PARLIAMENT OF KENYA LIBRARY

DATE 5/2/2024
TABLED BY Chair, CPAC - Kwale
COMMITTEE
CLERK AT THE TABLE

THIRTEENTH PARLIAMENT - THIRD SESSION

REPORT OF THE COUNTY PUBLIC ACCOUNTS COMMITTEE ON THE CONSIDERATION OF THE REPORTS OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF THARAKA NITHI, HOMA BAY, KAKAMEGA, KIRINYAGA, MAKUENI, MERU, BOMET, MURANG'A, NANDI, NYAMIRA, NYERI, SIAYA, VIHIGA, WAJIR AND SAMBURU COUNTY EXECUTIVES FOR THE FINANCIAL YEAR 2019/2020

Rt. Hon. Speaker
You may approve for tabling
J. M. Nyegenye, C.B.S.,
Clerk of the senate/secretary, PSC
Date: 28/02/24

COS

Recommended for appraval for tabling.

29/2/24

APPROVED
RT. HON. SEN
AMASON J. KINGI

VOLUME I

28/02/2024

THE SENATE
PARLIAMENT BUILDINGS
NAIROBI

FEBRUARY, 2024

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TABLE OF CONTENTS

Contents

ACRONYMS/ABBREVIATIONS....4

DEFINITION OF TERMS....5

PREFACE....6

ACKNOWLEDGEMENTS....17

CHAPTER ONE....18

REPORT OF THE SENATE COUNTY PUBLIC ACCOUNTS COMMITTEE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF THARAKA NITHI COUNTY EXECUTIVE FOR THE FINANCIAL YEAR 2019/2020....18

CHAPTER TWO....66

REPORT OF THE SENATE COUNTY PUBLIC ACCOUNTS COMMITTEE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF HOMA BAY COUNTY EXECUTIVE FOR THE FINANCIAL YEAR 2019/2020....66

CHAPTER THREE....138

REPORT OF THE SENATE COUNTY PUBLIC ACCOUNTS COMMITTEE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF KAKAMEGA COUNTY EXECUTIVE FOR THE FINANCIAL YEAR 2019/2020....138

CHAPTER FOUR....182

REPORT OF THE SENATE COUNTY PUBLIC ACCOUNTS COMMITTEE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF KIRINYAGA COUNTY EXECUTIVE FOR THE FINANCIAL YEAR 2019/2020....182

CHAPTER FIVE....219

REPORT OF THE SENATE COUNTY PUBLIC ACCOUNTS COMMITTEE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF MAKUENI COUNTY EXECUTIVE FOR THE FINANCIAL YEAR 2019/2020....219

CHAPTER SIX....235

REPORT OF THE SENATE COUNTY PUBLIC ACCOUNTS COMMITTEE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF MERU COUNTY EXECUTIVE FOR THE FINANCIAL YEAR 2019/2020....235

CHAPTER SEVEN....271

REPORT OF THE SENATE COUNTY PUBLIC ACCOUNTS COMMITTEE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF BOMET COUNTY EXECUTIVE FOR THE FINANCIAL YEAR 2019/2020....271

CHAPTER EIGHT....309

REPORT OF THE SENATE COUNTY PUBLIC ACCOUNTS COMMITTEE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF MURANGA COUNTY EXECUTIVE FOR THE FINANCIAL YEAR 2019/2020....309

CHAPTER NINE....352

REPORT OF THE COUNTY PUBLIC ACCOUNTS COMMITTEE ON AUDITED FINANCIAL STATEMENTS OF NANDI COUNTY EXECUTIVE FOR THE FINANCIAL YEAR 2019/2020 352

CHAPTER TEN 398

REPORT OF THE SENATE COUNTY PUBLIC ACCOUNTS COMMITTEE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF NYAMIRA COUNTY EXECUTIVE REPORT FOR THE FINANCIAL YEAR 2019/2020 398

CHAPTER ELEVEN 434

REPORT OF THE SENATE COUNTY PUBLIC ACCOUNTS COMMITTEE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF NYERI COUNTY EXECUTIVE FOR FINANCIAL YEAR 2019/2020 434

CHAPTER TWELVE 502

REPORT OF THE SENATE COUNTY PUBLIC ACCOUNTS COMMITTEE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF SIAYA COUNTY EXECUTIVE REPORT FOR THE FINANCIAL YEAR 2019/2020 502

CHAPTER THIRTEEN 542

REPORT OF THE SENATE COUNTY PUBLIC ACCOUNTS COMMITTEE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF VIHIGA COUNTY EXECUTIVE REPORT FOR THE FINANCIAL YEAR 2019/2020 542

CHAPTER FOURTEEN 577

REPORT OF THE SENATE COUNTY PUBLIC ACCOUNTS COMMITTEE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF WAJIR COUNTY EXECUTIVE FOR FINANCIAL YEAR 2019/2020 577

CHAPTER FIFETEEN 616

REPORT OF THE SENATE COUNTY PUBLIC ACCOUNTS COMMITTEE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF SAMBURU COUNTY EXECUTIVE REPORT FOR THE FINANCIAL YEAR 2019/2020 ... 616

ACRONYMS/ABBREVIATIONS

BQs - Bill of Quantities
CALC - County Assets and Liabilities Committee
CARA - County Allocation of Revenue Act
CECM - County Executive Committee Member
CPSB - County Public Service Board
CBS - Chief of the Order of the Burning Spear
CRF - County Revenue Fund
EACC - Ethics and Anti-Corruption Commission
ECDE - Early Childhood Development Education
EGH - Elder of the Order of the Golden Heart
ICT - Information, Communication Technology
IFMIS - Integrated Financial Management System
IGTRC - Intergovernmental Relations Technical Committee
IPPD - Integrated Payroll and Personnel Database
KRA - Kenya Revenue Authority
KUSP - Kenya Urban Support Project
LPOs - Local Purchase Orders
LSOs - Local Supply Orders
MCAs - Members of County Assembly
MP - Member of Parliament
NHIF - National Hospital Insurance Fund
OAG - Office of the Auditor General
PAYE - Pay-As -You Earn
PFM - Public Finance Management
PAA- Public Audit Act
PPADA- Public Procurement and Assets Disposal Act
PSASB - Public Sector Accounting Standards Board
TNA - Training Needs Assessment
TVET - Technical and Vocational Education Training

DEFINITION OF TERMS

Disclaimer

A disclaimer is when the auditor is unable to fully review an entity's documentation because there is a substantial amount of information that is missing. The absence of information makes it hard and difficult for the Auditor General to make an opinion. In other words, the auditor feels unable to determine whether the situation is qualified or adverse because the paperwork is not adequate. This is a serious lapse in compliance and should be of concern to oversight bodies. A disclaimer indicates that the record keeping is so bad to the extent that the auditor cannot give an opinion.

Adverse Opinion

An adverse opinion is issued when the Auditor General is able to review the entity's documentation supplied for audit purposes and the final audit reveals problems that are widespread and pervasive and will require considerable changes to remedy. Oversight institutions are concerned to recommend remedies to address such anomalies and systems.

Qualified Opinion

This is as a result of the Auditor General finding some problems that are not widespread or persistent with documentation and information supplied. The auditor received all the information required for the audit. However, after review the audit reveals there are some gaps in adherence and compliance to legal procedures.

Unqualified Opinion

This arises when the Auditor General is satisfied with documentation presented for review. It implies that there are no major problems with documentation and information that were presented for assessment and the funds are managed properly.

PREFACE

Mr. Speaker Sir,

Committees are a creation of the Constitution through Article 124(1) of the Constitution which empowers each House of Parliament to establish Committees and make Standing Orders for the orderly conduct of its proceedings, including the proceedings of its Committee.

The County Public Accounts Committee is established by the Senate pursuant to Standing Order No. 193 and is mandated-

a) Pursuant to Article 96(3) of the Constitution, to exercise oversight over national revenue allocated to the county governments;
b) Pursuant to Article 229(7) and (8) of the Constitution, to examine the reports of the Auditor-General on the annual accounts of the county governments;
c) To examine special reports, if any, of the Auditor-General on county government funds;
d) To exercise oversight over county public accounts.

Committee Membership

Mr. Speaker Sir,

The membership of the Committee comprises of the following Senators-

1. **Sen. Kajwang' Moses Otieno, CBS, MP** - **Chairperson**
2. **Sen. Cherarkey Samson Kiprotich, MP** - **Vice-Chairperson**
3. Sen. Adan Dullo Fatuma, CBS, MP - Member
4. Sen. Onyonka Richard Momoima, MP - Member
5. Sen. Mwenda Gataya Mo Fire, MP - Member
6. Sen. Methu John Muhia, MP - Member
7. Sen. Okoiti Andrew Omtatah, MP - Member
8. Sen. Omar Mariam Sheikh, MP - Member
9. Sen. Sifuna Edwine Watenya, MP - Member

Committee Secretariat

The secretariat comprises of the following members of staff;

1) Mr Njenga Njuguna - Director, Governance and Accountability
2) Ms. Emmy Chepkwony - H.O.D, Department and Other Select Committees
3) Mr. George Otieno - Principal Clerk Assistant II
4) Mr. Boniface Kiambi - Clerk Assistant I
5) Mr. Crispus Tima - Clerk Assistant I
6) Mr. Kevin Kibet - Clerk Assistant III
7) Ms. Caroline Cheruiyot - Senior Legal Counsel
8) Mr. Jackson Wekesa - Legal Counsel
9) Mr. Hussein Salat - Fiscal Analyst II
10) Ms. Keziah Muthama - Fiscal Analyst III
11) Ms. Sharon Rotino - Research Officer II

12)Mr. Peter Kafana - Research Officer III
13)Mr. Martin Mu[illegible]di - Research Officer III
14)Ms. Lynette [illegible]seke - Research Officer III
15)Mr. Osman Hire - Research Officer III
16)Mr. Ibrahim Oruko - Media Relations Officer
17)Mr William Zenton - Audio Officer
18)Ms. Lorraine Nabwire - Procurement Officer III
19)Mr. Julius Maganga - Accountant III
20)Mr. James Ngusya - Serjeant-at-Arms

Mr. Speaker Sir,

The Senate Committee on County Public Accounts is the avenue through which the Senate under the provisions of Article 96(3) of the Constitution carries out the post scrutiny of County Governments Budgets.

The Committee was constituted at the commencement of the First Session in September, 2022 pursuant to Senate Standing Order 193(4) which requires the County Public Accounts Committee to be constituted after a general election and shall serve for a period of three sessions. Therefore, the Committee commenced its business in the month of February, 2023.and held several meetings with the County Government entities from the Month of February 2023 where it considered the reports of the Auditor-General for various county entities.

The sittings were primarily investigatory and the Committee received evidence from the Governors as the Chief Executive Officers of the County pursuant to Article 179 (4) of the Constitution. The main issues for investigation and determination were the various audit queries contained in the report of the Auditor-General on the financial operations of the various counties for the financial year 2019/2020.

Mr. Speaker Sir,

Article 201 of the Constitution outlines the principles of public finance management to be observed at both levels of government. These include openness, accountability, public participation, prudent and responsible financial management.

This report is issued pursuant to the requirements of Articles 96 (3) and 229(8) of the Constitution of Kenya. Where any breach of law has an attendant remedy, consequence or penalty in law, recommendations of this report do not preclude any liability that may arise as a result of any legal action within the breach of the prescribed law.

Mr. Speaker Sir,
This report contains fifteen (15) County Executive reports for the year 2019/2020, listed as volume I that were considered and adopted by the Committee.

The Committee examined the reports of the Auditor-General on the financial statements for Tharaka Nithi, Homa Bay, Kakamega, Kirinyaga, Makueni, Meru, Bomet, Murang'a, Nandi, Nyamira, Nyeri, Siaya, Vihiga, Wajir and Samburu County Executives for the financial year 2019/2020; and identified various fiduciary risks.

During the years under review, majority of the fifteen (15) County Executives considered under this report had challenges with submission of documents to the auditors for verification during the audit exercise. The Committee noted that County Executives did not avail relevant supporting documents to the Auditor-General during the audit exercise, with only some managing to provide them at a later date. The non-provision of documents therefore, left the entities unable to support expenditures of substantial amount of funds. Further, the county assemblies had weak record management systems thus casting doubts on the suitability and qualifications of staff in the county treasury and accounts departments.

Mr. Speaker Sir,

The reports also revealed that County Executives were not able to apply proper accounting practices as stipulated by the Public Sector Accounting Standards Board. Financial Statements presented for audit verification exhibited various weaknesses including failure to do regular reconciliations, variances between financial statements and IFMIS balances; payment details and trial balance among other inconsistencies. This resulted in inadequate reporting and presented an inaccurate position of the financial position of the county executives.

The reports further showed that a number of counties had weaknesses in executing their budgets. The County entities did not adhere to their approved budget ceilings set for programs, votes and sub-votes. Thus, there was over-utilization or under-utilization of appropriated funds. The Committee noted that the main cause for under-utilization of budgets was delay in exchequer releases from the National Treasury thereby hampering program implementation and budget execution. In some instances, funds were re-allocated to items that were not budgeted for without prior approval by the County Assembly.

The findings of the considered audit reports revealed that the entities made payments outside the Integrated Financial Management Information System (IFMIS) platform, contrary to the Public Finance Management Act, 2012. The practice of processing transactions outside the IFMIS platform could be an avenue to bypass financial controls and can lead to misappropriation of funds.

The reports also revealed that the county entities abused the imprest process, from the request, approval, surrender and recovery. Imprests remained outstanding after their due dates of surrender, contrary to the provisions of Regulation 93 (5) of the Public Finance Management (County Governments) Regulation, 2015 which requires temporary imprest holders to account for or surrender imprests within seven days upon returning

to their duty stations. Further, Management breached Regulations 93(6) by failing to recover the outstanding imprests from the salaries of the defaulters.

Mr. Speaker Sir,

During the years under review, the Committee noted that majority of the entities interrogated had not properly updated their assets registers despite the Inter-Governmental Technical Relations Committee (IGTRC) having handed over their report, hence exposing county assets to risk of loss, waste and misuse. Further, a number of county executives had not updated their valuation Roll as required under Section 3 of the Valuation for Rating Act CAP 266. Thus, counties were not collecting optimal revenue based on the prevailing land market values.

The Committee further noted that the reports revealed that a number of counties had weak internal control systems on own source revenue collection and accounting. This was evidenced by utilization of revenue at source, failure to bank revenue collected on time and failure to maintain separate financial statements for funds established by the counties. This exposed the county executives to revenue leakages and contributed to failure of most counties to meet own source revenue collection targets.

Regarding human resource issues, the Audit reports revealed the following:

i. that some County staff were earning less than a third of their basic pay;
ii. Some County Executives were still processing salaries and other benefits outside the Integrated Payroll and Personnel Database (IPPD); and
iii. A number of County Executives did not meet the threshold on ethnic inclusivity stipulated under Section 65(1)(e) of the County Governments Act, 2012.

The Committee further observed that County Executives did not take action on the issues raised in the report of the Auditor General for previous financial years. This therefore implied that a number of recommendations proposed by the OAG were not implemented thus some audit queries had recurred for several financial years and remained outstanding.

Mr. Speaker Sir,

On internal controls, risk management and governance, the Committee noted that a number of county entities had not established Audit Committees contrary to Paragraph 167 of the PFM (County Government) Regulations, 2015. Further, the entities did not have Risk Management policies, Disaster Recovery Plan, ICT Policy and Business Continuity Plan to help prevent and mitigate against risks. This is contrary to Section 158(1) of the Public Finance Management (County Government) Regulation 2015 which requires the County Government entities to develop risk management strategies which include fraud prevention mechanisms and a system of risk management and internal control that builds robust business operations.

In addition to the general observations and recommendations on cross cutting issues across the counties interrogated and captured in the report, this report details further observations and recommendations for specific audit queries for the respective county Executives.

GENERAL OBSERVATIONS AND RECOMMENDATIONS

The Committee observed that the reports of the Auditor General considered had recurring audit issues across a number of county entities. Consequently, the Committee identified the following general observations and recommendations -

1. Lack of an updated Fixed Assets Register

Committee Observations

The Committee observed that a number of the county entities:-

a) had not updated their Fixed Assets Register;
b) had not adopted the report of the Inter-Governmental Relations Technical Committee on assets and liabilities inherited from the defunct local authorities. This has affected the correct statement of the assets and liabilities of the entities.

Committee Recommendations

The Committee recommends that the-

a) County entities should update and present their Fixed Assets Register in the format prescribed by the Public Sector Accounting Standards Board;
b) County entities should adopt and implement the report of the Inter-Governmental Technical Relations Committee (IGTRC) on assets and liabilities from defunct Local Authorities and provide a status update to the Office of the Auditor General within 90 days of adoption of this Report; and
c) Office of the Auditor General should progressively review and report on the matter in the subsequent Financial Years.

