengo Health Centre and construction and equipping of Gumba/Mabatini Dispensary. Physical inspection on these projects carried out on 28 and 29 September, 2023 revealed the projects were not complete and labeled, perimeter wall was not done for Pumwani Majengo Healthy Center and the Lucky Summer Dispensary barely started and there was evidence of materials on site but the buildings were dilapidated.

In addition, despite the failure to complete the projects, the same contractor was awarded another contract for the construction works at Mama Lucy Kibaki Hospital Phase II at a

contract sum of Kshs.344,100,000. The project had also stalled after payment of Kshs.165,099,105.

In the circumstances, the value for money on the funds used in the projects could not be confirmed.

1020. Irregular Procurement of Repairs and Maintenance

The County Executive paid a service provider Kshs.4,043,816 for repairs and maintenance of motor vehicles during the year. Review of the payment voucher and supporting documents revealed anomalies as follows;

- i. Management did not provide a consolidated procurement plan for the financial year 2022/2023, neither was there evidence of approval of the same by the CEC member finance.
- ii. The payment was not supported by a requisition from the user department for approval by the Head of Procurement Unit.
- iii. The payment was not supported by requisite procurement documents which include, the advertisement, tender opening minutes and register, tender evaluation committee reports, letters appointing both opening and evaluation committee and evidence of regret letters sent to the unsuccessful bidders were not provided for audit, contrary to Section 68(2)(d)(iii) of the Public Procurement and Asset Disposal Act, 2015 requires the accounting officer for each tender, proposal or quotation that was submitted to maintain a summary of the proceedings of the opening of tenders, evaluation and comparison of the tenders, proposals or quotations, including the evaluation criteria used as prescribed;
- iv. The contract agreement in place binding the supplier with the procuring entity was not provided.
- v. Inspections and acceptance committee was not formed to inspect, review, accept or reject goods received and services to ensure compliance with the terms and specifications of the contract.
- vi. There were no quarterly reports detailing analysis of items procured through framework agreement.
- vii. The County Executive paid maintenance costs for motor vehicles belonging to Nairobi Metropolitan Services. However, the transfer deed and the agreement for maintenance of the motor vehicles was not provided for audit.

In the circumstances, value for money on the expenditure of Kshs.4,043,816 used on repairs and maintenance of motor vehicles could not be confirmed.

1021. Irregular Procurement of Fire Fighting Motor Vehicle Tyres

The County Executive paid a supplier Kshs.7,502,000 for supply and delivery of fire fighting vehicle tyres during the year. Review of the payment voucher and the supporting documents revealed the following anomalies;

- i. The payment was not supported by a requisition form user department for approval by the Head of Procurement Unit.
- ii. The payment was not supported by requisite procurement documents which include, the advertisement, tender opening minutes and register, tender evaluation committee reports, letters appointing both opening and evaluation committee and evidence of regret letters sent to the unsuccessful bidders were not provided for audit review.
- iii. The contract agreement in place binding the supplier with the procuring entity was not provided for audit review.
- iv. Inspections and acceptance committee was not formed to inspect, review, accept or reject goods received and services to ensure compliance with the terms and specifications of the contract.
- v. There was change of procurement method from open tender to restricted and approval for the change was not provided for audit review.

In the circumstances, the regularity and value for money of Kshs.7,502,000 used on fire-fighting motor vehicle tyres could not be confirmed.

1022. Irregular Procurement of Oils and Lubricants

The County Executive paid a supplier Kshs.7,376,998 for supply and delivery of oils and lubricants during the year under review. The following anomalies were however noted;

- i. The payment was not supported by a requisition form from the user department for approval by the Head of Procurement Unit.
- ii. The payment was not supported by requisite procurement documents which include, the advertisement, tender opening minutes and register, tender evaluation committee reports, letters appointing both opening and evaluation committee and evidence of regret letters sent to the unsuccessful bidders were not provided for audit.
- iii. The contract agreement in place binding the supplier with the procuring entity was not provided for audit review.

- iv. Inspections and acceptance committee was not formed to inspect, review, accept or reject goods received and services to ensure compliance with the terms and specifications of the contract.
- v. There was change of procurement method from open tender to restricted while the approval for the change was not provided for audit review.

In addition, Management did not maintain supporting documents such as an updated fuel register and fuel statements from service providers indicating the type of vehicle fueled, period and quantity consumed contrary to Regulation 4(d) of the Public Finance Management (County Governments) Regulations, 2015 provides that the object and purpose of the regulations shall be to set out a standardized financial managements system for use in Government service which can produce accurate and reliable accounts free from errors, fraud and which will be useful in management decisions and statutory reporting.

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

1023. Irregularities in Management of Executive Scholarships and Ward Bursaries

Note 5 to the financial statements reflects other grants and transfers expenditure of Kshs.1,343,550,963. Included in the expenditure is Kshs.690,871,605 incurred in respect to scholarships and other educational benefits. Review of documents supporting issuance of scholarship and ward bursary revealed that forty-seven (47) beneficiaries with a disbursement total of Kshs.2,504,313 came from Counties other than County Executive of Nairobi City while twenty-five (25) beneficiaries with a total disbursement of Kshs.1,165,465 came from private primary schools.

Further, analysis of data provided in support of disbursements indicated cases of issuance of both scholarships and ward bursaries to six hundred and eighty-three (683) beneficiaries totalling Kshs.32,030,110.

In the circumstances, the regularity and proper management of the scholarships and bursaries could not be confirmed.