2. Delays in updating Property Valuation Roll

Committee Observation

The Committee noted that a number of County Executives had not updated their valuation roll as required under Section 3 of the Valuation for Rating Act CAP 266 thus leading to under-collection of rent and rates.

Committee Recommendation

The Committee recommends that the County executives should expedite updating of valuation roll in accordance with Section 3 of the Valuation for Rating Act CAP 266 so as to reflect current market values for optimal revenue collection and comply with the guidelines of the Public Sector Accounting Sector Boards of reporting in the FY 2023/2024.

3. Payment to the Council of Governors(COG)

Committee Observation

The Committee noted that payments made to the Council of Governors from County Revenue Funds were irregular and unlawful since the Intergovernmental Relations Act specifies that funding for the COG shall be drawn from the Consolidated Fund.

Committee Recommendation

The Committee recommends that the irregular payments to the Council of Governors (COG) be stopped and further recommends the surcharge of any Governor, in their capacity as Chief Executive Officer, who continues to make the irregular contribution.

The EACC should oversee the recovery of all the public funds irregularly transferred to the Council of Governors (COG) by the Governor. This is in line with the Resolution of the Senate.

4. Delay and non-submission of documents

Committee Observation

The Committee noted that the County entities did not submit or made late submissions of the relevant documents to the Auditor General during the audit exercise contrary to section 62 of the Public Audit Act, 2015.

Committee Recommendation

The Committee recommends that the County Chief Executive Officer (CEO) undertakes administrative action(s) against the responsible officer(s) who fails to provide documents to the auditors in accordance with section 156 of the Public Finance Management Act, 2012 and provide a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report. Where such failure has led to a Disclaimer opinion, the Committee recommends the sanctions outline in Section 62(2) of the Public Audit Act, 2015.

5. Pending bills

Committee Observations

The Committee observed that the county entities had pending bills that had been outstanding for several years. Further, the entities continued to incur further bills without prioritizing payment of verified pending bills as a first charge in the subsequent financial year as required by law.

Committee Recommendations

The Committee therefore recommends that:

a) the County entities should prioritize payment of all verified pending bills as a first charge in the subsequent financial year;
b) the National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate so as to enable county entities settle their obligations on time;

c) the county executives puts in place measures to enhance own generated revenue in order to meet its revenue target and address revenue shortfalls that contribute to the challenge of pending bills;
d) Pending bills deemed ineligible should be forwarded to the Directorate of Criminal Investigation (DCI) to investigate proper legal action taken against those filing false claims;
e) County Executive to make a provision in its budget for contingency liability in respect of legal fees pursuant to regulation 25(2)(e) of the Public Finance Management (County Government) Regulations, 2015;
f) the National Treasury takes lead in a multi-agency approach to come up with legislative an procedural measures to deal with accumulation of pending bills in counties within 90 days of adoption of this Report;
g) County Governments to take note of judgement in a Kitale High Court Constitutional Petition E003 of 2023 that declared formation of pending bills verification committees unconstitutional and engage Office of the OAG and strengthen the internal audit functions;
h) All valid pending bills that have been reviewed by the OAG be paid and a payment plan be submitted to the county assemblies for approval and progress report on implementation sent to the Senate and the Office of the Controller of Budget; and
i) The Committee will seek to reintroduce the Prompt Payment Bill with amendments aimed at ring-fencing a certain percentage of the equitable shareable revenue for pending bills and retain money at source to pay pending bills.

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

Committee Observation

The Committee observed that the wage bill for a number of County entities was above the threshold of 35% of total receipts contrary to Regulation 25 (1) (b) of the Public Finance Management (County Governments) Regulations, 2015.

The Committee further noted that high wage bill is a threat to the objects of devolution as provided for under Article 174(f) of the Constitution.

Committee Recommendations

The Committee recommends that-

a) the management should strictly adhere to the provision of paragraph 25(1)(b) of the PFM (county government) regulations, 2015 which stipulates that the county wage bill shall not exceed 35 per cent of the county total revenue;
b) the county executive puts in place measures to enhance own source revenue collection in order to address high wage bill gap; and
c) the management of the concerned entities should provide to the Auditor General a status report of measures put in place to contain the high wage bill within sixty (60) days of the adoption of this report.

d) Senate should consider reintroducing the fiscal responsibility index in revenue allocation to act as an incentive for counties that meet the PFM fiscal responsibility targets.

7. ***Outstanding imprests***

Committee Observations

The Committee noted that the County entities had substantial amounts of outstanding imprest by the close of financial year contrary to Regulations 93(5) of the Public Finance Management (County Government) Regulations, 2015 which requires a holder of a temporary imprest to account for the imprest within seven days after returning to duty station.

Committee Recommendation

The Committee recommends that the Accounting Officer(s) recover the outstanding imprests with interest as per provisions Regulation 93 (6) of the Public Finance Management (County Governments) Regulations, 2015.

The Committee further recommends sanction and surcharge of Accounting Officers who fail to recover outstanding imprests in line with Regulation 93(7) of the PFM (County Government) Regulations, 2015.

8. ***Budget Control and performance***

Committee Observation

The Committee observed that-

1) the county entities did not receive exchequer releases from the National Treasury on time.
2) the Committee noted that the county executives did not meet their own source revenue collection targets. This challenge hampered budget implementation in the affected county entities.
3) Most Counties fail to undertake public participation on supplementary budgets that exceed 10% of the budget contrary to Section 135 (7) of the PFM Act, 2012 and Regulation 39(9) of the PFM (County Government) Regulations, 2015.

Committee Recommendations

The Committee recommends that -

a) The National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate.
b) the County Executive puts in place measures to enhance its own generated revenue in order to meet its revenue target and address revenue shortfalls.
c) County Assemblies to exercise their powers as outlined in Article 201 of the Constitution to ensure budgets are realistic and espouse people's aspirations.

9. ***Lack of ethnic diversity in staff establishment***

Committee Observations

The Committee observed that -

a) there was no ethnic diversity among employees of county executives as employees were mainly drawn from the dominant community in the county; and,

b) due to the homogeneous ethnographic population in most counties, it may not be feasible for them to attain the threshold provided under Section 7(2) of the National Cohesion and Integration Act, 2008 which states that *no public establishment shall have more than one third of the staff from the same ethnic community.*

Committee Recommendations

The Committee recommends that-

a) the County Executives should work progressively towards attaining the requirement of the provisions of Section 65(1)(e) of County Government Act on ethnic inclusivity.
b) The Standing Committee on NCEORI to explore legal amendments to ensure progressive compliance with section 65(1)(e) of County Government Act, 2012.

10. Non-compliance with the One Third Basic Salary Rule

Committee Observations

The Committee observed that some of the county staff were earning less than a third of their basic pay contrary to Section 19 (3) of the Employment Act 2007.

Committee Recommendations

The Committee therefore recommends that -

a) The county entities should configure their IPPD system such that it is able to lock out commitments beyond the accepted thresholds; and
b) The Auditor General should continue monitoring the issue in subsequent audit cycles.

11. Prior Year Issues

Committee Observation

The Committee observed that most County entities did not take action on issues raised in the Report of the Auditor General for previous financial years even where the reports has been considered by the Committee and a report tabled and adopted by the Senate.

Committee Recommendation

The Committee recommends that-

1. the County entities should strictly comply with Section 53 of the Public Audit Act, 2015 by taking action on the issues raised by the Auditor General.
2. The Institute of Certified Public Accountants of Kenya (ICPAK) takes action(s) against professional accountants who prepare financial reports which do not

comply with the Public Sector Accounting Standards as it amounts to gross negligence in the conduct of professional duties which constitutes a professional misconduct pursuant to Section 8 (a) and 30 of the Accountants Act CAP 531.

12. Failure to establish an Audit Committee

Committee Observations

The Committee observed that in a number of the entities considered, management had not established audit committees to provide oversight on the financial and other operations of their financial affairs as required under Section 167(1) of Public Finance Management (County Governments) Regulation, 2015.

Committee Recommendation

The Committee recommends that-

1. the county entities should expedite establishment of audit committees to enhance oversight over public resources and provide a status report to the Auditor General within sixty (60) days from the adoption of this report.
2. The Committee further recommends that the SRC should review the compensation framework for Audit Committee members since the low sitting allowances may not attract seasoned professionals to the county Audit Committees.

13. Lack of a Risk Management Policy Framework

Committee Observations

The committee noted that a number of county entities did not have a risk management policy framework in place. The committee further observed that lack of risk prevention mechanism may expose the entities to various form of risks.

Committee Recommendations

The Committee recommends that the Accounting Officer for all county entities should put in place a risk management policy and disaster recovery plan within sixty (60) days from the adoption of this report and submit the same to the Auditor General. The committee further recommends that the Auditor General to closely monitor the development, documentation and communication of these policies within the county entities in the subsequent audit cycles.

14. Payment of Salaries outside the IPPD

Committee Observation

The Committee noted that some Counties Executive were making payments of salaries for some of its employees outside the Integrated Personnel and Payroll Database (IPPD) System.

Committee Recommendations

The Committee recommends that;

1) County Entities should engage the State Department of Public Service to fast-track the issuance of personal numbers to enable Counties onboard all employees on the Integrated Personnel and Payroll Database (IPPD) System; and
2) the Auditor General to monitor the matter in subsequent audit cycle.

ACKNOWLEDGEMENTS

The Committee appreciates the Office of the Auditor General, The National Treasury and the Ethics and Anti-Corruption Commission for the support they offered to the Committee especially in providing references on various issues under consideration.

The Committee wishes to acknowledge the support it received from the Office of the Speaker and the Clerk of the Senate during the consideration of the Auditor-General's Reports for county governments. The Committee further appreciates the cooperation it received from the CEOs of the County Government entities who appeared before the Committee.

Final appreciation goes to the distinguished and dedicated members of the Committee and secretariat who actively participated and facilitated the proceedings.

Further, the Committee thanks the Offices of the Speaker and Clerk of the Senate for the support extended to the Committee in execution of its mandate.

Mr. Speaker Sir,

I wish to confirm that the resolutions of the Committee in this report were unanimous.

Mr. Speaker Sir,

It is therefore my pleasant duty and privilege, on behalf of the Senate Committee on County Public Accounts to table this report and commend it to the House for debate and adoption pursuant to the provisions of the Senate Standing Order 223(6).

SIGNATURE.....

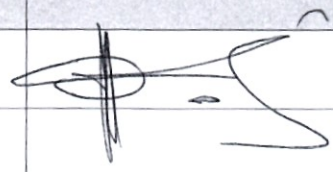
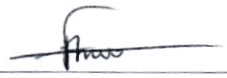
(CHAIRPERSON: SEN. KAJWANG' MOSES OTIENO, MP)

DATE.....7th July 2023.....

THE SENATE

THIRTEENTH PARLIAMENT - SECOND SESSION

ADOPTED BY:

NO	NAME	DESIGNATION	SIGNATURE
1.	**Sen. Kajwang' Moses Otieno, MP**	**Chairperson**	
2.	**Sen. Cherarkey Samson Kiprotich, MP**	**Vice-Chairperson**	
3.	Sen. Adan Dullo Fatuma, CBS, MP	Member	
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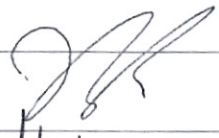
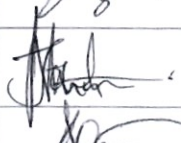
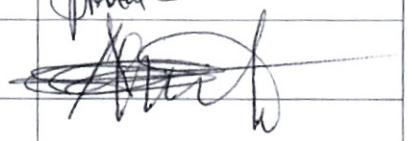
5.	Sen. Mwenda Gataya Mo Fire, MP	Member	
6.	Sen. Methu John Muhia, MP	Member	
7.	Sen. Okoiti Andrew Omtatah, MP	Member	
8.	Sen. Omar Mariam Sheikh, MP	Member	
9.	Sen. Sifuna Edwine Watenya, MP	Member	

CHAPTER ONE

REPORT OF THE SENATE COUNTY PUBLIC ACCOUNTS COMMITTEE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF THARAKA NITHI COUNTY EXECUTIVE FOR THE FINANCIAL YEAR 2019/2020

The Governor of Tharaka Nithi County, Hon. Muthomi Njuki, EGH, appeared before the Committee on Tuesday, 7th March, 2023 to respond (under oath) to audit queries raised in the Report of the Auditor General on Financial Statements for Tharaka Nithi County Executive for the Financial Year 2019/2020.

Qualified Opinion

EXECUTIVE SUMMARY OF UN-RESOLVED AUDIT QUERIES				
S/NO	**AUDIT QUERY**	**COMMITTEE RECOMMENDATIONS**	**ACTORS**	**TIMELINE**
1.	**1. Own Generated Revenue** **1.1 Mismanagement of Revenue from Veterinary Services.** Daily, weekly and monthly revenue reports, revenue control sheets and records showing number of animals inspected were not provided for audit review.	The County CEO undertakes administrative action against the responsible officer(s) who failed to provide the documents to the auditors in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report.	The County Chief Executive Officer	60 Days from the date of adoption of this report
2	**1.2 Unauthorised Collection of Revenue** Meat inspection fees collected from the forty-three (43) slaughter houses across the County and revenue from artificial insemination services were not	The Committee therefore recommends that;- 1. The County CEO undertakes administrative action against responsible officer(s), for- a) failure to declare revenue from veterinary services and who did not give approval of the	The County CEO	Within 60 Days from the date of adoption of this report

	supported with banking slips showing revenue banked in County Revenue Fund (CRF). It was also noted that meat inspection fees was collected by meat inspectors without any authority from the receiver of revenue. Review of the budget revealed that revenue from veterinary services was not included in the approved budget for the year 2019/2020 which could lead to concealment of revenue.	revenue receiver to collect revenue from meat inspection b) Undermining established financial procedures and controls contrary to Section 156(4) of the Public Finance Management Act, 2012. 2. The County CEO provides a status report to the Auditor-General within sixty (60) days from the adoption of this report.	The Auditor General	
2.	**1.4 Unrealistic Receipts Budget - Liquor Licenses** The balance includes a balance of Kshs.6,448,500 in respect of revenue from liquor licenses. However, the 2018/2019 financial statements reflect Kshs.15,704,110 in respect of the same item resulting to Kshs.9,255,610 or 59% decline which has not been explained	The Committee recommends that; a. the County Executive puts in place measures to enhance its own generated revenue in order to meet its budgeted target and address revenue shortfalls such as setting up a liquor licensing fund; b. the County CEO undertakes administrative action against the responsible officer(s) who failed to provide the documents to the auditors in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Office	The County Chief Executive Officer	Within 60 days from the date of adoption of this report

		of the Auditor General within sixty (60) days from the adoption of this report.; c. provide a status report on measures taken to enhance revenue collection to the Auditor-General within sixty (60) days after the adoption of this report.		
3.	**1.5 Administrative Fees and Charges** The balance also includes an amount of Kshs.32,490,951 in respect of administrative fees and charges against an approved budget of Kshs.5,600,000 resulting to revenue over collection of Kshs.26,850,951 or 480%. The revenue summary reports and Integrated Financial Management Information Services (IFMIS) revenue report reflects a balance of Kshs.44,714,511 and Kshs.32,882,177 respectively. No explanation or reconciliation was provided for the variance between the three sets of records.	The Committee recommends that- 1. The County CEO undertakes administrative action against the responsible officer(s) for failure to undertake revenue reconciliation within the stipulated timelines in accordance with section 156 of the Public Finance Management Act, 2012 and submit a report to the Office of the Auditor General within 60 days of adoption of this report; 2. The County Executive to identify training needs of its staff serving in the Finance Department and initiate capacity building and training in conjunction with the National Treasury within 60 days of adoption of this report.	1. The County Chief Executive Officer 2. The National Treasury	60 days from the date of adoption of this report

4.	**2.1. Domestic Travel and Subsistence** Work tickets/bus tickets, approved requests, program of activities and back to office reports were not provided for audit review.	The Committee recommends that the Accounting Officer recovers the outstanding imprest with interest at the prevailing Central bank rates from the officers who failed to surrender the safari imprest within 7 days of returning to duty station, pursuant to Regulation 93(6) of the PFM Act (County Governments) Regulations, 2015. The Committee further recommends sanctions and surcharge of Accounting Officers who fail to recover outstanding imprests in line with Regulation 93(7) of the PFM (County Government) Regulations, 2015.	The County Executive Committee Member (CECM), Finance.	Within 60 days from the date of adoption of this report
5.	**2.2 Other Operating Expenses** Documents showing how the imprest was surrendered and accounted for were not provided for audit review	The Committee recommends that the Accounting Officer recovers the outstanding imprest with interest at the prevailing Central bank rates from the officers who failed to surrender the safari imprest within 7 days of returning to duty station, pursuant to Regulation 93(6) of the PFM Act (County Governments) Regulations, 2015. The Committee further recommends sanction and surcharge of Accounting Officers who fail to recover outstanding imprests in line with Regulation 93(7) of the PFM (County Government) Regulations, 2015.	1. The County Executive Committee Member (CECM), Finance and Economic Planning 1.	60 days from the date of adoption of this report
6.	**Printing, Advertising and Information**	The Committee recommends that- 1. The County CEO undertakes	1. The County Chief Executive Officer	60 days from the date of

	Supplies and Services - Approved requisitions and Local Service Orders (LSOs) were not provided for audit review. - Balance of Kshs.2,100,000 was an amount of Kshs.1,114,760 which is indicated as relating to expenditures incurred during 2017/2018 financial year. - Review of documents revealed that the same was not included as pending bills in the financial statements for the years 2017/2018 and 2018/2019. - The propriety and accuracy of expenditure amounting to Kshs.4,004,340 included under use of goods and services in the statement of receipts and payments for the year ended 30 June, 2020 could	administrative action against the responsible officers for failure to undertake revenue reconciliation within the stipulated timelines in accordance with Section 156 of the Public Finance Management Act, 2012 and submit a report to the Office of the Auditor General within 60 days of adoption of this report. 2. The County Executive to identify training needs of its staff serving in the Finance Department and initiate capacity building and training in conjunction with the National Treasury within 60 days of adoption of this report.	2. The National Treasury	adoption of this report

	not be ascertained			
7.	**Emphasis of Matter** **Discharge of Pending Bills** Management paid bills amounting to Kshs.19,494,698 in respect of construction and civil works. Examination of records revealed that the bills comprised of bills which were incurred in the last four years but were not included as a pending bills in the financial statements of the respective years. Review of the budget for the financial year 2019/2020 revealed that the pending bills had not been included in the list of pending bills in the approved budget for 2019/2020. Failure to settle bills in the year to which they relate will adversely affect the implementation of the subsequent year's budgeted programs as the	The Committee therefore recommends that: 1. the National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate so as to enable county entities settle their obligations on time; and 2. the county executive puts in place measures to enhance own generated revenue in order to meet its revenue target and address revenue shortfalls that contribute to the challenge of pending bills. 3. Pending bills deemed ineligible should be forwarded to the Directorate of Criminal Investigation (DCI) for investigation	1. The County Chief Executive Officer	Continuous

	pending bills form a first charge		and proper legal action taken against those filing false claims. 4. County Government to take note of judgement in a Kitale High Court Constitutional Petition E003 of 2023 that declared formation of pending bills verification committees unconstitutional and engage Office of the OAG and strengthen the internal audit functions.; and 5. All valid pending bills that have been reviewed by the Office of the Auditor General be paid and a payment plan be submitted to the county assembly for approval and progress report on implementation sent to the Senate and the Office of the		

		Controller of Budget.		
8.	**Other Matter** **1.6 Budgetary Control and Performance** The statement of comparative budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.5,119,073,806 and Kshs.4,479,989,745 respectively, resulting to an under-funding of Kshs.639,084,061 or 12% of the budget. Similarly, the County Executive expended an amount of Kshs.4,247,239,658 against an approved budget of Kshs.5,119,073,806 resulting to an under-expenditure of Kshs.871,834,148 or 17% of the budget.	The Committee therefore recommends that: 1. The National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate and comply with Article 219 of the Constitution and Section 17(6) of the Public Finance Management Act, 2012. 2. the County executive puts in place measures to enhance its own generated revenue in order to meet its revenue target and address revenue shortfalls.	1. The National Treasury 2. The County Chief Executive Officer	
9.	**2.0Unresolved Prior Year Issues** Several issues were raised under the Report on Financial Statements, Report on Lawfulness and	The Committee recommends that 1) the County executive complies with section 53 of the Public Audit Act, 2015 by taking action on the issues raised by the Auditor General	The County Chief Executive Officer The Auditor General	60 days from the date of adoption of this report.

	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 for failure to adhere to the provisions of the Public Sector Accounting Standards Board templates and the National Treasury's Circular Ref: No. AG.4/16/3 Vol.1(9) dated 24 June, 2020.	and submits a report to the Auditor General within 60 days of the adoption of this report.		
REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES				
10.	**1. Non-Compliance with the Law on Fiscal Responsibility-Wage Bill** The statements of receipts and payments reflects an expenditure of Kshs.2,015,104,735 on compensation of employees representing 46% of the total receipts of Kshs.4,388,338,643 which is contrary to the provisions of Regulation 25(1) (a) and (b) of the Public Finance	The Committee recommends that- 1. the management should provide to the Auditor General and the Senate the measures it will put in place to contain the high wage bill within sixty (60) days of the adoption of this report; 2. the management should strictly adhere to the provision of paragraph 25(1)(b) of the PFM Act (county government) regulations, 2015 which stipulate that the county wage bill should not exceed 35 per cent of the county total revenue; and	1. The County Chief Executive Officer 2. The Auditor General.	60 days from the date of adoption of this report

	Management (County Governments) Regulations, 2015	3. the county executive puts in place measures to enhance own source revenue collection in order to address wage bill gap.		
11.	**2. Non-Compliance with Human Resource Policies and Procedures Manual for Public Service, 2016** Ten (10) employees were employed on five (5) year contract contrary to Section B. 20(4) of the Human Resource Policies and Procedures Manual for Public Service, 2016 which stipulates that contract appointments will be limited to a maximum period of three (3) years, renewable subject to demonstrable performance and other terms of the contract. A teacher who was on a two-year contract from 1 March, 2018 to 28 February, 2020 had already attained the age of 60 years at the time of expiry of the contract. No explanation was provided why the	The Committee Recommends that; 1. the County Executive strictly adheres to the Human Resource Policies and Procedures Manual and submit a status report of the adherence. 2. the County Executive should not employ, on permanent and pensionable terms, persons who are above sixty (60) years and that the County Executive submits a status report to the Auditor-General on implementation of this recommendation within sixty (60) days of adoption of this report.	The County Chief Executive Officer The County Public Service Board (CPSB) The Auditor General.	60 days from the date of adoption of this report

	County Public Service Board renewed the contract contrary to Section D.21 of the Human Resource Policies and Procedures Manual for Public Service, 2016			
12.	**3. Non-Compliance with the Public Procurement and Assets Disposal Act, 2015** **3.1 Splitting of Tenders** During the year under review, Management paid an amount of Kshs.5,278,000 for branding of assorted items. However, the supply was split into three (3) and awarded to three (3) different suppliers at Kshs.1,972,000, Kshs.1,821,200 and Ksh.1,484,800 using request for quotation method of procurement contrary to Section 54. (1) of the Public Procurement and Asset Disposal Act, 2015	The Committee recommends that; 1) The County CEO undertakes administrative action against the responsible officers who failed to provide explanation for unbundling of the tender to the auditors in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report; and 2)the management should strictly adhere to the provisions of the Public Procurement and Asset Disposal Act, 2015 and Public Procurement and Disposal (Regulations) 2020.	The County Executive Officer	

13.	**4. Non-Compliance with the Public Finance Management (County Governments) Regulations, 2015** **i) Receipts of good after LPO Validity Period** Kshs.553,000 paid to a supplier for supply of stationeries. Review of documents provided for audit revealed that, the Local Purchase Orders (LPO) were issued on 6 March, 2020. However, the stationeries were delivered on 11 July, 2020 approximately three (3) months after the LPO was issued contrary to Section 52. (1)(2) of the Public Finance Management (County Governments) Regulations, 2015.	The County CEO undertakes administrative action against the responsible officer(s) who received goods beyond the stipulated period of thirty (30) days in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report.	The County Chief Executive Officer	60 days from the date of adoption of this report

	ii) Delayed Construction of Githioroka Bridge A contractor was awarded the tender for the construction of Githioroka Bridge at a contract sum of Kshs.12,501,320. An amount of Kshs.8,334,832 was paid but only Kshs.7,000,000 was approved out of a contract sum of Kshs.12,501,320 resulting to over expenditure of Kshs.1,334,832 in the year under review without approval.	The Committee recommends that- 1. The County CEO undertakes administrative action against responsible officer(s) for incurring additional expenditure without approval and no budget line in the subsequent year which is contrary to Section 116(2) of the Public Financial Management (County Government) Regulations, 2015 and provides a status report to the Auditor General within 60 days of adoption of this report; 2. The county executive expedites the completion of the project to ensure that citizens get value for money; and 3. the Auditor-General to verify the implementation of the above recommendations.	1. The County Chief Executive Officer 2. The Auditor General	60 days from the date of adoption of this report

14.	**iii) Incomplete Levelling and Improvement of Kairuni Playground** Physical verification carried out in September, 2020 revealed that the contractor was not on site and work appeared to have stalled. No explanation was provided on how the County Executive intended to complete the project. Further, although the works had not been completed, no budgetary allocation had been provided for the completion of the project in 2019/2020 and 2020/2021 financial years budgets.	The Committee recommends that- 1. The County CEO undertakes administrative action against responsible officer(s) for incurring additional expenditure without approval and no budget line in the subsequent year which is contrary to Section 116(2) of the Public Financial Management (County Government) Regulations, 2015 and provides a status report to the Auditor General 2. The county executive expedites the completion of the project to ensure that citizens get value for money; and 3. the Auditor-General to verify the implementation of the above recommendations	1. The County Chief Executive Officer 2. The Auditor General	60 days from the date of adoption of this report

15.	**iv) Construction of Chiakariga Water Project** Physical verification carried out in September, 2020 revealed that the pump house and water tank were constructed but were not in use since the same were not connected to the main water supply. seven (7) items in the Bill of Quantities valued at Kshs.303,850 had been paid for but were not supported by relevant documents including approved measurements of work done	1) The County CEO undertakes administrative action against the responsible officers who failed to provide the documents to the auditors in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Office of the Auditor General within 60 days of adoption of this report. 2) the County Government takes immediate action to operationalise the project and provides a report to Auditor-General on project status.	1)The County Chief Executive Officer 2)The Auditor General	60 days from the date of adoption of this report
16.	**v) Failure to adhere to the approved budget.** Kshs.17,580,000 spent by Health Department on purchase of three (3) double cab pickup. However, review of approved Health Department procurement plan revealed that the purchase of the three (3) motor vehicles was not included in the Health Department approved procurement plan.	1. The County CEO undertakes administrative action against responsible officer(s) for failing to adhere to the procurement plans and budgeted programs in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report; and	The County Chief Executive Officer	60 days from the date of adoption of this report.

	Review of the Health Departments approved procurement plan revealed that Kshs.5,860,000 was budgeted for purchase of an ambulance but the same was spent on purchase of Toyota Double Cab. No explanation was provided why the departments deviated from their approved procurement plan contrary to Section 50(2)(3) of Public Finance Management (County Governments) Regulations, 2015	2. the County Executive strictly adheres to the procurement plans and budget programs and if reallocations are required, they should undertake due process to ensure compliance with the provisions of the Public Finance Management Act, 2012.		
17.	**5. Non-Compliance with the Public Finance Management Act, 2015** Management made payment of Kshs.4,634,100 spent on shipping cost and associated fire kits for two (2) fire engines that were donated to the County Executive by a donor from United Kingdom. However, review of documents	The Committee recommends that; 1. the County CEO undertakes administrative action against responsible officer(s) for incurring unbudgeted expenditure without approval and for failure to give a written authorization to pay for the shipping and associated fire kits costs in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Office of the Auditor General within 60 days of adoption of this report;	1. The County Chief Executive Officer 2. The Auditor General.	60 days from the date of adoption of this report

	provided for audit review indicated that County Executive Committee Member (CECM) for finance's authority to pay for the shipping and associated fire kits costs was not given contrary to Section 138(6)(b) of the Public Finance Management Act, 2012 which stipulates that if a project that is being financed by a grant or donation from a development partner requires county government funding, the project may only be started when the County Executive Committee Member for Finance has given a written authorization for the project to begin.	2. the County Executive should strictly adhere to Section 138 (6) (b) of the Public Finance Management Act, 2012 and the budget process.		

18.	**6. Other Accounts Receivables (Debtor)** Outstanding plot rents totalling Kshs.43,208,302 which has been outstanding for over one (1) year	The Committee recommends that the County CEO undertakes administrative action against responsible officer(s) for failing to put in place measures to obtain payment of any outstanding amounts including taking legal action where appropriate in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Office of the Auditor General within 60 days of adoption of this report.	The Chief Executive Officer	60 days from the date of adoption of this report
19.	**7.Management of Retentio n Money** Review of the bank statements revealed that Kshs.36,945,209 was transferred from the deposits account on 29 July, 2019 to recurrent account contrary to Section 47(1) (e) of the Public Finance Management (County Government) Regulations, 2015. No explanation was provided on how the management intended to replenish the account and pay retention money to suppliers when due.	The Committee recommends that;- a) the County CEO undertakes administrative action against the responsible officer(s) for illegal transfer of retention money in contravention of Section 47(1)(e) and 63 (4) of the Public Finance Management (County Government) Regulations, 2015 and provides a status report to the Office of the Auditor General within 60 days of adoption of this report; and b) The EACC to investigate the transfer of Kshs.36,945,209 from the deposits account on 29 July, 2019 to recurrent account contrary to Section 47(1) (e) of the Public Finance Management (County Government) Regulations, 2015 and	The County Chief Executive Officer EACC	60 days from the date of adoption of this report

		recommend for the prosecution of culpable officer(s) if the diversion of the funds resulted in loss of public funds and provide a status update to the OAG and the Senate within 90 days of adoption of this report.		
20.	**8.Account Receivables (Outstanding Imprests)** The imprest had not been surrendered or accounted for at the time of this audit in September, 2020 which is between five (5) and thirty-four (34) months since the imprests were issued. Explanation on measures taken to recover the long outstanding imprests was not provided for audit review	The Committee recommends that the Accounting Officer(s) recover the outstanding imprests with interest as per provisions Regulation 93 (6) of the Public Finance Management (County Governments) Regulations, 2015. The Committee further recommends sanction and surcharge of Accounting Officers who fail to recover outstanding imprests in line with Regulation 93(7) of the PFM (County Government) Regulations, 2015.	The County Chief Executive Officer	60 days from the date of adoption of this report
REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE				

21.	**2.0 Ineffective Management of Fixed Asset** Fixed assets register provided for audit review reflects a list of assets acquired during the financial year ended 30 June, 2020 without reflecting their respective costs or historical value. Further, the register did not include assets acquired in the previous financial years. The above historical cost includes a balance of Kshs.4,386,080 in respect of purchase of a parcel of land respectively. However, details of the land including ownership documents were not provided for audit review	The Committee recommends that the- c) County Executive should update and present their Fixed Assets Register in the format prescribed by the Public Sector Accounting Standards Board; d) County Executive should adopt and implement the report of the Inter-Governmental Technical Relations Committee (IGTRC) on assets and liabilities from defunct Local Authorities and provide a status update to the Office of the Auditor General within 90 days of adoption of this Report; and e) Office of the Auditor General should progressively review and report on the matter in the subsequent Financial Years.	1. The County Chief Executive Officer 2. Inter-Governmental Relations Technical Committee (IGTRC) 3. The Auditor General.	Continuous

Qualified Opinion

1. Own Generated Revenue

As disclosed in Note 3 to the financial statements, the statement of receipts and payments reflect an amount of Kshs.271,605,362 in respect of county own generated revenue. However, review of records indicates the following unsatisfactory matters: -

1.1. Mismanagement of Revenue from Veterinary Services

The balance includes Kshs.24,250 (2019 Kshs.298,100) in respect of revenue from veterinary services which relates to meat inspection fees and artificial insemination services. However, daily, weekly and monthly revenue reports, revenue control sheets

and records showing number of animals inspected were not provided for audit review.

Management Response
The Management confirmed collection of Kshs. 24,250 from livestock meat inspection and insemination during the year under review, a decline from Ksh. 298,100 in previous financial year. The necessary record for revenue receipt was availed for audit review.

Committee Observations

The Committee noted that the County Executive did not submit relevant documents to the Auditor General at the time of audit exercise contrary to the Section 62 of the Public Audit Act, 2015.

Committee Recommendations

The County CEO undertakes administrative action against the responsible officer(s) who failed to provide the documents to the auditors in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report.