1024. Irregular Procurement of Construction Materials

Note 3 to the financial statements reflects use of goods and services amount of Kshs.7,672,936,323, included in the amount is other operating expenses of Kshs.1,752,556,404. The County Executive paid a contractor an amount of Kshs.14,750,000 for supply and delivery of quarry chips/hardcore during the year under review. Review of contract documents revealed that the County Executive used a contract between the Ministry of Transport, Infrastructure, Housing and the contractor to procure the materials. However, there was no evidence that the County Executive obtained the whole list of relevant categories from the state organ and subjected it to the provisions of the Public Procurement and Asset Disposal Act, 2015.

Further, no evidence was provided for review on how the contract was adopted for use by the County Executive contrary to Section 52(1) of the Public Procurement and Asset Disposal Act, 2015 which provides that the Authority shall have powers to transfer the procuring responsibility of a procuring entity to another procuring entity or procuring agent in the event of delay or in such other circumstances as may be prescribed.

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

1025. Procurement of Vehicles and Other Transport Equipment

Note 7 to the financial statements reflects acquisition of assets amount of Kshs.3,547,600,112 which includes an amount of Kshs.100,000,000 incurred in respect to purchase of vehicles and other transport equipment. However, the amount differs with amounts paid to various motor vehicle dealers during the year of Kshs.771,589,099. The resulting variance of Kshs.671,589,099 was not explained.

Further, the procurement documents and supporting payment vouchers together with the log books for motor vehicles were not provided for audit review.

In the circumstances, the accuracy and value for money on the payments of Kshs.100,000,000 in respect of procurement of vehicles and other transport equipment could not be confirmed.

1026. Anomalies on Compensation of Employees

1026.1 Non-Compliance with Fiscal Responsibility Principles

Note 2 to the financial statements for the year under review reflects compensation of employee's expenditure of Kshs.11,185,475,652. The amount represents approximately 37% of the total revenue of Kshs.30,485,249,863 being 2% over and above the maximum allowed ceiling contrary to Regulation 25 (1)(b) of the Public Finance Management (County Governments) Regulations, 2015 which requires the expenditure set should not exceed thirty-five (35) percent of the county government's total revenue.

1026.2 Employees Sharing Bank Accounts

Review of the payroll for the year under review revealed that three (3) employees shared one bank account.

1026.3 Officers Employed on Permanent and Pensionable Terms While Over the Age of 50 Years

Review of the payroll entry dates for employees revealed that two (2) officers were employed on permanent and pensionable terms while their age was over and above fifty years (50).

1026.4 Officers Active in the Payroll with No Pay

Further, analysis of the payroll showed that there were four (4) officers active in the payroll without salaries.

1026.5 Officers Paid Leave Allowance Twice

Review of the payroll revealed one hundred and seventy-eight (178) officers were paid leave allowances twice amounting to Kshs.15,423,116.

1026.6 Irregular Payment of Allowances while Under Consolidated Pay

Analysis of payroll earnings revealed that twenty-six (26) officers on monthly gross pay were also paid other allowances totalling Kshs.17,584,187. The allowances included basic pay, rental, house supplementation and service gratuity.

1026.7 Payment of Special Pay and Basic Salary

Review of the payroll revealed that Thirty- four (34) officers on special salary were also paid basic salary.

1026.8 Non-compliance with Statutory Deductions

Analysis of payroll revealed a total of three hundred and ninety three (393) officers whose PAYE deductions were not recovered from their salaries as required under the Income Tax Act. The employees were not defined under the category of People with Disabilities hence the officers earned a total of Kshs.52,580,701 from which no taxes were recovered.

1026.9 Unclear Payment of Salary Arrears on Monthly Basis

Analysis of the payroll reflects that three hundred and ninety-five (395) officers were paid salary arrears for a duration between seven (7) and twelve (12) months during the year under review. Further, sixty-four (64) officers were paid arrears ranging between Kshs.300,000 and Kshs.6,779,220 all totalling Kshs.82,340,479 during the financial year. The nature of the allowances totalling Kshs.100,104,975 was not explained.

1026.10 Irregular Payment of Overtime Allowance

Review of the payroll revealed that a total of thirty-four (34) employees whose job group were above Job Group received a total of Kshs.2,728,003 in form of overtime allowances contrary to Section C.19 (1) of the Human Resource Policies and Procedures Manual for the Public Service, 2016.

1026.11 Officers Earning Less Than a Third of Basic Pay

Analysis of the payroll data provided for audit revealed that two hundred and fifty-two (252) employees were earning net salaries that were less than a third (1/3) of their basic

pay contrary to the provisions of Part C.1 (3) of the Human Resource Policies and Procedures Manual for the Public Service, 2016 which provides that public officers shall not over-commit their salaries beyond two thirds (2/3) of their basic salaries.

1026.12 Non-Compliance with the Persons with Disabilities Act, 2003

Review of the payroll records revealed that only one hundred and sixty-seven (167) employees out of thirteen thousand three hundred and fifty-four (13,354) were categorized as persons with disabilities. This constitute 1.25% of the total employees which was below the recommended level of 5% under Section 13 of the Persons with Disabilities Act, 2013 which provides that the Council shall endeavor to secure the reservation of five 5% of all casual, emergency and contractual positions in employment in the public and private sectors for persons with disabilities.

1026.13 Non-compliance with National Cohesion and Integration Act, 2008 on Ethnic Diversity

Review of employees documents revealed that the County Executive had thirteen thousand three hundred and fifty-four (13,354) members of staff out of whom five thousand three hundred and sixty eight (5,368) representing 40% of the total staff were from one ethnic group contrary to Section 7(1) of National Cohesion and Integration Act, 2008 which requires that all public establishments shall seek to represent the diversity of the people of Kenya in the employment of staff.