1.2. Unauthorised Collection of Revenue

Examination of records revealed that meat inspection fees collected from the forty-three (43) slaughter houses across the County and revenue from artificial insemination services were not supported with banking slips showing revenue banked in County Revenue Fund (CRF). It was also noted that meat inspection fees was collected by meat inspectors without any authority from the receiver of revenue. Review of the budget revealed that revenue from veterinary services was not included in the approved budget for the year 2019/2020 which could lead to concealment of revenue.

Management Response
The Management confirmed engaging meat inspectors and veterinary officers to charge and collect fees levied. This was done to create efficiency in process of revenue collection by having one officer offer services and collect revenue.
Meat Inspectors and veterinary officers were issued with revenue collection books to enable levy charges on meat inspection and A.I services respectively. The authority to collect revenue has since been issued in accordance to PFM Act, 2012, Section 158. The authority availed for audit review.
The omission of veterinary services fees on the budget was not in any way intended to conceal revenue collection. The Management had in the subsequent years, ensured the revenue stream was included in the budget.

Committee Observations
The Committee noted that;

1. Meat inspection fees were collected by meat inspectors without any authority from the receiver of revenue.

2. The revenue from veterinary services was not included in the approved budget for the year 2019/2020 which could indicate concealment of revenue.
3. The matter was resolved in subsequent years as relevant supporting documents had since been provided.

Committee Recommendations:

1. The County CEO undertakes administrative action against the responsible officer(s) for- failure to declare revenue from veterinary services and who did not give approval of the revenue receiver to collect revenue from meat inspection Undermining established financial procedures and controls contrary to Section 156(4) of the Public Finance Management Act, 2012.

2. provide a status report to the Auditor-General within sixty (60) days from the adoption of this report.

1.3. Unreconciled receipts - Technical Services (Building Plans Approval)

The county own generated revenue includes a balance of Kshs.6,342,768 in respect of technical services (building plans approval). However, the revenue summary and revenue performance reports provided reflect a balance of Kshs.3,639,412 and Kshs.5,690,749 respectively, in respect of the same item. No explanation or reconciliation was provided for the discrepancies between the three sets of records.

Management Response

During the year under review, the county generated Khs.6,342,768 in respect of technical services fees. The revenue class comprised of two revenue streams namely Building plan approval and physical planning fees;

Item	Revenue Stream	Amount Ksh.
1	**Building plans approval**	**3,639,412**
2	**Physical Planning fees**	**2,703,356**
	Total	**6,342,768**

The amount of Ksh. 3,639,412 related to receipts from building plans approval only as stream of revenue and shown on revenue summary on one column while the physical planning fees amounting to Ksh. 2,703,356 analysed the different column.

The reported amount of Ksh. 5,690,749 as reflected on unreconciled performance reports was inaccurate. The actual and final figure was as reflected on IFMIS generated report and hereby availed for audit review.

Committee Observations

The Committee noted that;

1. the County Executive did not submit relevant documents to the Auditor General at the time of audit exercise contrary to the Section 62 of the Public Audit Act of 2015.
2. the matter has since been addressed.

Committee Recommendation

The Committee recommends that the matter be marked as resolved.

1.4. Unrealistic Receipts Budget - Liquor Licenses

The balance includes a balance of Kshs.6,448,500 in respect of revenue from liquor licenses. However, the 2018/2019 financial statements reflect Kshs.15,704,110 in respect of the same item resulting to Kshs.9,255,610 or 59% decline which has not been explained. This may be a pointer to unaccounted revenue, revenue leakage or very low set target by the management. In addition, daily, weekly and monthly revenue reports and revenue control sheets were not provided for audit review.

Management Response

The County realised an amount of Ksh.6,448,500 in respect of revenue from liquor licenses (Ksh.15,704,110 FY 2018/2019) reporting a decline by 59%. The shortfall is attributed to impact of Covid-19 that led to closure of business from month of February to May 2020, period which coincided with peak season for renewal of liquor licenses. The collections from liquor licenses have since recorded significant recovery with Ksh.10,995,586 and Ksh.13,374,511 realised in FY 2020/2021 and FY 2021/2022 respectively.

Committee Observations

The Committee noted;

1. the county has not setup a liquor licensing fund and thus the 59% decline in revenue from liquor licences during the financial year under audit.
3. The management did not provide the relevant primary records of revenue and any other information or explanations at the time of audit contrary to the Section 62 of the Public Audit Act, 2015.

Committee Recommendations

The Committee recommends that;

1. **the County Executive puts in place measures to enhance its own generated revenue in order to meet its budgeted target and address revenue shortfalls such as setting up a liquor licensing fund;**
2. **The County CEO undertakes administrative action against the responsible officer(s) who failed to provide the documents to the auditors in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report.**
3. **provide a status report on measures taken to enhance revenue collection to the Auditor-General within sixty (60) days after the adoption of this report.**

1.5. Administrative Fees and Charges

The balance also includes an amount of Kshs.32,490,951 in respect of administrative fees and charges against an approved budget of Kshs.5,600,000 resulting to revenue over collection of Kshs.26,850,951 or 480%. This is an indicator of very low set targets or poor budget making process. However, the revenue summary reports and Integrated Financial Management Information Services (IFMIS) revenue report reflects a balance

of Kshs.44,714,511 and Kshs.32,882,177 respectively. No explanation or reconciliation was provided for the variance between the three sets of records.
In the circumstances, the completeness and accuracy of the Kshs.271,605,362 in respect of county own generated revenue for the year ended 30 June, 2020 could not be confirmed.

Management Response
The amount of revenue realised from Administrative Fees and Charges during the year under review amount to Ksh. 32,490,951 (Ksh. 37,699,762 FY 2018/19).
The revenue stream records any revenue realised that was not under ordinary revenue sources or receipts that were not expressly identified to specific revenue stream.
To enhance clear reporting, the County had ensured that, revenue was recognised under specific revenue stream and hence no substantial amount was estimated for when setting the target and hence the reported over collection.

Committee Observations
The Committee observed that the executive is experiencing revenue reconciliation challenges due to late and inaccurate reconciliation as they did not provide the revenue summary reports.

Committee Recommendations
The Committee recommends that-

1. **The County CEO undertakes administrative action against the responsible officer(s) for failure to undertake revenue reconciliation within the stipulated timelines and submit a report to the Office of the Auditor General within 60 days of adoption of this report;**
2. **The County Executive in liaison with the National Treasury undertakes capacity building for the responsible officer(s).**

2. Unsupported Expenditure - Use of Goods and Services
As disclosed in Note 7 to the financial statements, the statement of receipts and payments reflect an amount of Kshs.560,753,619 in respect of use of goods and services. However, review of records indicates that several balances have not been supported with adequate verifiable documents as indicated below: -

2.1. Domestic Travel and Subsistence
The balance constitutes an amount of Kshs.65,907,613 in respect of domestic travel and subsistence which further includes Kshs.240,000 was paid as allowances to County executive officers. However, work tickets/bus tickets, approved requests, program of activities and back to office reports were not provided for audit review.

Management Response
The Management took note of the Audit finding and the necessary support documents relating to; Domestic Travel expenditure during the year under review and which weren't provided for audit purpose were availed for audit review.

Voucher No	Imprest holder	Date Paid	Amount (Ksh)
24536	John Kariuki Kithaka	26/03/2020	200,000
24761	Nicholas Kimathi Thiora	09/04/2020	40,000
Total			240,000

Committee observations
The Committee noted;

1. The failure of the County Executive to submit relevant documents on time to the Auditor General during the audit exercise contrary to Section 62 of the Public Audit Act,2015;
2. The County Executive misled the Committee by filing the wrong documents to support the expenditure. The County Executive was therefore unable to support the expenditure.

Committee Recommendations

The Committee recommends that the Accounting Officer recovers the outstanding imprest with interest at the prevailing Central bank rates from the officers who failed to surrender the safari imprest within 7 days of returning to duty station, pursuant to Regulation 93(6) of the PFM Act (County Governments) Regulations, 2015.

2.2. Other Operating Expenses
Further, the balance includes a balance of Kshs.82,503,786 in respect of other operating expenses out of which an amount of Kshs.1,236,300 paid as imprest to County Executive officers. However, documents showing how the imprest was surrendered and accounted for were not provided for audit review.

Management Response
The Management took note of the Audit finding and the necessary supporting documents relating to; Other Operating Expenses expenditure during the year under review, and which were not provided for audit purpose were availed for audit review.

Voucher No	Imprest holder	Date Paid	Amount (Ksh)
26266	Elijah Kiarie Nduati	29/06/2020	489,000
24997	James Mwiti Kiria	12/03/2020	485,100
22491	George M Chege	19/12/2019	152,200
22383	Anjelina Karema	19/12/2019	110,000
			1,236,300

Committee Observations
The Committee noted that;

1. the failure of the County Executive to submit relevant documents on time to the Auditor General during the audit exercise contrary to Section 62 of the Public Audit Act, 2015.
2. the safari imprest was not surrendered within 7 days of returning to duty station in violation of Section 93(5) of the PFM Act (County Governments) Regulations, 2015 and stated that the responsible officers should be surcharged with an interest at the prevailing Central bank rates.

Committee Recommendations

The Committee recommends that the Accounting Officer recovers the outstanding imprest with interest at the prevailing Central bank rates from the officers who failed to surrender the safari imprest within 7 days of returning to duty station, pursuant to Regulation 93(6) of the PFM Act (County Governments) Regulations, 2015.

2.3. Printing, Advertising and Information Supplies and Services

In addition, the balance also includes payments amounting to Kshs.24,668,150 in respect of printing, advertising and information supplies and services which constitutes an amount of Kshs.2,100,000 and Kshs.428,040 paid to a firm for advertising. However, approved requisitions and Local Service Orders (LSOs) were not provided for audit review. Further, included in the above balance of Kshs.2,100,000 was an amount of Kshs.1,114,760 which is indicated as relating to expenditures incurred during 2017/2018 financial year. Review of documents revealed that the same was not included as pending bills in the financial statements for the years 2017/2018 and 2018/2019.

In the circumstances, the propriety and accuracy of expenditure amounting to Kshs.4,004,340 included under use of goods and services in the statement of receipts and payments for the year ended 30 June, 2020 could not be ascertained.

Management Response

The Management took note of the Audit finding and the necessary supporting documents relating to, Printing, Advertising and Information Supplies and Services expenditure during the year under review, that were not provided for audit purpose were now availed for audit review.

Voucher	Sub item Description	Payee	Payment Date	Amount	Date Paid
26648	Advertising, Awareness and Publicity Campaigns	NATION MEDIA GROUP LIMITED	24-Jun-20	2,100,000	08/07/2020
21779	Advertising, Awareness and Publicity Campaigns	NATION MEDIA GROUP LIMITED	07-Oct-19	142,680	17/10/2019

21780	Advertising, Awareness and Publicity Campaigns	NATION MEDIA GROUP LIMITED	07-Oct-19	142,680	17/10/2019
24853	Advertising, Awareness and Publicity Campaigns	NATION MEDIA GROUP LIMITED	03-Mar-20	142,680	19/03/2020

Committee Observations

The Committee noted the failure of the County Executive to submit relevant documents such as Local Service Orders (LSOs) and approved requisition on time to the Auditor General during the audit exercise contrary to Section 62 of the Public Audit Act, 2015.

Committee Recommendations

The Committee recommends that-

1. **The County CEO undertakes administrative action against the responsible officers for failure to undertake revenue reconciliation within the stipulated timelines and submit a report to the Office of the Auditor General within 60 days of adoption of this report; and**
2. **The County Executive in liaison with the National Treasury undertakes capacity building for the responsible officer(s).**

Emphasis of Matter

Discharge of Pending Bills

I draw your attention to Disclosure 1 - Other important disclosures to the financial statements which reflects an amount of Ksh.439,321,218 (2019: Ksh.493,228,840) in respect of outstanding pending bills as at 30 June, 2020. Examination of records revealed that bills amounting to Ksh.18,238,781 were not supported while the creditors' ledgers were not provided to ascertain the creditors' movement during the year.

Further, during the year under review, Management paid bills amounting to Ksh.19,494,698 in respect of construction and civil works. Examination of records revealed that the bills comprised of bills which were incurred in the last four years but were not included as a pending bills in the financial statements of the respective years.

Review of the budget for the financial year 2019/2020 revealed that the pending bills had not been included in the list of pending bills in the approved budget for 2019/2020.

Failure to settle bills in the year to which they relate will adversely affect the implementation of the subsequent year's budgeted programs as the pending bills form a first charge.

My opinion is however not qualified in respect of the above matter

Management Response

The Management confirmed holding outstanding pending bills amounting to Kshs. 439,321,218 as at 30 June, 2020. The Creditors Ledger for the Pending Bills was availed for audit review.

Further, all the necessary support documents relating to, Outstanding Pending Bills for the year under review amounting to Kshs. 18,238,781 and which the supporting documents had not been provided for audit purpose were later availed for audit review.

	Supplier Name	**Invoice Date**	**Description of Works**	**Amount Ksh.**
1	Cray Enterprises Limited	26/06/2020	Rehabilitation of tea buying centres - Maara sub- county	3,472,565
2	Sykam Kenya Traders	19/06/2020	Supply and delivery of UPVC pipes to Ndagani KK irrigation project.	1,999,500
3	Jomvick enterprises Ltd	31/05/2019	Construction works for Improvement of Mwonge water project	3,600,000
4	Jaytton Enterprise Limited	02/04/2020	Construction of Mokothima Bridge	4,881,700
5	Supp Merchant Ltd	26/06/2020	Rehabilitation of Turima Tweru Irrigation Project	2,183,000
6	Locque Consolidated Co Ltd	08/09/2017	Rehabilitation works for Kamutiria water intake	1,614,500
7	Ecosard Group Ltd	05/06/2020	Installation of Solar panels at Kiamurukima and connection at nkodi water project	487,300

The pending bills amounting to Ksh. 19,494,698 were honoured following a thorough verification process and its legibility ascertained. The omission from previous years' financial statements was due to pending verification process.

In accordance to PFM Regulations 2015, Section 41 (2) which states the county debt shall form first charge to County Revenue Fund, hence the pending bills were paid from the approved budget analysed as follows;

The County had set aside Ksh. 17,750,000 under department of Water and Irrigation for payment of pending bills from which Ksh. 7,765,210 was paid.

Name of Supplier	Description of Works	Approved Budget Ksh	Actual Amount Ksh
Gikingo Civil Engineering & Contractors ltd	Construction of water tank, pumping house and main line at Chiakariga market-2016/17	17,750,000	3,771,630
Auto Garage concepts ltd	Supply of pipes for Gantaraki water project- 2017/18		3,993,580
Total		17,750,000	7,765,210

The County allocated Ksh. 4,000,000 for construction of terraces and ablution block for Nyangumi Stadium (Marimanti Stadium) with Ksh. 3,807,468 spent on settling the pending bills. Further, an amount of Ksh. 6,000,000 was budgeted for Kairuni Stadium which Ksh. 4,597,451 was also utilised to pay the pending bills.

Name of Supplier	Description of Works	Approved Budget Ksh	Actual Amount Ksh
Janton Investments ltd	Provision of watering system & landscaping at Nyangumi stadium -2018/2019	4,000,000	3,807,468
Janton Investments ltd	Proposed leveling & Improvement works at Kairuni playground-2018/2019	6,000,000	4,597,451
	Total	10,000,000	8,404,919

With regard to payment for pending bill relating to improvement of access roads, the County had set aside an amount of Ksh. 50,000,000 during the financial year 2019/2020, from which the amount was partly utilised to settle the amount owed from previous financial years of Ksh, 3,324,560.

Name of Supplier	Description of Works	Approved Budget Ksh	Actual Amount Ksh
Recksars General suppliers	Grading & spot Improvement of Igambangombe ward roads-2015/2016	50,000,000	3,324,560

The County had been settling the pending bills gradually over the years with 90% of pending bills outstanding as at 30 June, 2020 paid as at time of County Executive appearance. The remaining balance was budgeted for payment this current financial year.

Committee Observations

The Committee observed that;

1. the County Executive had not settled all its pending bills at the time of the audit;
2. the County Executive did not provide a status report of all its pending bills as prescribed by the Public Sector Accounting Standards Board. This could lead to inadequate disclosures of the pending bills; and
3. there was poor record keeping of pending bills that could lead to ineligible bills and litigations.