1026.14 Irregular Recruitment of Staff by Nairobi Metropolitan Services (NMS)

After execution of Deed of Transfer on 25 February, 2020, the County Executive seconded six thousand six hundred and four (6,604) staff to Nairobi Metropolitan Services for a period of two (2) years. At the end of the Deed of Transfer tenure, Nairobi Metropolitan services handed back seven thousand five hundred and twenty-six (7,526) staff to City County. Out of the seven thousand five hundred and twenty-six (7,526) staff, one thousand seven hundred (1,700) were not part of the staff seconded to NMS in the year 2020, which implies that they were recruited by NMS contrary to the Section 5.6 and 5.7 of the Gazette Notice No. 1609 dated 25 February, 2020 on Deed of Transfer.

1026.15 Non-Remittance of Statutory Dues

Analysis of the payroll data provided for audit revealed that the County Executive deducted staff PAYE, NSSF and NHIF statutory dues totalling Kshs.1,715,817,035. However, no evidence was provided for audit to show that the deductions were remitted to relevant authorities as required. Further, failure to remit statutory deductions on time contravenes The Income Tax Act, National Hospital Insurance Fund Act and National Social Security Fund Act which may result in fines and penalties.

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

1027. Failure to Maintain Imprest Register

Review of imprest surrenders provided for audit totalling Kshs.55,062,866 revealed that Management did not maintain an imprest register but used as a record of imprest warrants. Management contravened Regulation 93(4) of the Public Finance Management (County Governments) Regulations, 2015 which requires that before issuing imprests, applicants must not have any outstanding imprest, should be recorded in an imprest register and confirmation of availability of funds and Regulation 93(1) of the Public Finance Management (County Governments) Regulations, 2015 which requires that imprests shall be used for a specific purpose as stated in the imprest warrant.

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

1028. Irregular Procurement of Yellow Fever Vaccines

Review of procurement documents revealed that the County Executive paid a supplier a total of Kshs.11,445,000 for supply and delivery of yellow fever vaccines on 22 March, 2023. The County Executive received a total of seven thousand six hundred and thirty (7,630) vaccines in respect to the procurement. However, the following observations were made;

- i. The vaccines were procured through restricted tendering without justification for the use of restricted tendering in line with the requirements under Section 102 of the Public Procurement and Asset Disposal Act, 2015.
- ii. The tender opening and evaluation committee members were appointed on 3 August, 2018 to perform both the functions of the tender opening and evaluation committee contrary to the requirements of Section 78 of the Public Procurement and Assets Disposal Act, 2015.
- iii. The tender was opened on 6 August, 2018 by four (4) members of the tender opening committee who signed the tender opening register. However, the tender opening minutes attached in support of the payment were signed by the chairperson only as opposed to all members and were not initialized on each page as required in Section 78 of the Public Procurement and Asset Disposal Act, 2015.
- iv. The vaccines were requisitioned by the officer in-charge Inoculation Centre on 18 July, 2018 through a requisition which shows that the quantity required by the user department was one thousand two hundred (1,200) (10 dose vial) at an indicative price of Kshs.10,450 resulting to a total expenditure of Kshs.12,540,000. However, the awarded cost of Kshs.18,000,000 significantly differs with the market price quoted on the requisition by 44% (Kshs.5,460,000) which may be an indicator that Management did not conduct due diligence to ensure value for money on the procurement of vaccines resulting to possible loss of public funds contrary to the requirements of Section 54 (2) of the Public Procurement and Asset Disposal Act, 2015.

- v. Members of the inspection and acceptance team were appointed on 1 November, 2018 three (3) months after the vaccines had been received in the stores contrary to Section 44 (2) (d) of the Public Procurement and Asset Disposal Act, 2015.
- vi. The contracted supplier delivered vaccines partially by 10 January, 2019 and issued a credit note and an invoice dated 8 April, 2020 and 14 April, 2020. No explanation was provided for failure to deliver in full as contracted or action taken by Management for non-performance by the supplier. No approval was attached for the credit note approximately two (2) years after the award contrary to Section 150 of the Public Procurement and Asset Disposal Act, 2015.
- vii. Inspection and acceptance report revealed that the committee conducted its function on 24 April, 2020 being twenty (20) months after delivery of the vaccine's contrary to Section 48 of the Public Procurement and Asset Disposal Act, 2015.
- viii. Physical inspection of the stores carried out on 4 October, 2023 revealed that the vaccines were received at various dates and dispatched for use before the products were inspected and accepted thus posing a risk of using medicines that have not been verified hence exposing the citizens to unwarranted dangers.

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

1029. Irregular Use of Restricted Tendering for Proposed Construction at Mama Lucy Kibaki Hospital – Phase II

Review of procurement records revealed that a contractor was awarded a contract for the proposed construction and completion works including associated mechanical, electrical and sewer works at Mama Lucy Kibaki Hospital – Phase II in 2021 at a contract sum of Kshs.344,100,000 through restricted tendering. The Accounting Officer approved use of restricted tendering on 12 March, 2021 which contained ten (10) firms proposed for invitation to bid using Section 102 (1) (a) and (b) of the Public Procurement and Asset Disposal Act, 2015 to justify the use of restricted tendering. However, Management did not demonstrate how the construction works were of specialized nature or the time and cost required to evaluate would be disproportionate to the contract price. By the time of audit in November, 2023, the contractor had been paid a total of Kshs.165,099,105. Physical inspection in November, 2023 revealed that the works had not been completed and the contractor was not on site.