Committee Recommendations

The Committee therefore recommends that:

1) **the National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate so as to enable county entities settle their obligations on time; and**

2) **the county executive puts in place measures to enhance own generated revenue in order to meet its revenue target and address revenue shortfalls that contribute to the challenge of pending bills.**
3) **Pending bills deemed ineligible should be forwarded to the Directorate of Criminal Investigation (DCI) for investigation proper legal action taken against those filing false claims.**
4) **County Government to take note of judgement in a Kitale High Court Constitutional Petition E003 of 2023 that declared formation of pending bills verification committees unconstitutional and engage Office of the OAG and strengthen the internal audit functions.; and**
5) **All valid pending bills that have been reviewed by the Office of the Auditor General be paid and a payment plan be submitted to the county assembly for approval and progress report on implementation sent to the Senate and the Office of the Controller of Budget.**

Other Matter

1.0 Budgetary Control and Performance

The statement of comparative budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.5,119,073,806 and Kshs.4,479,989,745 respectively, resulting to an under-funding of Kshs.639,084,061 or 12% of the budget. Similarly, the County Executive expended an amount of Kshs.4,247,239,658 against an approved budget of Kshs.5,119,073,806 resulting to an under-expenditure of Kshs.871,834,148 or 17% of the budget.

Management has attributed the low performance to late disbursement of the Exchequer from the National Treasury where out of the Kshs.4,116,647,949 in respect of actual exchequer releases, Kshs.765,297,000 or 19% was received by the County Government between 4 June 2020 and 24 June 2020 giving little time to execute the budget.

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

Management Response

The Management noted the Audit finding in respect to under realization of budgeted receipt by an amount of Ksh. 639,084,061. The revenue short fall was attributed to the following matters;

- Under disbursement of Equitable Share of Revenue amounting to Ksh. 337,515,600 or 9% of budget amount. The amount was however disbursed in August 2020.

In addition, several Grants as provided through CARA were not disbursed or were partly released, such as KSCAP Grant deficit of Ksh. 23,202,049, KUSP – UDG with deficit of Ksh. 32,287,906 while County allocation for Construction of County headquarter and Lease of Medical Equipment of Ksh. 1,152,184 and Ksh. 131,914,894 respectively was utilized by National Government Ministries.

The County Own Sources of Revenue realized Ksh. 271 Million against budgeted amount of Ksh. 350M. The shortfall was attributed to harsh economic condition as result of Covid 19 pandemic that led to lock down for over four months

The under absorption of the expenditure budget was attributed to revenue short fall as analysed above as well as late disbursement of exchequer funds with Ksh. 1,058,708,149 representing 21% of the approved budget received in June 2020.

Committee Observations

The Committee observed that;

1. there was under-utilization of appropriated funds by the county executive as a result of delay in exchequer releases by the National Treasury; and
2. the county did not meet its own-source revenue targets.

Committee Recommendation

The Committee therefore recommends that:

1. **the National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate and comply with Article 219 of the Constitution and Section 17(6) of the Public Finance Management Act, 2012.**
2. **The County executive puts in place measures to enhance its own generated revenue in order to meet its revenue target and address revenue shortfalls.**

2.0 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 for failure to adhere to the provisions of the Public Sector Accounting Standards Board templates and the National Treasury's Circular Ref: No. AG.4/16/3 Vol.1(9) dated 24 June, 2020.

Management Response

The Management had addressed the issues as contained in the Auditor General report for the year ended 30 June 2019 with matters satisfactorily responded to and discussed with Senate Public Accounts Committee.

Committee Observation

The Committee observed that the report of the Auditor-General for the financial year 2018/2019 for the County Executive of Tharaka Nithi was adopted by the Senate.

Committee Recommendations

The Committee recommends that;

1. **the County Executive should implement the Senate recommendations in the report on the Auditor General's report for the Financial Year 2018/2019 adopted by the Senate.**

2. **the County executive complies with section 53 of the Public Audit Act, 2015 by taking action on the issues raised by the Auditor General and submits a report to the Auditor General within 60 days of the adoption of this report.**
3. **the County Executive engages with the Auditor General to resolve any outstanding matters.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

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

The statements of receipts and payments reflects an expenditure of Kshs.2,015,104,735 on compensation of employees representing 46% of the total receipts of Kshs.4,388,338,643. This is contrary to the provisions of Regulation 25(1) (a) and (b) of the Public Finance Management (County Governments) Regulations, 2015 which stipulates that county government's expenditure on wages and benefits for its public officers, shall not exceed thirty-five (35) percent of the county government's total revenue for the year.

Consequently, Management is in breach of the law.

Management Response

The Management took note of the Audit finding with regard to non-compliance with Fiscal Responsibility Principles on personnel expenditure, with reported personnel expenditure during the year under review reported at 46% of county revenue exceeding the 35% as set on PFM Regulations, 2015.

The high reported ratio on personnel expenditure at 46% was as result of revenue under realization in particular the unreleased equitable share of national revenue and short fall on own sources of revenue.

Further, the County was still burdened by huge wage bill from employees that were absorbed by the County from defunct local authorities and employees devolved from central government.

The process of harmonization of employees to required capacity was not realised in the short run, but its gradual process till the county had optimal work force.

Committee Observations

The Committee observed that;

1. the County Executive's wage bill during the FY 2019/2020 stood at 46% of its total receipts which was above the threshold of 35%;
2. the county inherited employees from the defunct local governments and there is a need to engage relevant bodies to develop policies to address wage bill issues in counties which is a threat to the objects of devolution as provided for under Article 174(f) of the Constitution.

Committee Recommendations

The Committee recommends that; -

1. **the management should provide to the Auditor General and the Senate the measures it will put in place to contain the high wage bill within sixty (60) days of the adoption of this report;**
2. **the management should strictly adhere to the provision of paragraph 25(1)(b) of the PFM Act (county government) regulations, 2015 which stipulate that the county wage bill should not exceed 35 per cent of the county total revenue; and**
3. **the county executive puts in place measures to enhance own source revenue collection in order to address wage bill gap.**

2. Non-Compliance with Human Resource Policies and Procedures Manual for Public Service, 2016

Note 6 to the financial statements reflects Kshs.2,015,104,735 in respect of compensation of employees. However, review of the personal files provided for audit revealed that ten (10) employees were employed on five (5) year contract contrary to Section B.20(4) of the Human Resource Policies and Procedures Manual for Public Service, 2016 which stipulates that contract appointments will be limited to a maximum period of three (3) years, renewable subject to demonstrable performance and other terms of the contract.

Further, the County Public Service Board renewed a contract for an Early Childhood Development Education (ECDE) teacher for a period of one year from 1 March, 2020 to 28 February, 2021. However, a review of documents and payroll revealed that, the teacher who was on a two-year contract from 1 March, 2018 to 28 February, 2020 had already attained the age of 60 years at the time of expiry of the contract. No explanation was provided why the County Public Service Board renewed the contract contrary to Section D.21 of the Human Resource Policies and Procedures Manual for Public Service, 2016 which stipulates that all officers shall retire from the service on attaining the mandatory retirement age of 60 years.
In the circumstances, Management is in breach of the manual.

Management Response

The Management confirmed having hired a number of employees on five-year contract. The category included the CECMs, Chief Officers and Governor Advisors. The contract was made in tandem with the constitutional term of office of the Governor.
The ECDE care givers offers specialized services to the children which required well trained and experienced personnel. This was in addition to the proper attachment with the children especially those with special needs.
The two ECDE care givers aged 62 and 61 years respectively fell in the above category having trained children with special needs for a long period at Ikuu School for the Special Children were awarded 1year contract for a smooth transition. They were

allocated other ECDE teachers to work under them in that period as a succession management for mentorship. This was why they were awarded only 1year contract to facilitate the transition.

Committee Observations

The Committee noted that;

1. The County Executive employed ten (10) employees on a five (5) years contract basis contrary to the Section B. 20(4) of the Human Resource Policies and Procedures Manual for Public Service, 2016.
2. The County Executive had in their employment, recruited persons who were beyond 60 years old which is set at the maximum retirement age.

Committee Recommendations

The Committee Recommends that;

1. **the County Executive strictly adheres to the Human Resource Policies and Procedures Manual and submit a status report of the adherence within sixty (60) days from the adoption of this report; and**
2. **the County Executive should not employ, on permanent and pensionable terms, persons who are above sixty (60) years and that the County Executive submits a status report to the Auditor-General on implementation of this recommendation within sixty (60) days of adoption of this report.**

3. Non-Compliance with the Public Procurement and Assets Disposal Act, 2015

3.1 Splitting of Tenders

During the year under review, Management paid an amount of Kshs.5,278,000 for branding of assorted items. However, the supply was split into three (3) and awarded to three (3) different suppliers at Kshs.1,972,000, Kshs.1,821,200 and Ksh.1,484,800 using request for quotation method of procurement contrary to Section 54. (1) of the Public Procurement and Asset Disposal Act, 2015 and first schedule to legal notice number 106 of the Public Procurement and Disposal (Amendment) Regulations, 2013 which stipulates that no procuring entity may structure procurement as two or more procurements for the purpose of avoiding the use of a procurement procedure. The maximum level of expenditure on use of request for quotation of goods is Kshs.2,000,000.

Management Response

The Management confirmed having procured various items during the year as follows; branded umbrellas and T-shirts from Kendee Enterprises at cost of Ksh. 1,972,000, Wall calendar, notebooks and desk calendar from Flexnet Networks at cost of Ksh. 1,821,200 and branded thermos, bottles, pens carrier bags from Confiance Communication at cost of Ksh. 1,484,800.

The County in line with access to government procurement opportunities unbundled the tender to make it favourable to targeted category, reserved for youth, women and people with disabilities in accordance to Public Procurement and Disposal Regulations 2020,

Section 154 (1). The registration under AGPO for awarded suppliers was provided for audit review.

Committee Observations

The Committee observed that;

1. the County Executive unbundled the tender to aid access to government procurement opportunities so as to make it favourable to targeted category, reserved for youth, women and people with disabilities in accordance to Public Procurement and Disposal (Regulations) 2020, Section 154 (1).
2. the County Executive failed to give the explanation for unbundling of the tender at the time of audit.
3. that the county executive unbundled the tender in a bid to defeat competition.
4. the head of procurement should have offered professional opinion on unbundling of the procurement of the branding services.

Committee Recommendations

The Committee recommends that;

1. **The County CEO undertakes administrative action against the responsible officers who failed to provide explanation for unbundling of the tender to the auditors in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report; and**
2. **the management should strictly adhere to the provisions of the Public Procurement and Asset Disposal Act, 2015 and Public Procurement and Disposal (Regulations) 2020.**

3.2 Use of Suppliers not prequalified

Further, Management paid an amount of Kshs.160,000 to a supplier for provision of air ticket. However, the supplier was not in the updated list of registered suppliers provided for audit review contrary Section 95(3) of Public Procurement and Asset Disposal Act, 2015 which stipulates that a procuring entity shall invite tenders from only the approved persons who have been pre-qualified.

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

Management Response

The Management acknowledged incurring expenditure amounting to Ksh. 160,000 towards cost of flight by one of county staff. However, the services were not procured by the County but were incurred by the officer and made claim for refund upon return from foreign trip. The claim for refund voucher was provided.

Committee Observations

The Committee was informed by the Auditor General that the matter had since been addressed.

Committee Recommendations
The Committee recommends that the matter be marked as resolved.

4. Non-Compliance with the Public Finance Management (County Governments) Regulations, 2015
During the year under review, Management paid for various projects and procured goods and services for the County. However, review of the records revealed several instances of non-compliance with the law of outlined below:

i) Receipts of good after LPO Validity Period
Management paid an amount of Kshs.24,668,150 in respect of printing, advertising and information supplies and services which further includes Kshs.553,000 paid to a supplier for supply of stationeries.
Review of documents provided for audit revealed that, the Local Purchase Orders (LPO) were issued on 6 March, 2020. However, the stationeries were delivered on 11 July, 2020 approximately three (3) months after the LPO was issued contrary to Section 52. (1)(2) of the Public Finance Management (County Governments) Regulations, 2015 which stipulates that local purchase order or local service order shall be valid for a period of thirty days from the date of issue and any public officer who receives goods or services beyond the stipulated period specified commits an offence.

Management Response
The Management confirmed procuring printing services during the year under review at cost of Ksh.553,000. The items ordered involved printing of hospital accountable records. The supplier Nechal Enterprises delivered first batch and requested for extension of time to deliver the remaining quantities.
Considering the documents were to be used over a period of time, the request was granted for further 60 days within which the full order was supplied.

Committee Observation
The Committee observed that there was violation of Paragraph 52 (1) and (2) of the Public Finance Management (County Governments) Regulations, 2015.

Committee Recommendations
The County CEO undertakes administrative action against the responsible officer(s) who received goods beyond the stipulated period of thirty (30) days in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report.

ii) Delayed Construction of Githioroka Bridge
During the year under review, a contractor was awarded the tender for the construction of Githioroka Bridge at a contract sum of Kshs.12,501,320. An amount of Kshs.8,334,832 was paid but only Kshs.7,000,000 was approved out of a contract sum of Kshs.12,501,320 resulting to over expenditure of Kshs.1,334,832 in the year under review without approval. However, the funds required for completion of the project

Kshs.4,166,488 was not included in the County Executive budget for 2020/2021 contrary to Section 116(2) of the Public Financial Management (County Government) Regulations, 2015 which stipulates that an accounting officer shall ensure that the funds are re-voted for the project in the following financial year in order to continue the implementation of the project. No explanation was provided for the anomaly and it was not clear how the project will be completed.

In addition, physical verification carried out in September, 2020 revealed that construction of the bridge is not completed and the contractor was not on site as the project appeared to have stalled.

Management Response

The Management confirmed procuring for construction of Kithioroka at a contract sum of Ksh.12,501,320 being a multi-year project. During the year under review an amount of Ksh.8,334,832 was paid under interim certificate number one.

Although the amount provided in the approved budget FY 20219/2020 was Ksh. 7,000,000. The County however, from savings from other budgeted projects during the year, was able to pay additional amount of Ksh.1,334,832.

The County did allocate more funds in the current financial year 2022/2023 after the contractor successfully completed the project with second and final certificate of Ksh. 4,166,372 paid in October 2022. The completion certificate, inspections report, payment voucher and site images were availed for audit review.

Committee Observations

The Committee noted that;

1. The County Executive incurred additional expenditure on the project which had not been planned for in the budget for the period under review and without prior approval of the County Assembly or a subsequent approval pursuant to Section 135 of Public Finance Management Act, 2012;
2. There was an overpayment of Kshs. 1,334,832 against works done by the contractor without any approval; and
3. The Contractor was not on site and the project appeared to have stalled.

Committee Recommendations

The Committee recommends that-

1. **The County CEO undertakes administrative action against responsible officer(s) for incurring additional expenditure without approval and no budget line in the subsequent year which is contrary to Section 116(2) of the Public Financial Management (County Government) Regulations, 2015 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report.**
2. **The county executive expedites the completion of the project to ensure that citizens get value for money; and**
3. **the Auditor-General to verify the completion of the construction of the Gathioroka bridge in the next audit cycle.**

iii) Incomplete Levelling and Improvement of Kairuni Playground

On 22 February, 2019, Management paid an amount of Kshs.4,597,451 for levelling and improvement at Kairuni playground as part payment for a contract cost of Kshs.12,993,654. Review of Bills of Quantities revealed that the contractor was supposed to construct a project manager's office, store, install water and electricity at cost of Kshs.305,000 which has already been paid for. However, physical verification carried out in September, 2020 revealed that the contractor was not on site and work appeared to have stalled.

No explanation was provided on how the County Executive intended to complete the project. Further, although the works had not been completed, no budgetary allocation had been provided for the completion of the project in 2019/2020 and 2020/2021 financial years budgets contrary to Section 116 (2) of the Public Financial Management (County Government) Regulations, 2015 which stipulates that an accounting officer shall ensure that the funds are re-voted for the project in the following financial year in order to continue the implementation of the project.

Management Response

The Management confirmed paying an amount of Ksh.4,597,451 towards levelling and improvement at Kairuni playground during the year under review.

Included in the bills of quantities general preliminaries as follows:

Item	Description	Amount Ksh
1	Storage of materials	100,000
2	Project Manager Office	100,000
3	Electricity Cost	50,000
4	Provision of Water and Sanitation	55,000
	Total	**305,000**

The Management confirmed the contractor did install the water and electricity. The project manager office and storage facility was constructed, but had since been demolished upon completion of the project. The payment voucher, certificate of works done and measurement for works provided for audit review.

Committee Observations

The Committee noted that;

1. The County Executive incurred additional expenditure on the project which had not been planned for in the budget for the period under review and without prior approval of the County Assembly or a subsequent approval pursuant to Section 135 of Public Finance Management Act, 2012; and
2. The Contractor was not on site and the project appeared to have stalled as at September, 2020.

Committee Recommendations

The Committee recommends that-

1. **The County CEO undertakes administrative action against the responsible officer(s) for incurring additional expenditure without approval and no**

budget line in the subsequent year which is contrary to Section 116(2) of the Public Financial Management (County Government) Regulations, 2015 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report.

2. **The county executive expedites the completion of the project to ensure that citizens get value for money; and**
3. **the Auditor-General to verify the implementation of the above recommendations within sixty (60) days after adoption of this report.**

iv) Construction of Chiakariga Water Project

During the year, Management paid an amount of Kshs.3,771,630 on construction and civil works to a contractor for construction of a water tank, pump house and connection of main water supply pipes at Chiakariga Market. However, physical verification carried out in September, 2020 revealed that the pump house and water tank were constructed but were not in use since the same were not connected to the main water supply. Further, seven (7) items in the Bill of Quantities valued at Kshs.303,850 had been paid for but were not supported by relevant documents including approved measurements of work done contrary to Section 104. (1) of the Public Financial Management (County Government) Regulations, 2015 which stipulates that all payments shall be properly supported by payment vouchers, appropriate authority and documentation.

Management Response

The Management confirmed payment of Ksh. 3,771,630 towards construction of Chiakariga Water Project during the year under review. The County awarded the tender in August 2016 at contract sum of Ksh. 6,381,410 however the contractor did not finish the work and was terminated on expiry of contract period. Different contractor was engaged to finish the works.

The amount paid was based on actual work done as per the support documents annexed to the payment voucher which includes measurements for works. The items indicated as not done were not valued in the interim certificate and hence not paid for. The Management availed the payment voucher for audit review.

Items in the Bills of Quantities	Ksh
Roofing	234,700
Painting	4,750
Gutters inclusive of all fittings	18,200
Downpipes inclusive of all fittings	11,200
1 HD 2FS window	5,000
Flush door (2 in number)	10,000
3000 mm long and 800 mm wide steel ladder internally anchored to the water tank	20,000
Total	**303,850**

Committee Observations

The Committee noted that

1. the County Executive did not submit relevant documents to the Auditor General during the audit exercise contrary to the Section 62 of the Public Audit Act of 2015; and
2. the project was complete but not operational thus there was no value for money from the expenditure incurred, in violation of Section 153 (1)(b) of the Public Finance Management Act, 2012.

Committee Recommendations

The Committee recommends that-

1) **The County CEO undertakes administrative action against the responsible officers who failed to provide the documents to the auditors in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report; and**
2) **the County Government takes immediate action to operationalise the project and provides a report to Auditor-General on project status within sixty (60) days of adoption of this report.**

v) Failure to adhere to the Approved Budget

Further Management made payment amounting to Kshs.55,980,000 in respect of purchase of vehicles and other transport equipment. The balance includes a balance of Kshs.38,400,000 paid to a supplier for purchase of thirteen (13) motor vehicles.
Review of approved procurement plan, revealed that the Department of Finance and Economic Planning had budgeted to purchase eleven (11) double cabin pickups at a cost of Kshs.66,000,000. However, the department purchased ten pickups and three (3) Sports Utility Vehicles (SUVs) at a cost of Kshs.38,400,000.

Further, included in Kshs.55,980,000 was Kshs.17,580,000 spent by Health Department on purchase of three (3) double cab pickup. However, review of approved Health Department procurement plan revealed that the purchase of the three (3) motor vehicles was not included in the Health Department approved procurement plan.

In addition, review of the Health Departments approved procurement plan revealed that Kshs.5,860,000 was budgeted for purchase of an ambulance but the same was spent on purchase of Toyota Double Cab. No explanation was provided why the departments deviated from their approved procurement plan contrary to Section 50(2)(3) of Public Finance Management (County Governments) Regulations, 2015 which stipulates that expenditure commitments for goods and services shall be controlled against spending and procurement plans approved by the responsible accounting officer in accordance with the Public Procurement and Disposal Act, 2015 and Regulations made thereunder, based on allocations and allotments from approved budgets.
In the circumstances, Management is in breach of the law and the value for money for the expenditure for the year ended 30 June, 2020 could not be ascertained.

Management Response

The Management confirmed procuring 10 pick-ups and 3 SUVs at cost of Ksh. 65,400,000 (and not Ksh. 38,400,000 as indicated in the report). The amount paid was part payment for the purchase of the 13 vehicles fleet.

The purchase of the 13 vehicles was contained on the revised procurement plan for the department of Finance and now availed for audit review.

With regard to purchasing of three (3) double cabs for Health Department was provided for on the approved budget and revised Procurement Plan. The same was availed for audit review.

Regarding the purchase of Double Cab for Health Department, the vehicle was for supervision of World Bank funded Transforming Health Services for Universal Care project (THSUCP). However, the budget and procurement plan were erroneously indicated as Purchase of Ambulance. The approved THSUC Project annual Work Plan for the year under review was now provided for audit verification.

Committee Observation

The Committee noted that the County Executive deviated from their approved procurement plan contrary to Section 50(2)(3) of Public Finance Management (County Governments) Regulations, 2015 without any approval.

Committee Recommendations

The Committee recommends that;

1. **The County CEO undertakes administrative action against responsible officers for failing to adhere to the procurement plans and budgeted programs in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report; and**
2. **the County Executive strictly adheres to the procurement plans and budget programs and if reallocations are required, they should undertake due process to ensure compliance with the provisions of the Public Finance Management Act, 2012.**

5. Non-Compliance with the Public Finance Management Act, 2015

During the year under review, Management made payment of Kshs.4,634,100 spent on shipping cost and associated fire kits for two (2) fire engines that were donated to the County Executive by a donor from United Kingdom. However, review of documents provided for audit review indicated that County Executive Committee Member (CECM) for finance's authority to pay for the shipping and associated fire kits costs was not given contrary to Section 138(6)(b) of the Public Finance Management Act, 2012 which stipulates that if a project that is being financed by a grant or donation from a development partner requires county government funding, the project may only be started when the County Executive Committee Member for Finance has given a written authorization for the project to begin.

Further, review of approved budget for the financial year 2019/2020 revealed that the expenditure had not been budgeted for contrary to Section 138(6)(a) of the Public Finance Management Act, 2012 which stipulates that grant or donation from a development partner may be started when funding has been appropriated in accordance with this Act or is otherwise authorized by legislation. The documents showing the name and quantity of fire kits delivered were not provided for audit review.
In the circumstances, the County Executive is in breach of the law and value for money for the expenditure could not be ascertained.

Management Response
The Management state that a payment of Ksh.4,634,100 was made for the shipping and clearance charges for two fire engines donated from United Kingdom. The amount incurred was purely incidental costs as the county was only required to facilitate shipping and port clearance.
Though the expenditure was not expressly provided in the budget under acquisition of Specialised equipment, the expenditure was incurred against general budget allocation for Hire of Transport.

Committee Observations
The Committee noted that –

1. the County Executive incurred expenditure to transport donated fire engines from the United Kingdom without a budget, supplementary budget from the County Assembly or authority from the CECM Finance;
2. the expenditure had not been specifically budgeted for, the same was charged under the general budget allocation for hire of transport; and
3. there was no prior approval by CECM Finance to incur transportation costs contrary to Section 138 (6) (b) of the Public Finance Management Act, 2012.

Committee Recommendations
The Committee recommends that;

1. **the County CEO undertakes administrative action against the responsible officer(s) for incurring unbudgeted expenditure without approval and for failure to give a written authorization to pay for the shipping and associated fire kits costs in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report;**
2. **the County Executive should strictly adhere to Section 138 (6) (b) of the Public Finance Management Act, 2012 and the budget process.**

6. Other Accounts Receivables (Debtors)
Annex V to the financial statements reflects Kshs.52,693,052 in respect of other accounts receivables (debtors) as at 30 June, 2020 which relates to outstanding plot rents which includes Kshs.43,208,302 which has been outstanding for over one (1) year. However, measures taken by Management to ensure collection of the long outstanding

rents were not explained contrary to Section 63(1)(b) of the Public Finance Management (County Governments) Regulations, 2015 which stipulates that an accounting officer shall take adequate measures to obtain payment of any outstanding amounts including legal action where appropriate.
In the circumstances, Management is in breach of the law.

Management Response

The Management confirmed holding outstanding account receivable from plot rent debtors amounting to Ksh. 52,693,052 as at 30 June, 2020.
The County Government had made effort to collect the revenue through public sensitization and other enforcement mechanism such as denial of business permit. In addition, the government had offered waiver of penalties and interest to encourage voluntary payments of the amount due.

Committee Observation

The Committee noted that the County Executive had outstanding arrears from rent which contributed to decline in own source revenue.

Committee Recommendations

The Committee recommends that the County CEO undertakes administrative action against responsible officers for failing to put in place measures to obtain payment of any outstanding amounts including taking legal action where appropriate in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report.

7. Management of Retention Money

Review of the bank statements revealed that Kshs.36,945,209 was transferred from the deposits account on 29 July, 2019 to recurrent account contrary to Section 47(1) (e) of the Public Finance Management (County Government) Regulations, 2015 which stipulates that allocations earmarked by the County Treasury for a specific purpose may not be used for other purposes, except with Treasury's approval. No explanation was provided on how the management intended to replenish the account and pay retention money to suppliers when due.
In the circumstances, Management is in breach of the law.

Management Response

The Management confirmed transfer of unspent balance on Retention Deposit Account to County Revenue Fund (CRF) Account amounting to Ksh. 36,945,209.
The amount was still held up at CRF and had not been in any way utilised for other purposes as the amount belonged to the contractors. The CRF bank Statement was provided for perusal.

Committee Observations

The Committee observed that-

1. the annexures provided by the Management during interrogation with the Committee did not address the audit query; and

2. the transfer of retention money was done contrary to paragraph 47(1)(e) of the Public Finance Management (County Government) Regulations, 2015.

Committee Recommendations

The Committee recommends that;-

1) **the County CEO undertakes administrative action against the responsible officer(s) for illegal transfer of retention money in contravention of Section 47(1)(e) and 63 (4) of the Public Finance Management (County Government) Regulations, 2015 and provides a status report to the Office of the Auditor General within 60 days of adoption of this report; and**
2) **The EACC to investigate the transfer of Kshs.36,945,209 from the deposits account on 29 July, 2019 to recurrent account contrary to Section 47(1) (e) of the Public Finance Management (County Government) Regulations, 2015 and recommend for the prosecution of culpable officer(s) if the diversion of the funds resulted in loss of public funds and provide a status update to the OAG and the Senate within 90 days of adoption of this report.**

8. Account Receivables (Outstanding Imprests)

Annex IV to the financial statements reflects Kshs.1,907,330 in respect of account receivables (outstanding imprests) as at 30 June, 2020 which were issued between 11 November, 2017 and 20 April, 2020. However, the imprest had not been surrendered or accounted for at the time of this audit in September, 2020 which is between five (5) and thirty-four (34) months since the imprests were issued contrary to Section 93(5) of the Public Finance Management (County Government) 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. Further, explanation on measures taken to recover the long outstanding imprests was not provided for audit review.

In the circumstance, Management is in breach of the law.

Management Response

The Management confirmed holding outstanding imprest amounting to Ksh.1,907,330 as at 30 June, 2020.

The outstanding amount included Ksh.1,802,330 for officers whose term of employment had expired but had not been cleared to access their gratuity. Any outstanding imprest would be recovered from their dues.

The only outstanding imprest issued during the year under review was occasioned by suspension of workshop the officer was attending after the Covid-19 pandemic public gathering cancellation. The officer had since completed the meeting and imprest surrendered accordingly.

Committee Observations

The Committee noted that;

1. the County Executive had failed to submit relevant documents on time to the Auditor General during the audit exercise contrary to Section 62 of the Public Audit Act, 2015.
2. the executive had several outstanding safari/temporary imprests not surrendered within 7 days of returning to duty station in violation of Section 93(5) of the PFM Act (County Governments) Regulations, 2015 and stated that the responsible officers should be surcharged with an interest at the prevailing Central bank rates.

Committee Recommendations

The Committee recommends that;-

1) **the Accounting Officer(s) recover the outstanding imprests with interest as per provisions Regulation 93 (6) of the Public Finance Management (County Governments) Regulations, 2015; and**
2) **sanction and surcharge of Accounting Officers who fail to recover outstanding imprests in line with Regulation 93(7) of the PFM (County Government) Regulations, 2015.**

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

1.0 Project Implementation Status

The summary statement of appropriation: development for the year under review reflected an approved budget of Kshs.1,670,370,681 earmarked for project implementation during the year under review. Review of the County's project implementation status report provided for audit review revealed that two hundred and sixty - one (261) projects worth Kshs.1,670,370,681 were budgeted to be implemented during the year under review. However, one hundred and seventy - five (175) projects worth Kshs.826,331,702 had been completed at a cost of Kshs.718,695,319 and in use while sixty-three (63) projects worth Kshs.638,402,596 were ongoing, twenty-two (22) projects worth Kshs.202,636,383 had not started and one (1) project worth Kshs.3,000,000 had stalled as at 30 June, 2020.

Therefore, there is need for the County Executive's management to review its project management mechanism with a view to prioritizing those projects which will be implemented during the financial year resulting to higher impact of improving service delivery to the residents of Tharaka Nithi County.

In view of the above, the residents of Tharaka Nithi County did not get services as budgeted from the sixty-three (63) projects worth Kshs.638,402,596 which were ongoing, twenty-two (22) projects worth Kshs.202,636,383 which had not started and one (1) project worth Kshs.3,000,000 which had stalled as at 30 June, 2020 due to poor project management and governance.

Management Response

The Management confirmed, all the project that were either ongoing or stalled had since been successfully completed and put into intended use.

The County had conducted monitoring and evaluation and submitted the report for audit review.

Committee Observation
The Committee was informed by the Office of Auditor General that the matter has since been addressed.

Committee Recommendation
The committee recommends that the matter be marked as resolved.

2.0 Ineffective Management of Fixed Asset
Annex VI - summary of non-current assets to the financial statements reflects assets with cumulative historical cost of Kshs.4,056,909,966 as at 30 June, 2020. However, fixed assets register provided for audit review reflects a list of assets acquired during the financial year ended 30 June, 2020 without reflecting their respective costs or historical value. Further, the register did not include assets acquired in the previous financial years.
Further, the above historical cost includes a balance of Kshs.4,386,080 in respect of purchase of a parcel of land respectively. However, details of the land including ownership documents were not provided for audit review. Whereas the County Government owned one hundred and seventy-eight (178) vehicles but Management provided ownership documents for audit review thirty (30) vehicles leaving one hundred and forty-eight (148) motor vehicles. In addition, specific motor vehicles cost and date of purchase were not provided for audit review.

In addition, the above historical costs include a balance of Kshs.187,064,472 in respect of purchase of Information Communication Technology (ICT) equipment, software and other ICT assets which constitutes amounts of Kshs.745,218 and Kshs.280,000 paid to two suppliers for the supply of seven (7) laptops which have not included in the assets register. Review of fixed assets registers and physical verification of the assets revealed that the assets were not tagged for ease of identification and movement.
In the circumstances, the existence of an effective mechanism to safeguard and secure the County's assets cannot be established.

Management Response
The Management confirmed holding Non-Current Assets at Historical cost of Ksh. 4,056,909,966 as at 30 June, 2020.
The process of updating Asset Register had been undertaken to ensure all the assets acquired by the County were properly recorded as way of ensuring the safety and traceability.
The management confirmed acquiring a parcel of the land during the financial year 2014/2015 in Chuka at cost of Ksh.4,386,080 for use as dumpsite. The ownership documents were not handed over from previous administration.
The County Government further confirmed that it had been in possession of One hundred and seventy-eight (178) vehicles that included those inherited from defunct

local and devolved ministries. The status of the ownership documents was as follows authorities;

Item	Status	Units	Annex
1	Availed logbooks during Audit 30 June, 2020	30	-
2	Additional original / duplicate logbooks processed	86	XXVI
3	Vehicles currently Undergoing process of tape-lifting	5	XXVII
4	GK Vehicles Logbooks held by National Ministries	57	-
	Total	**178**	

The GK motor vehicles with logbooks held by Ministries related to donor funded projects under national government ministries. Although the vehicles were domiciled at the county, the ownership was held by the national ministries such as Ministry of Agriculture, Kenya Climate Smart Agriculture Project (KCSAP), Agriculture Sector Development Programme (ASDP), Ministry of Fisheries (Aquaculture Business Development Project (ABDP), Ministry of Health, Transforming Health Services for Universal Care (THSUC)

The ownership documents were transferable after the end of the project term at the discretion of the funding Ministry.
Further, most of the motor vehicles under registration of GK were grounded and unserviceable. The County was in process of disposing them off through scrapping off while others would be donated to County polytechnics for learning purpose.

Committee Observations
The Committee observed that;

1. the County Executive lacked an updated Fixed Asset Register; and
2. the county government lacked ownership documents for some of its assets and properties.