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

1030. Irregular Procurement of Bitumen

The County Executive paid a supplier Kshs.33,000,000 and Kshs.14,730,000 respectively for supply and delivery of one thousand (1,000) drums of 200kg of bitumen. The units were supplied at a cost of Kshs.33,000 and Kshs.32,000 respectively all

totalling Kshs.47,730,000. The contracts were executed through frame work agreement which was signed on 22 June, 2023.

However, the following anomalies were noted;

- i. Although the supplies were made during the same duration, the prices were varied by Kshs.1,000 per drum resulting to a possible loss of Kshs.1,000,000.
- ii. Physical inspection conducted on 5 October, 2023 revealed that the store keepers did not maintain a stores received statement which is the official document for taking on charge supplies in the County Executive.
- iii. Goods were inspected more than ten (10) days after they were delivered. The inspection and acceptance committee was appointed seven (7) days after the deliveries were made.
- iv. The procurement method did not meet the conditions for the frame work agreement because there was no proof of competition as provided by Regulation 101(3) and 103(1) and (2) of the Public Procurement and Asset Disposal Regulations, 2020. It was therefore not clear how the company was selected from the two hundred and sixty-seven (267) bidders who were evaluated and recommended for consideration as per the professional opinion.
- v. Tender documents, tender opening minutes and attendance register, tender evaluation minutes and award were not provided for audit.
- vi. Evaluation of the tender according to the professional opinion had nine (8) members instead of a maximum of five (5) as per Section 46(4)(b) of the Public Procurement and Asset Disposal Act, 2015.

In the circumstances, Management was in breach of the law, and value for money on the expenditure of Kshs.47,730,000 could not be confirmed.

1031. Irregular Procurement of Fresh Milk

The contract for supply and delivery of fresh milk was procured through framework agreement for supply of three hundred and thirty-three thousand three hundred and thirty-three (333,333) cartons of fresh Milk 200ml to the Early Childhood Center's at a unit price of Kshs.36. However, the following were noted;

- i. The professional opinion was issued on 11 November, 2022 indicating that the tender attracted 2 bidders contrary to Section 114(c) of the Public Procurement and Asset Disposal Act, 2015 which states that a minimum of seven alternative vendors are included for each category.
- ii. The contract agreement was entered into between the Company and the County Executive on 21 June, 2022 before the professional opinion was issued and approved.

- iii. The goods were received in the stores, taken on charge and issued for use before inspection and acceptance committee report.
- iv. The lowest bidder quoted a unit price per packet of milk at Kshs.23.50 and the County Executive could have saved Kshs.4,089,501 had the lowest bidder been awarded the contract.
- v. Minutes of the tender opening and attendance register and distribution schedules showing where the milk was issued to were not provided for audit.

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

1032. Anomalies in Provision of Legal Services

Review of payment vouchers totalling Kshs.375,941,154 relating to legal services and paid during the year revealed various anomalies as follows;

1032.1 High Court Civil Case NO. 1581 of 2014 Between a Limited Company Versus City Council of Nairobi

Review of payment voucher in respect to a law firm for case no. HCCC No. 1581 of 2014 between a limited Company versus Nairobi City County amounting to Kshs.34,115,600. However, the contract between the advocate and the County Executive was not provided for review. On 18 December, 2014 the legal affairs department issued a demand for rates and interest on land Account amounting to Kshs.5,374,751. The plaintiff went to court to contest the demand for the rates and interest. The lawyer through the defendant (Nairobi City County) was asked to defend the case and they claimed that the plaintiff was there illegally on that parcel of land and forwarded the case to the Criminal of Investigation Directorate. The fee note of Kshs.80,000,000 charged by the advocate representing the case was not clear as the subject matter rate and interest was of Kshs.5,374,751.

Further, the advocate raised a fee note of Kshs.80,000,000, in 2015 but the County Executive Attorney revised the fee note to Kshs.34,115,600. However, this note was not supported with an itemized fee note, an assessment of the fee notes by a council appointed by the County Attorney, a Memo or report to the County Attorney from the appointed Council on the fee note raised, communication to the advocate of the revised fee note, acceptance of the revised fee note by the Advocate.

In addition, the County Executive changed the case from demand notice for fees and interest to a case of illegal ownership of property. It was also not clear how the County Executive demanded for fees and interest on land that they claimed belonged to the County Executive and not the plaintiff. The current status of the legal case is unclear as the lawyer was paid based on records dated 22 December, 2014 to 6 March, 2015.

1032.2 Environment and Land Court No. 248 of 2021

Review of payment voucher in respect to Advocates firm for case no. ELC No. 248 of 2021 between an individual versus Nairobi City County and Others amounting to Kshs.47,000,000 had the following observations;

- i. The procurement process of contracting the advocate was not provided for audit review.
- ii. Although Management explained they obtained their legal service from the prequalified list of suppliers, the list of approved prequalified supplier in the financial year 2021/2022 was not provided for audit review.
- iii. The contract between the advocate and the County was not provided for audit review.
- iv. The Advocates firm were instructed to act without the instructions being itemized.
- v. On 15 March, 2022, the advocate raised a fee note of Kshs.77,871,500, on 22 March, 2022 the County Executive Attorney revised the fee note to Kshs.47,000,000, which was not supported by itemized fee note, an assessment of the fee note by a council appointed by the County Attorney, a memo or report to the County Attorney from the appointed Council on the fee note raised, acceptance of the revised fee note by the advocate. A handwritten piece of paper that was not signed in the file purports that the advocate accepted the revised fee note but a letter from the advocate was not provided for audit review.
- vi. On 5 July, 2021 the plaintiff took the City County Executive of Nairobi as the first defendant and an individual as the second defendant. The plaintiff claimed to have purchased the property plot in Kayole Nairobi then the 1st defendant repossessed it and issued it to the County Executive 2nd defendant. A fee note of Kshs.77,871,500 was raised by the advocate representing the County Executive. However, no evidence was provided to show how the fee note was arrived at as the subject matter is the land, the subject matter valuation report was not provided for audit and it is not clear how the County Executive issued one parcel of land to two separate individuals thus leading to a lawsuit.
- vii. The current status of the legal case was not provided for audit review.