Committee Recommendations
The Committee recommends that the-

a) **County Executive should update and present their Fixed Assets Register in the format prescribed by the Public Sector Accounting Standards Board;**
b) **County Executive should adopt and implement the report of the Inter-Governmental Technical Relations Committee (IGTRC) on assets and liabilities from defunct Local Authorities and provide a status update to the Office of the Auditor General within 90 days of adoption of this Report; and**
c) **Office of the Auditor General should progressively review and report on the matter in the subsequent Financial Years.**

3.0 Information Communication Technology (ICT) Environment
Review of the County Executive's ICT environment revealed that there was no formal approved ICT policy in place as at 30 June, 2020. The policy would have included data security, data integrity and disaster recovery plans.

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

Management Response
The management confirmed to have developed ICT Policy and had since been implemented accordingly.

Committee Observation
The Committee was informed by the Office of the Auditor General that the matter has since been addressed.

Committee Recommendation
The committee recommends that the matter be marked as resolved.

CHAPTER TWO

REPORT OF THE SENATE COUNTY PUBLIC ACCOUNTS COMMITTEE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF HOMA BAY COUNTY EXECUTIVE FOR THE FINANCIAL YEAR 2019/2020

The Governor of Homa Bay County, Hon. Gladys Wanga, appeared before the Committee on Tuesday 28th February 2023 to respond (under oath) to audit queries raised in the Report of the Auditor General on Financial Statements for Homa Bay County Executive for the Financial Year 2019/2020.

Qualified Opinion

EXECUTIVE SUMMARY OF UN-RESOLVED QUERIES				
No.	**Query**	**Recommendations**	**Actor**	**Timeline**
1	**1.0 Presentation of the Financial Statements** **1.1 Inadequate Disclosure on Prior Year Audit Issues** Note 22 to the financial statements - other important disclosures - provides two disclosures on progress made in resolving the issues raised in the audit report for the previous (2018/2019)financial year whereas the report of the Auditor-General for the year had highlighted seventeen (17) issues. As a result, the financial statements do not comply with the reporting format prescribed by the PSASB	The Committee recommends that;- 1. County Executive should present their Financial statements in the format prescribed by the Public Sector Accounting Standards Board; 2. The County CEO undertakes administrative action against the accounting officer, the Chief Officer Finance, the Head of County Treasury and any other officer(s) responsible for failure to undertake reconciliation of financial statements within the stipulated timelines and submit a report to the Office of the Auditor General within 60 days of adoption of this report; 3. The Institute of Certified Public Accountants (ICPAK) takes action(s) against the Head of Treasury for misrepresentation of financial statements which constitutes professional	The County Chief Executive Officer The Auditor General ICPAK	60 days from the date of adoption of this report.

		misconduct pursuant to Section 8 (a) and 30 of the Accountants Act CAP 531 and reports to the Office of the Auditor General within 60 days of adoption of this report; 4. County CEO must ensure strict adherence to the Public Audit Act, 2015 by providing accurate and reliable reconciliations of the financial statements, payment details and the vote books during the audit cycle; and 5. the County Executive complies with section 53 of the Public Audit Act 2015 by taking action on the issues raised by the Auditor General and submit a report to the Auditor General for review within sixty (60) days of adoption of this report.		
2	**2.1 County Own-Generated Revenue** **2.1.1 Housing Fees** i)Management had estimated the year's receipts at Kshs. 2,124,000 based on the inventory of the houses. Therefore, the receipts totaling Kshs.23,000 fell short by Kshs.2,101,000. ii)Rental income records indicated that arrears owed by employees of the County Executive as	The Committee recommends that;- a) the County executive should expedite updating of valuation roll in accordance with Section 3 of the Valuation for Rating Act CAP 266 so as to reflect current market values for optimal revenue collection and comply with the guidelines of the Public Sector Accounting Sector Boards of reporting in the FY 2023/2024. b) County Executive should adopt and implement the report of the Inter-Governmental Relations	1)The County CEO 2)The Auditor General	60 days from the adoption of this report.

	at 30 June, 2020 totaled Kshs.2,201,000, with some of the debts having arisen in the 2013/2014 financial year. However, they have not been disclosed in the Notes to the financial statements.	Technical Committee on Management of Assets and Liabilities from defunct local authorities; and c) Auditor General to follow up on the matter in subsequent audits.		
3	**2.1.2 Liquor Fees** Revenue records examined reflected nil collection on liquor licensing fees against Kshs.1,467,324 budgeted for the year. Management did not prepare or submit for audit the financial statements of the Alcoholic Drinks Control Fund. In addition, records on bank statements, liquor outlets and licences issued were not provided for audit review.	The Committee recommends that the Ethics and Anti-Corruption Commission investigates the operationalization of the fund since its inception to date with the view of establishing if there has been impropriety in the management and utilization of the fund.	Ethics and Anti-Corruption Commission	Immediate
4	**2.2 Compensation of employees** Management did not Provide a satisfactory explanation for not	The Committee recommends that; 1) County Executive should engage the State Department of Public Service to fast-track the	1)The County CEO	Immediate

	processing all its workers' salaries through the IPPD system prescribed by The National Treasury. Further, the three hundred (300) employees in the manual payroll did not have payroll and Kenya Revenue Authority tax (PIN) numbers for Employees	issuance of personal numbers to enable them onboard all employees on the Integrated Personnel and Payroll Database (IPPD) System; and 2) the Auditor General to monitor the matter in subsequent audit cycle.	2)The Auditor General	
5	**2.4 Other Grants and transfers** Analysis reflects transfers totalling Kshs.248,805,986 only made to National Agricultural and Rural Inclusive Growth Project (NARIGP). As a result, the nature and destination of the unanalyzed transfers totalling Kshs.8,800,000 could not be confirmed. Management did not submit for audit financial statements or expenditure	The Committee recommends that;- 1) The County CEO undertakes administrative actions against the responsible officer(s) who failed to provide the documents to the auditors in accordance with section 156 of the Public Finance Management Act and submit a status report 60 days from the adoption of this report; and 2) The Auditor General to carry out a special audit of the National Agricultural and Rural Inclusive Growth Project (NARIGP) programme in all Counties.	1)The County CEO 2)The Auditor General	60 days from the adoption of this report 90 days from the adoption of this report.

	returns on the transfers made to the Project.			
6.	**2.5 Capital Grants and Transfers** Note 11 to the financial statements indicates that transfers totalling Kshs.85,371,975 were made to the Homa Bay Municipal Board and the remainder Kshs.35,163,298 to village youth polytechnics. However, Management did not submit for audit the financial statements or expenditure returns on use of the grants.	The County CEO undertakes administrative actions against the responsible officer(s) who failed to provide the documents to the auditors in accordance with section 156 of the Public Finance Management Act and submit a status report 60 days from the adoption of this report	The County CEO	60 days from the adoption of this report
7	**2.6.2 Undelivered Animal-Feeds Milling Equipment** Equipment had not been installed in spite of payments totalling Kshs.16,000,000 having been made to the contractor.	The Committee recommends that the Auditor General carries out an Audit and submit a status report 60 days from the adoption of this report.	The Auditor General	60 days from the adoption of this report.

8	**2.7 Fixed Assets** The summary register does not include the additions and disposals of assets made during the year and assets valued at Kshs. 56,165,738 brought forward from the previous year. the County Government had as at 30 June, 2020 not acquired the log-books for the three specialized motor vehicles.	The Committee recommends that;- 1) the County executive should fast-track acquisition of the logbooks for the three specialized motor vehicles; 2) County executive should update and present their Fixed Assets Register in the format prescribed by the Public Sector Accounting Standards Board; a) County executive should adopt and implement the report of the Inter-Governmental Technical Relations Committee (IGTRC) on assets and liabilities from defunct Local Authorities and provide a status update to the Office of the Auditor General within 90 days of adoption of this Report; and b) Office of the Auditor General should progressively review and report on the matter in the subsequent Financial Years.	The County CEO The Auditor General	90 days from the adoption of this report
9.	**2.8 Payments Made Outside the Integrated Financial Management Information System** Bank statements for development and	The Committee recommends that the County CEO should ensure that all payments are made on the Integrated Financial Management System (IFMIS).	The County CEO	Continuous

	recurrent accounts operated at the Central Bank of Kenya reflected transfers of cash to departmental operations accounts totalling Kshs.43,760,651. However, the transactions were not effected through the Integrated Financial Management Information System (IFMIS).			
10.	**2.9 Pending Accounts Payables** the closing pending bills balance rose sharply relative to the previous year, suggesting that Management did not pay eligible old and new bills as advised by The National Treasury.	The Committee therefore recommends that: 1) the National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate so as to enable county entities settle their obligations on time; and 2) the county executive puts in place measures to enhance own generated revenue in order to meet its revenue target and address revenue shortfalls that contribute to the challenge of pending bills. 3) Pending bills deemed ineligible should be forwarded to the Directorate of Criminal Investigation (DCI) for	a) The National Treasury b) The County CEO c) The DCI d) The OAG	Continous

		investigation proper legal action taken against those filing false claims. 4) County Government to take note of judgement in a Kitale High Court Constitutional Petition E003 of 2023 that declared formation of pending bills verification committees unconstitutional and engage Office of the OAG and strengthen the internal audit functions.; and 5) All valid pending bills that have been reviewed by the Office of the Auditor General be paid and a payment plan be submitted to the county assembly for approval and progress report on implementation sent to the Senate and the Office of the Controller of Budget.		
11.	**Other Matter** **1.0 Budgetary Control and Performance** **1.1 Receipts** Revenue records indicated that the County Executive realized receipts totaling Kshs.9,170,732,26 in the year under review, against	The Committee recommends that: 1) The National Treasury should ensure timely release of funds to county Governments in line with the cash disbursement schedules approved by the Senate; and 2) The County executive puts in place measures to enhance its own generated Revenue in order to meet its revenue target and address revenue shortfalls	1)The National Treasury 2)The County CEO	Continuous

	Kshs.8,969,578,696 budgeted for, resulting to a surplus of Kshs.201,153. **1.2 Expenditure** net under-expenditure of Kshs.690,840,145 or 8% of the budget.			
12.	**1.3 County Own-Generated Receipts** County-own generated revenues totalling Kshs.177,591,524 were budgeted for but actual collections were Kshs.274,595,613 resulting to a surplus of Kshs.97,004,089.	The Committee recommends that the County should map out all potential revenue streams and set realistic revenue targets and submit a status report on the measures put in place.	The County CEO	60 days from the adoption of this report
13	**1.4 Nil Revenue Collection on Eleven Items** Examination of revenue records indicated that eleven (11) revenue streams through which Management had budgeted for receipts totalling Kshs.3,046,816 in	The Committee recommends that the County Executive should: a) disclose all their revenue sources and total amounts collected; b) put in place measures to enhance collection of their own source revenue to meet their target; c) the County executive should expedite updating of valuation roll in accordance with Section 3 of the Valuation for Rating Act	The County CEO	Continuous

	the year under review recorded nil balances.	CAP 266 so as to reflect current market values for optimal revenue collection and comply with the guidelines of the Public Sector Accounting Sector Boards of reporting in the FY 2023/2024; d) automate and map out all potential revenue streams and set realistic revenue targets.		
14	**2.0 Delayed Exchequer Receipts** The late receipt of budgeted funds resulted in delay in implementation of planned programmes and activities and denied the County residents access to goods and services expected in the year under review.	The Committee recommends that the National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate.	The National Treasury	Continuous
15	**1.0 Unsatisfactory Implementation of Projects** **1.1 Failure to implement Budgeted Projects** The Projects Implementation Status Report as at 30 June, 2020 indicated that forty-six	The Committee recommends that: 1) the National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate; 2) the County executive puts in place measures to enhance its own generated revenue in order to meet its revenue target and address revenue shortfalls; 3) the County Executive to establish a project implementation, monitoring and	1)The National Treasury 2)The County CEO	Continuous

	(46) projects valued at Kshs.186,249,288 contracted out for implementation in the year under review had not started as at 30 June, 2020,	evaluation team provide periodic project status; and 4) the county executive should undertake proper project conceptualization, planning and execution to ensure timely completion of projects as well as realization of value for money.		
16	**1.2 Uncompleted Projects** (57) projects with an aggregate budget of Kshs.225,810,131 scheduled for completion by 30 June, 2020 were not completed.	The Committee recommends that; 1) the National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate; 2) the County executive puts in place measures to enhance its own generated revenue in order to meet its revenue target and address revenue shortfalls; 3) the County Executive to establish a project implementation, monitoring and evaluation team to provide periodic project status; 4) the county executive should give priority to ongoing projects before commencing new projects to ensure there is value for money already expended; and 5) the county executive should undertake proper project conceptualization, planning and execution to ensure timely completion of projects as well as realisation of value for money.	1)The National Treasury 2) The County CEO	Continuous
17	**1.3.1 Construction of Animal Feeds Factory at Arujo**	The Committee recommends that;- 1) the County Executive to put in place measures to ensure the project is	1The County CEO	60 days from the adoption of this report

	(i) The works had not been completed even though the contract period had expired more than five years earlier. Only the substructure and superstructure works had been done. (ii) The contractor was not at the project site, which appeared to have long been abandoned. (iii) Further, the project's budgetary allocation totalling Kshs.27,300,000 in the year under review was not utilized.	completed and submit a status report 60 days from the adoption of this report. 2) the county executive should undertake proper project conceptualization, planning and execution to ensure timely completion of projects as well as realization of value for money; 3) The Auditor General to monitor the project in the subsequent audit cycle; and 4) The EACC to investigate the Construction of Animal Feeds Factory at Arujo from inception to establish if there was loss of public funds.	2The Auditor General EACC	
18	**1.3.2 Construction of Kenya Medical Training College at Sindo** Physical verification of the project site in October, 2020 revealed that the works were abandoned at 45% level of completion.	The Committee recommends that the County Executive: 1) ensures that it only undertakes functions assigned to county governments under the Constitution; and 2) engages the National Government with a view to having the project completed by the National Government and submit a status report 60 days from the adoption of this report.	The County CEO	60 days from the adoption of this report.
19	**1.4.1 Conversion of Blood Bank into an Intensive Care**	The Committee recommends that:	The County CEO	60 days from the

	Unit at Homa Bay County Referral Hospital The contract was awarded through Request for Quotations procedure contrary to Section 91(1) of Public Procurement and Asset Disposal Act, 2015 which prescribes open tendering as the preferred procurement method for procurement of goods, works and services. Therefore, Management may have breached the law	1) The County CEO takes administrative action be taken against responsible officer(s) for breach of Section 91(1) of Public Procurement and Asset Disposal Act, 2015 and provide a status report 60 days from the adoption of this report; 2) the county executive takes measures to operationalize the facility; and 3) the County Executive to establish a project implementation, monitoring and evaluation team to provide periodic project status.		adoption of this report.
20.	**1.4.3 Lingering Delay in Construction of Maize Processing Plant** No records were provided to confirm the level of project completion attained. Management did not provide a satisfactory explanation for the	The Committee recommends that— 1) The payment of project works should only be done for certified works so that the County does not incur wasteful expenditure due to incomplete works; 2) the County Executive should put in place proper project monitoring systems to ensure projects are implemented as per specifications and within the contract period; and 3) the Auditor General reviews the matter to ascertain project completion and	The County CEO The Auditor General	Continuous Next Audit Cycle

	delay in completion of the project.	utilization in the subsequent financial year.		
21	**1.4.4 Slow Pace of Work in Construction of Homa Bay Stadium** (i) A cost variation was made to include construction of an underground water tank . However, the variation was not quantified. (ii) Supervision of the project was shortly after commencement handed over to the National Government. However, the terms and conditions of the handover were not provided for audit review. (iii) The project's Bills of Quantities were not provided for audit review. (iv) Payments totalling Kshs.123,537,869 were made to the contractor in the year under	The Committee recommends that: 1) the County Executive should prioritize completion of the project by providing adequate budget; 2) the County CEO to take administrative action against the responsible officer(s) who failed to provide documents to the Auditor General during time of audit in accordance to section 156 of the Public Finance Management Act, 2012 and provides a status report to the Auditor General within sixty(60) days from the adoption of this report; 3) the County Executive should put in place proper project implementation, monitoring and evaluation teams to give periodic status report on projects; 4) the Auditor General reviews the matter to ascertain project completion and utilization in the subsequent financial year; and 5) The EACC to carry out an investigation to ascertain whether the variation was lawful and whether all the project components were delivered as per contract.	1.The County CEO 2.The Auditor General EACC	60 days from the adoption of this report

	review and as a result, the approved budget allocation totalling Kshs.120,329,509 was irregularly exceeded by Kshs.3,208,360			
22	**1.4.7.1 Renovated Kisegi Health Centre Not Put to Use** Center was not put in use.	The Committee recommends that the Auditor General reviews the matter to ascertain project completion and utilization in the subsequent financial year.	The Auditor General	Next Audit Cycle
23	**3.0 High Wage Bill** The spending was equivalent to 38% of the County revenue for the year totalling Kshs.8,213,774,541 and was therefore above the threshold of 35% prescribed for the item in Regulation 25(1)(b) of the Public Finance Management (County Governments) Regulations, 2015.	The Committee recommends that- 1. the management should provide to the Auditor General and the Senate the measures it will put in place to contain the high wage bill within sixty (60) days of the adoption of this report; 2. the management should strictly adhere to the provision of paragraph 25(1)(b) of the PFM Act (county government) regulations, 2015 which stipulate that the county wage bill shall not exceed 35 per cent of the county total revenue; and 3. the county executive puts in place measures to enhance own source revenue collection in order to address wage bill gap.	1.The County Chief Executive Officer 2.The Auditor General.	60 days from the date of adoption of this report

24.	**5.0 Lack of Diversity in Staffing** 94% were members of the ethnic community dominant in the County. The high level of dominance by one community was contrary to the provisions of Section 7(1) of the National Cohesion and Integrity Act, No 12 of 2008 which requires representation of the diversity of the people of Kenya in staff establishments of public entities.	The Committee recommends that- 1) The County Executive should work progressively towards attaining the requirement of the provisions of Section 65(1)(e) of County Government Act on ethnic inclusivity.	The County CEO	60 days from the adoption of this report
25.	**1.0 Lack of Staff Establishment** the County Executive did not have an approved staff establishment.	The Committee recommends that the County Executive should expedite development and approval of its staff establishment and a status report should be submitted to the Auditor General for verification within sixty (60) days of the adoption of this report.	The County CEO	60 days from the adoption of this report.
26.	2.0 Lack of Information Technology and Risk Management Polices Audit review of the County Executive's use of Information Communication Technology	The Committee recommends that the County Executive should expedite development of a Risk Management Policy and ICT Policy and should submit to the Auditor General for verification within sixty (60) days of the adoption of this report.	The County CEO	60 days from the adoption of this report.