1032.3 Environment and Land Court No. 018 of 2022

Review of payment voucher in respect to a law firm for case no. Environment and Land Court No. 018 of 2022 between an individual and others versus National Land Commission and Nairobi City County amounting to Kshs.57,777,554 had the following observations;

- i. The procurement process for contracting the Advocate was not provided for review.

- ii. Although Management explained they obtained their legal service from the prequalified list of suppliers, the list of approved prequalified supplier in the financial year 2021/2022 was not provided for review.
- iii. The contract between the Advocate and the County Executive was not provided for review.
- iv. The ruling provided for review was not certified.
- v. Sometime in 1989 the Commissioner of Lands (now National Lands Commission) acquired land for construction of Ndaka-ini dam to provide water to Nairobi City and its environs. The following was however noted;
- vi. The fee notes of Kshs.57,777,554 was charged by the advocate representing, the Cuntly Executive. However, no evidence was provided for review to establish how the fee note was arrived.
- vii. The matter on hand is compensation of Ndakaini petitioners who were displaced during construction of the dam. A letter written on 8 December, 2022 from the petitioner's lawyer, claimed that the Commissioner of Lands now National Lands Commission came up with a compensation scheme. It is therefore not clear how the Nairobi City Council now Council Executive of Nairobi City was enjoined in the agreements with the petitioners.
- viii. Further, a gazette notice 3593 of 12 August, 1988 gave notice for acquisition of land for Third Nairobi Water Project and listed the registered owners, plot no, sub location and approximate acreage to be acquired. The same gazette states that plans for the affected land may be inspected during office hours at the Commissioner of Lands. It is not clear how County Executive is a respondent and paid Kshs.57,777,554 in legal fees. Further, the agreements were not provided for review.
- ix. A letter from Ministry of Lands, Housing and Urban Development indicated that the Commissioner of Lands issued an award to the interested persons in the land which they rejected. The letter further indicates that there was a decree issued on 18 March, 2010 and the letter instructed the County Executive to pay compensation to the affected land owners. However, the decree mentioned above was not provided for review.
- x. The land appeals attached dated 1989 indicated the appellant and the respondent was Commissioner of Lands. However, the current status of the legal case was not provided for review.

1032.4 Environment and Land Court No. 176 of 2021

Review of payment voucher in respect to an Advocate Company for case no. Environment and Land Court No. 176 of 2021 between an individual versus Nairobi City County Executive amounting to Kshs.67,048,000 had the following observations;

- i. The procurement process for contracting the advocate was not provided for review.
- ii. Although Management explained they obtained their legal service from the prequalified list of suppliers, the list of approved prequalified supplier in the financial year 2021/2022 was not used.
- iii. The contract between the advocate and the County Executive was also not provided for review.
- iv. The Advocates Company were instructed vide letter was dated 12 November, 2021, however, the instructions were not itemized.
- v. On 12 November, 2021, the same day the advocate was issued with instruction, an interim fee note of Kshs.100,000,000 which was raised on 18 November, 2021 the County Attorney revised the fee note to Kshs.67,048,000 which was however not supported by; an itemized fee note, an assessment of the fee note by a council appointed by the County Attorney. Memo or report to the County Attorney from the appointed Council on the fee note raised. Communication to the advocate of the revised fee note actual acceptance of the revised fee note by the Advocate were not provided for review.
- vi. On 8 November, 2021 an individual filed a suit against the County Executive for not being shortlisted for recruitment as a traffic Marshall. The following unsatisfactory matters were however noted;
- vii. The fee note of Kshs.100,000,000 charged by the advocate representing the case was calculated based on a general assumption that all the short listed applicant were conjoined in the suit as opposed to an individual.
- viii. The fee note was based on a subject matter which is the possible loss of an aggrieved individual traffic Marshall salary therefore the basis of payment could be confirmed.
- ix. The detailed service provided by the lawyer upon which the fee note based was not been provided for audit and the current status of the legal case was not provided.

1032.5 Environment and Land Court No. 379 of 2018

Review of payment voucher in respect to a law firm for case no. Environment and Land Court No. 379 of 2018 between a law firm versus Nairobi City County amounting to Kshs.50,000,000 had the following observations;

- i. The procurement process for contracting the Advocate was not provided for audit review.
- ii. Although Management explained they obtained their legal service from the prequalified list of suppliers, the list of approved prequalified supplier in the financial year 2018/2019 financial year was not used.

- iii. The contract between the Advocate and the County Executive was not provided for review.
- iv. The law firm were instructed vide letter dated 5 November, 2019, however, the instructions were not itemized but the law firm claimed that they had been handling the case without formal instructions in October, 2018 and November, 2019.
- v. On 19 February, 2020, the law firm raised a fee note of Kshs.129,072,834, on 19 February, 2021 the Acting County Solicitor revised a fee note to Kshs.111,050,000, and the lawyer accepted on 22 February, 2021 a revised amount of Kshs.114,859,000 thus the adjustment was not supported by an itemized fee note, an assessment of the fee note by a council appointed by the County Attorney. Memo or report to the County Attorney from the appointed Council on the fee note raised. Further, there was a variance between the County Executive's revised fee note of Kshs.111,050,000 and the acceptance of the fee note by the Advocate of Kshs.114,859,000.
- vi. The current status of the legal case was not provided for review.

1032.6 Petition No. E047 of 2021

Review of payment voucher in respect of an individual and an Advocates firm for case no. Civil Appeal No.563 of 2019 Kenya County Government Workers versus Nairobi City County Executive amounting to Kshs.70,000,000 had the following observations;

- i. The procurement process for contracting the Advocate was not provided for audit.
- ii. Although Management explained that they obtained their legal service from the prequalified list of supplier, the list of approved prequalified suppliers in the financial year 2018/2019 was used.
- iii. The contract between the Advocate and the County Executive was not provided for review.
- iv. The advocates were instructed vide letter dated 21 December, 2019, however, the instructions were not itemized.
- v. On 19 December 2019, the advocate raised a fee note of Kshs.145,000,000, on 25 January, 2022 while the Acting County Solicitor revised the fee note to Kshs.70,000,000, and the lawyer accepted on 25 January, 2022 to the revised amount of Kshs.70,000,000. However, this revision was not supported by an itemized fee note, an assessment of the fee note by a council appointed by the County Attorney and a memo or report to the County Attorney from the appointed Council on the fee note raised.
- vi. On 27 May, 2019 an appeal was made by Kenya County Government workers Union against the County Executive. The same lawyer had represented the County

Executive in the suit and won, however, the Petitioner appealed the case. The same lawyer who represented the County Executive in the suit was instructed to represent the County Executive in the appeal. However, the fee note of Kshs.145,000,000 was not based on a subject matter, rather on an opinion that since the advocate won the suit, the County Executive should consider his service at a fee note. The detailed service provided by the lawyer upon which the fee note is based was not provided for audit.

vii. The current status of the legal case was not provided for review.

1032.7 Civil Appeal No.563 of 2019

Review of payment voucher in respect to a law firm for Petition No. E047 of 2021 on an individual versus the Council of Governors and fifty-two (52) Others amounting to Kshs.30,000,000 had the following observations;

- i. The procurement process of contracting the Advocate was not provided for audit.
- ii. Although Management explained they obtained their legal service from the prequalified list of supplier, the list of approved prequalified supplier in the financial year 2021/2022 was not used.
- iii. The contract between the Advocate and the County Executive was not provided for review.
- iv. The legal firm was instructed vide letter dated 20 April, 2021, however, the instructions were not itemized.
- viii. On 21 October, 2021, the advocate raised a fee note of Kshs.116,100,000 on 11 February, 2022 while the Acting County Solicitor revised the fee note to Kshs.63,850,000. However, this revision was not supported by an itemized fee note, an assessment of the fee note by a council appointed by the County Attorney and a memo or report to the County Attorney from the appointed Council on the fee note raised.
- v. A case was filed by a petitioner in the matter of public interest litigation, alleged threats, and securing some of Kshs.120 billion of County Government Workers' Pension funds and implementation of the County Government Retirement Scheme. A fee note of Kshs.116,100,000 was charged by the Advocate, however, it was not clear how the fee was arrived at. The detailed service provided by the lawyer upon which the fee note is based was not provided for review.
- vi. The current status of the legal case was not provided for review.

1032.8 High Court MISC Application No.123 of 2017

Review of payment voucher in respect of an Advocate's firm for case No. High Court MISC No.123 of 2017 amounting to Kshs.20,000,000 as part of decretal fees. However, the certified decree and the current status of the legal case was not provided for audit.

This was contrary to Revised Edition (2012) of the Civil Procedure Act Chapter 21 Section 1B which states that the Duty of Court (1) For the purpose of furthering the overriding objective specified in Section 1A, the Court shall handle all matters presented before it for the purpose of attaining the just determination of the proceedings; the efficient disposal of the business of the Court; the efficient use of the available judicial and administrative

In the circumstances, Management was in breach of the law and value for money in respect of legal services could not be confirmed.

1033. Irregular Procurement and Management of Security Services

The County Executive entered into a contract with a service provider for provision of security services to Early Childhood Development Education (ECDE) and other County Executive public centers during 2018/2019 financial year. Review of procurement documents revealed that there were no letters appointing the tender opening and evaluation committee. Tender opening minutes, tender opening attendance register and tender evaluation committee minutes were also not provided for audit. Further, the service provider was paid Kshs.16,800,000 on 13 March, 2023 for services rendered in the months of July and August, 2020. Another payment voucher of Kshs.42,000,000 paid to the same service provider indicating that the earlier payment related to services rendered for the months of April, May, June, July and August, 2020. The two payments include the months of July and August, 2020 an indication that the service provider was paid twice for the same services resulting possible loss of public funds totalling Kshs.16,800,000

In the circumstances, value for money on the security expenditure incurred could not be confirmed.

1034. Irregularities in Procurement for Consultancy Services

The Management entered into a contract with a service provider for consultancy services to develop a five-year strategic plan 2022-2026 and service charter for the Nairobi City Public Service Board on 6 April, 2022 at a cost of Kshs.20,000,000 for a period of two (2) months. However, no evidence was provided to confirm the scope of services contracted and rendered. Further, the same officers who opened the tenders also performed the functions of tender evaluation contrary to Section 46(1) of the Public Procurement and Asset Disposal Act, 2015. The Management did not provide evidence of expression of interest on the above consultancy.

In addition, no letters of notification to unsuccessful bidders were provided for audit contrary to Section 87(3) of the Public Procurement and Asset Disposal Act, 2015.

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

1035. Irregularities in Procurement of Garbage Collection Services

Review of procurement records revealed that the County Executive of Nairobi made payment for garbage collection totalling Kshs.145,872,655 without supporting documents including; requisitions, advertisements for the services, tender opening details, tender evaluation details and awards thus casting doubt as to whether the procurements were done in a manner consistency with Regulation 114. (1) of the Public Finance Management (County Governments) Regulations, 2015 which provides that all purchases of goods, works and services from Goods, works and suppliers, including capital investments, shall comply with the services to be procured according to provisions prescribed in the Public Procurement and Asset Disposal Act, 2015, and the Regulations made thereunder and shall have the prior procurement plan and approval of the Accounting Officer.

In addition, although the County Executive of Nairobi has a weighbridge in Dandora dumpsite which is capable of printing weighbridge tickets, Management resorted to using handwritten tickets for payments.

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

1036. Management of Motor Vehicles

1036.1 Ratio of Vehicles Operated Against the Number of Drivers

Motor vehicle records provided for audit revealed that the County Executive has four hundred and seventy-three (473) operational County vehicles and one hundred and six (176) operational vehicles handed over from Nairobi Metropolitan Services, totalling six hundred and forty-nine (649) vehicles. Review of the County's payroll as at 30 June, 2023 revealed that Management had a total of three hundred and twenty-five (325) drivers. Management further indicated that some vehicles and equipment are operated by more than one driver, such as ambulance, fire engines and some heavy equipment. This is an indication that three hundred and twenty-four (324) County vehicles are not in operation, even though they are listed as in service.

Further, review of the bank statement and records provided by Management indicate that Management purchased additional twenty-seven (27) tippers and one electric motorcycle during the financial year under review at a cost of Kshs.771,589,099. However, the advertisements, user requisition, tender opening, tender evaluation, professional opinion, contract award, notification of tender, acceptance of award, and signed contract agreement were not provided for audit.

In addition, the distribution lists for the new vehicles and motorcycle and the ownership documents of the twenty-seven (27) new vehicles and one motorcycle were not provided for audit.

1036.2 Grounded Motor Vehicles

Documents provided by Management reveal that the County has a total fleet of one thousand and thirty (1030) vehicles out of which two hundred and forty (240) vehicles are grounded with two hundred and fifteen (215) vehicles being grounded at central garage and twenty-five (25) at Highways depot. Physical inspection carried out on 19 October, 2023 at Nairobi City County garage and Highways depot revealed the following unsatisfactory matters;

- i. The updated list of current grounded vehicles was not provided for audit hence the numbers of vehicles could not be ascertained.
- ii. There was poor maintenance and storage of the assets and this has led to deterioration of assets. Further, the vehicles were vandalized and parts have been removed, however, the records for the parts removed and where they had been taken has not been provided for audit.
- iii. One water bowser was vandalized and documentation supporting the removing of the parts and where they were to be taken was not provided for audit.
- iv. Records provided by Management indicate that seventeen (17) motor vehicles were involved in accidents. However, the details of the dates of the accidents, evidence of the action taken to recover from the insurance companies and correspondences between the County Executive and insurance companies were not provided for audit.

1036.3 Motor Vehicles held in Private Garages

Physical inspection of motor vehicles held in external garages carried out on 19 October, 2023, revealed the following;

- i. Job cards, Local service orders with details on which repairs were to be done on the vehicle, Inspections reports, contracts between the County Executive and the suppliers were not provided for audit.
- ii. Management of the External garages revealed that they are holding the County Executive vehicles due to non-payment, however, the processed payment vouchers, the invoices, details of work done were not provided for audit.
- iii. There was poor maintenance and storage of the assets and this has led to deterioration of assets and motor vehicle appear vandalized and parts removed from the vehicle, however, the records for the parts removed and where they have been taken was not provided for audit.

In the circumstances, value for money on the expenditure incurred in the procurement and maintenance of the fleet of motor vehicles could not be confirmed.

1037. Over Committed Expenditure in Excess of Approved Budget

Review of the IFMIS payment details in relation to domestic travel and subsistence reflects that the County over committed expenditure in excess of the approved budget provision by an amount of Kshs.154,574,102.

The over expenditure contravenes Regulation 42 of the Public Finance Management (County Governments) Regulations, 2015 under (1) requires that the accounting officer ensure that public funds entrusted to their care are properly safeguarded and are applied for purpose for only which they were intended and appropriated by the County Assembly. In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1038. Lack of Ownership Documents for Dandora Dumpsite

Documents provided by Management revealed that the Dandora dumpsite, Nairobi is approximately fifty (50) hectares. However, Management has ownership documents for land measuring only fifteen (15) hectares while thirty-five (35) hectares have no ownership documents.

In the circumstances, failure to secure the County Executive assets may expose them to loss or misappropriation besides limiting the ability of the County Executive to offer service to the public.

1039. Poor Waste Management System

Review of tender documents and contracts attached in support of garbage collection and disposal payments revealed that bidders were required to provide information on equipment that will be used to collect garbage for approval. However, the County Executive paid contractors whose equipment were handling capacity beyond their contracted limits.

In the circumstances, the effectiveness of the waste management systems could not be confirmed.

1040. Poor Records Management at County Stores

Review of bin cards during field inspection on 5 October, 2023 revealed that goods worth Kshs 486,426,860 were purchased and delivered to the stores. However, as at the time of the inspection, the items had not been issued. Some of these supplies have been in the stores for a duration of more than six (6) months thus raising doubt on their need and if the public will receive value for money on the procurements.

Further, physical inspection carried out on 5 October, 2023 revealed that the stores for the pharmaceutical and non-pharmaceuticals were crowded and not arranged in a

systematic manner. Some parts of the store had no proper lighting with broken windows. In addition, disinfectants were stored in poor conditions and could have expired resulting to health hazards.

In the circumstances, the effectiveness of internal controls in stores management systems could not be confirmed.

1041. Poor Management of Bitumen Stores Records

Review of stores records revealed that Management received a total of 600,000 kilograms of bitumen which was issued to the Ashpalt Kangundo road plant for precast concrete production. Field inspection carried out on 6 October, 2023 at the production plant revealed that a total of two thousand seven hundred and nineteen (2,719) tons of precast concrete output was produced during the period. Based on the production and engineer's explanation that it takes between 55 to 56 kilograms of bitumen to produce one (1) ton of precast concrete, the expected output of precast concrete was six thousand three hundred and ninety-three (6,393) tonnes. The resultant variance of three thousand six hundred and seventy-four (3,674) tonnes consuming a total of 205,744 kilograms of bitumen valued at Kshs.33,957,000 was not reconciled. Further, the materials used to produce the precast concrete which includes ballast and stone dust have not been quantified implying that the potential loss could be higher.

In addition, the stores records in relation to bitumen revealed variances between quantities requisitioned and quantities supplied. The poor records maintenance and non-adherence to the requested quantities results to unreliable records and may have resulted in possible irregular activities hence loss of public funds. Also, it was established that the Ashpalt plant at Kangundo road was not fenced posing security risks.

In the circumstances, the effectiveness of the stores management systems could not be confirmed.

1042. Ineffective Revenue Collection Systems

Review of revenue collection system revealed that Management did not provide information on steps taken to recover receivables yet they have accumulated pending bills amounting to Kshs.98,267,457,303 including decretal sums on late settlement of obligations. Failure to recover the receivables may plunge Management into more debt and litigations which may threaten the County Executive's ability to deliver services efficiently to the public. Further, the laxity by Management to enforce collection of revenue has resulted in pending bills for some departments equating to over and above annual revenue.

In the circumstances, the effectiveness and reliability of the revenue collection systems could not be confirmed.

1043. Incomplete Asset Register

Review of documents provided by Management revealed that the County Executive had a total fleet of one thousand and thirty (1,030) vehicles comprising of eight hundred and

forty-nine (849) County Executive vehicles and one hundred and eighty-one (181) vehicles procured under the Nairobi Metropolitan Services. However, four hundred and eighty-four (484) County Executive vehicles ownership documents were not provided for review. Information provided by Management indicates that Nairobi Metropolitan Services procured one hundred and eighty-one (181) vehicles. However, only one hundred and seventy-seven (177) vehicles were handed over to the County resulting to a variance of four (4) vehicles. Further, the ownership documents for the vehicles were not provided for review. The total value of the one thousand and thirty (1,030) vehicles could not be determined as Management did not provide an asset register.

In the circumstances, the effectiveness of the management and safe custody of the fixed assets could not be confirmed.

Appendix

A: List of County Executives and Audit Opinions given on their Financial Statements

1. Certificates with Unqualified Opinion
None

2. Certificates with Disclaimer of Opinion
None

3. Certificates with Qualified Opinion

S/N	County Code	County Executive	Opinion
1.	1	Mombasa	Qualified
2.	2	Kwale	Qualified
3.	3	Kilifi	Qualified
4.	5	Lamu	Qualified
5.	6	Taita/Taveta	Qualified
6.	7	Garissa	Qualified
7.	8	Wajir	Qualified
8.	9	Mandera	Qualified
9.	10	Marsabit	Qualified
10	11	Isiolo	Qualified
11.	12	Meru	Qualified
12.	13	Tharaka-Nithi	Qualified
13.	14	Embu	Qualified
14.	15	Kitui	Qualified
15.	16	Machakos	Qualified
16.	17	Makueni	Qualified

S/N	County Code	County Executive	Opinion
17.	18	Nyandarua	Qualified
18.	19	Nyeri	Qualified
19.	20	Kirinyaga	Qualified
20.	21	Murang'a	Qualified
21.	23	Turkana	Qualified
22.	24	West Pokot	Qualified
23.	25	Samburu	Qualified
24.	26	Trans Nzoia	Qualified
25.	27	Uasin Gishu	Qualified
26.	28	Elgeyo/Marakwet	Qualified
27.	29	Nandi	Qualified
28.	31	Laikipia	Qualified
29.	32	Nakuru	Qualified
30.	34	Kajiado	Qualified
31.	35	Kericho	Qualified
32.	36	Bomet	Qualified
33.	37	Kakamega	Qualified
34.	38	Vihiga	Qualified
35.	39	Bungoma	Qualified
36.	40	Busia	Qualified
37.	41	Siaya	Qualified
38.	42	Kisumu	Qualified
39.	43	Homa Bay	Qualified

S/N	County Code	County Executive	Opinion
40.	44	Migori	Qualified
41.	45	Kisii	Qualified

4. Certificates with Adverse Opinion

S/N	County Code	County Executive	Opinion
1.	4	Tana River	Adverse
2.	22	Kiambu	Adverse
3.	30	Baringo	Adverse
4.	33	Narok	Adverse
5.	46	Nyamira	Adverse
6.	47	Nairobi City	Adverse

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