	(ICT) revealed that Management had not formulated a policy to guide investment in and use of the technology.			

Basis for Qualified Opinion
Presentation of the Financial Statements
1.0 Inadequate Disclosure on Prior Year Audit Issues

The financial reporting format set by Public Sector Accounting Standard Board (PSASB) requires Management to disclose the progress made in following up on issues raised by the Auditor and indicate the expected timeframe for their resolution. However, note 22 to the financial statements - other important disclosures - provides two disclosures on progress made in resolving the issues raised in the audit report for the previous (2018/2019) financial year whereas the report of the Auditor-General for the year had highlighted seventeen (17) issues.
As a result, the financial statements do not comply with the reporting format prescribed by the PSASB.

Management Response
The management wishes to state that prior year audit issues raised in the audit report for financial year 2018-2019 had already been discussed at the Public Accounts and Investments Committee at the Senate and several issues were resolved. However, the management was waiting for the Senate report on recommendations.
Further, the management shall endeavor to include all prior year issues in the subsequent financial Years to conform with the prescribed Public Sector Accounts Standards Board (PSASB) financial reporting format requirement.

Committee Observation
The Committee observed that

1. the financial statements presented by the County Executive do not comply with the reporting format prescribed by the Public Sector Accounts Standards Board (PSASB).
2. the County Executive did not act on the issues raised in the report of the Auditor General for the financial year 2018/2019.

Committee Recommendation
The Committee recommends that;-

1. **County Executive should present their Financial statements in the format prescribed by the Public Sector Accounting Standards Board;**
2. **The County CEO undertakes administrative action against the accounting officer, the Chief Officer Finance, the Head of County Treasury and any**

other officer(s) responsible for failure to undertake reconciliation of financial statements within the stipulated timelines and submit a report to the Office of the Auditor General within 60 days of adoption of this report;

3. **The Institute of Certified Public Accountants (ICPAK) takes action(s) against the Head of Treasury for misrepresentation of financial statements which constitutes professional misconduct pursuant to Section 8 (a) and 30 of the Accountants Act CAP 531 and reports to the Office of the Auditor General within 60 days of adoption of this report;**
4. **County CEO must ensure strict adherence to the Public Audit Act, 2015 by providing accurate and reliable reconciliations of the financial statements, payment details and the vote books during the audit cycle; and**
5. **the County Executive complies with section 53 of the Public Audit Act 2015 by taking action on the issues raised by the Auditor General and submit a report to the Auditor General for review within sixty (60) days of adoption of this report**

2.0 Unconfirmed Balances
2.1 County Own-Generated Revenue
2.1.1 Housing Fees

The statement of receipts and payments reflects County-own generated revenue totaling Kshs. 274,595,613 which, as indicated in Note 4 to the financial statements, includes housing fees totaling Kshs. 23,000 paid by tenants in houses owned by the County Government. However, Management had estimated the year's receipts at Kshs. 2,124,000 based on the inventory of the houses. Therefore, the receipts totaling Kshs.23,000 fell short by Kshs.2,101,000.

In addition, review of rental income records indicated that arrears owed by employees of the County Executive as at 30 June, 2020 totaled Kshs.2,201,000, with some of the debts having arisen in the 2013/2014 financial year. However, they have not been disclosed in the Notes to the financial statements. Further, no explanation has been provided why the debts were not deducted from the debtors' monthly salaries.

In view of the omitted income, the disclosures provided in the financial statements in respect to housing fees are insufficient and as a result, the reported fees totaling Kshs.23,000 may not be fairly stated.

Management Response

The management stated that in the FY 2019/2020, the collections from housing for which was reported at Ksh.23,000 was an understatement as the bulk of the housing fees was classified under miscellaneous income. From the County records, a total of Kshs.2,605,428 was realized from housing fees of which Kshs. 2,096,628 was received by the National Government through P.S Lands, Housing and Urban Development (Nairobi) because the National Government had not handed over the housing units to the County Government. Only Kshs.508,800 was received by the County Government, the bulk of which was reported as miscellaneous income in note 4; Locally Generated Revenues of the Financial Statements for FY 2019-2020.

Further, it was important to note that some collections could not be realized due to the reasons analyzed below;

Converted to Offices

Two of the residential houses were converted to offices as below:

i. County Public Service Board offices which ought to have collected Kshs. 8,000 x 12 months= Kshs. 96,000
ii. Office of the First Lady ought to have collected Kshs. 6,000 x 12 months= Kshs. 72,000

These totals to Kshs. 168,000. Since these houses were converted to county offices they were not subjected to rent amounting to Kshs. 168,000 House Destroyed

House no. HOMA/HOU/CH/HG4 was razed down by fire and it ought to have been collecting Kshs. 4,000 x 12 months= Kshs. 48,000

Since the house was destroyed, the county could not collect rent amounting to Kshs. 48,000.

The management had prioritized the renovation of this house in the budget for financial year 2023-2024.

Check-off through County Assembly

The houses detailed in the table below were occupied by County Assembly staff and the occupants paid rent through County Assembly check-off system to the National Government through the P.S Lands, Housing and Urban Development (Nairobi). The management was following up with the County Assembly to submit the collections accordingly.

House Type	Monthly collection	Number of units	Annual Rent
Class E	4,000	1	48,000
Class G	1,500	1	18,000
Class H	1,000	10	120,000
Total			186,000

Further, the management through a cabinet resolution had done reorganization of the housing units by advertising for valuations rolls and the Finance Bill 2022 which aligns housing fees with the current market rates has been tabled at the County Assembly of Homa Bay. In addition, the management had established a Revenue Board that would oversee the revenue administration process.

Committee Observation

The Committee noted that the County Entity did not have an updated valuation roll, hence failed to realize optimal revenue.

Committee Recommendations

The Committee recommends that:

1. **The Committee recommends that the County executives should expedite updating of valuation roll in accordance with Section 3 of the Valuation for Rating Act CAP 266 so as to reflect current market values for optimal revenue collection and comply with the guidelines of the Public Sector Accounting Sector Boards of reporting in the FY 2023/2024;**
2. **the County Executive should adopt and implement the report of the Inter-**

Governmental Relations Technical Committee on Management of Assets and Liabilities from defunct local authorities; and

3. **The Auditor General to follow up on the matter in subsequent audits.**

2.1.2 Liquor Fees

The statement of receipts and payments reflects own-generated revenue totaling Kshs. 274,595,614. Revenue records examined reflected nil collection on liquor licensing fees against Kshs. 1,467,324 budgeted for the year. However, Management did not prepare or submit for audit the financial statements of the Alcoholic Drinks Control Fund. In addition, records on bank statements, liquor outlets and licenses issued were not provided for audit review.

As a result, the accuracy, completeness and validity of the nil liquor licensing fees reported in the year under review could not be confirmed.

Management response

The management agreed with the auditor's observation that as per the Executive financial statements, liquor licensing fees were reported as nil under own-generated revenue against a budget of kshs.1,467,324. This was because the Homa Bay County Government established liquor fees under the Homa Bay County Alcoholic Drinks Control Fund Act 2015 which is a revolving fund and hence accounted for separately in the financial statements.

Further, the management regrets that, during the audit exercise, financial statements, bank statements, and list of liquor outlets were not provided to the audit team.

However, financial statements, bank statements, and list of liquor outlets have now been provided to the auditor for verification.

Currently, the management has restructured the collection and banking of liquor licensing fees by mapping of liquor stores and outlets, introducing cashless mode of collection, centralization of licenses production with enhanced security features to ensure accountability, creating an inspectorate unit to ensure that all traders comply and beefed up the enforcement unit to act on non-compliance. These changes have streamlined the collection and accountability of liquor license fees.

Committee Observation

The Committee observed that the Homa Bay County Alcoholic Drinks Control Fund was established in 2015 by the Homa Bay County Alcoholic Drinks Control Fund Act 2015. However, since its establishment, the fund had not prepared its financial statements, cashbook or bank account contrary to the regulations establishing the fund up to financial year 2021/2022. This could have exposed the fund to losses of up to Ksh 18 million per year.

Committee Recommendation

The Committee recommends that the Ethics and Anti-Corruption Commission investigates the operationalization of the fund since its inception to date with the view of establishing if there has been impropriety in the management and utilization of the fund.

2.2 Compensation of Employees

The statement of receipts and payments reflects compensation of employees' payments totaling Kshs. 3,145,409,833 as further disclosed in Note 5 to the financial statements. The balance is comprised of Kshs. 2,954,391,336 paid through the electronic Integrated Personnel and Payroll Database (IPPD) System and Kshs. 191,018,497 paid through a manual payroll.

The manual system requires monthly and annual updates and calculation of deductions by hand and is therefore prone to human error and misstatement. Management did not provide a satisfactory explanation for not processing all its workers' salaries through the IPPD system prescribed by the National Treasury.

Further, the three hundred (300) employees in the manual payroll did not have payroll and Kenya Revenue Authority tax (PIN) numbers. As a result, it was not clear how their taxes were deducted and remitted to the Authority. Also, fifty (50) employees in the manual payroll were not assigned job groups and consequently, salaries and other benefits paid to them could not be verified.

In view of these issues, the accuracy and validity of the compensation of employee's payments totaling Kshs. 191,018,497 that were processed manually in the year under review could not be confirmed.

Management Response

The management submitted that as at the time of Audit there were officers with no KRA PINs in the manual payroll. However, the management deducted and remitted their Pay as You Earn to the Commissioner of domestic Taxes. This has since been rectified to ensure that all employees on the manual payroll have valid KRA PINs and their returns reconciled on the *Itax* system.

Further, the management has written to the Public Service Commission to regularize the integration of the 2,193 employees on the manual payroll to the Integrated Personnel payroll system (IPPD).

Moreover, the Management confirms that the job specifications/titles are in all the officers' appointment letters and their respective schemes of service.

The audit report indicated that a total of fifty (50) officers have no job groups attached to them according to June, 2020 Payroll. However, on scrutiny of the officers' appointment letters and their respective schemes of service, they are categorized as below;

a) Officers on Local Contract
b) Officers with Specific Job Groups
c) Early Childhood Education and Development Teachers
d) Officers on Salary Scale

Officers on Local Contract

The following under listed officers were under Local contracts without specific Job Groups. However, terms of engagement were reevaluated to place them in the correct job groups.

S/NO	NAME	ID NO.	DESIGNATION	CURRENT JOB GROUP
1	Mollyne Akinyi Odida	32533242	Clerical Officer	H
2	Mariam Barones Charker	30045260	Support Staff	G
3	Mary Akinyi Olale	29773475	Fisheries Officer	J
4	Omindi Harrison Ouma	28348861	Clerical Officer	G
5	Erick Otieno Awino	28209933	Clerical Officer	G
6	Nancy Adhiambo O	28148133	Clerical Officer	G
7	Hesbon Omondi Abonyo	27815531	Driver	H
8	Lilian Amondi Okumu	27724386	Cleaning Supervisor	G
9	Imelda Ariso Okanga	27149851	Accountant Ii	K
10	Susan Akinyi Were	25281929	Cleaning Supervisor I	G
11	Joab Ogola	23626899	Clerical Officer	G
12	Kennedy Ouma Onyango	21702495	Support Staff	G
13	Apollo Onyango Nyakado	13605312	Clerical Officer	G
14	Nelson Otieno Opiyo	13602346	Instructor	H

Officers with Specific Job Groups

The following Officers had specific job groups attached to them but were not included in the Payroll. The job groups have since now been incorporated in the payroll.

S/NO	NAME	ID/NO.	DESIGNATION	JOB GROUP
1	Julius O. Polo	1572237	County Internal Auditor	R
2	Omune Benjamin Modi	10404011	Sub County Admin	Q
3	Eliud Wasonga Onyango	5899985	Disaster Management And Special Programs	Q
4	Opapo Zilper Atieno	20050903	Ass. Director Of Youth And Gender	Q
5	Mr. Mathews Agalo Ajwala	8373494	Chief Public Health Officer	M
6	Elisha Midembi	5856603	Sr Medical Lab Officer	L

7	Monica Lubale	29728537	CHDO	J
8	Brighton Onyango	24702234	Accountant II	J
9	Quintor Atieno	24583257	PHO	J
10	Kennedy Ochieng	22331771	Accountant II	J
11	Sospeter Japheth Oroka	32750625	Clinical Officer	H
12	Carolyne Awuor Ouma	31390407	Youth Instructor	H
13	Mackline Atieno Ouma	28803536	Senior Clerical Off	H
14	Quinter Awuor	28664883	Senior Clerical	H
15	Lydia Aoko	27453582	Senior Clerical Officer	H
16	Quinto Oluoch Oswago	26921774	Nurse	H
17	Fredrick Okello Mambe	25260389	ICT Youth Instructor	H
18	James Owuor Okuku	24660412	Physiotherapist	H
19	Nelly Ngesa Odinga	24293549	Ass Community Health Officer	H
20	Julius Omondi Obinga	23015276	Reg Clinical Officer	H

Early Childhood Education and Development Teachers

As at the time, the Early Childhood Education and Development Teachers had no specific Job Groups attached to them since their scheme of service was yet to be finalized. The management is awaiting the finalization of the scheme of service.

S/NO	NAME	ID/NO.	DESIGNATION	JOB GROUP
1	Nyaura Lilian	33769325	Diploma	H
2	Jedida Atieno Othira	31399915	Certificate	G
3	Ouko Triza Atieno	29941505	Diploma	H
4	Victor Okoth	28422495	Diploma	H

5	Mercy Adhiambo Maurine	28337259	Certificate	G
6	Wyclife Onyango	28133769	Diploma	H
7	Anditi Paul Origa	27261462	Diploma	H
8	Emma Anyango Odhiambo	27250582	Diploma	H
9	Mike Okoth Shaya	26378102	Certificate	G
10	Elizabeth Achieng Ongoma	25641471	Certificate	G
11	Eunice Atieno	25343498	Diploma	H

Officers on Salary Scale

The following Officers fall under the state officers' category and their salaries/remuneration are determined by the Salaries and Remuneration Commission as gazetted in gazette Notice No. 6518 of 7th July, 2017. Have specific Job Scale attached to them.

S/NO	NAME	ID/NUMBER	DESIGNATION	SCALE
1	Collins Odhiambo Agutu	20729508	PSB Member	8
2	Aguko Juma	5959113	CEC Agriculture	8
3	Roseline Anyango	06026613	CEC Tourism	8
4	Beatrice Atieno Asiago	0643295	CEC Education	8
5	Prof. Richard Otieno Muga		CEC Health	8

To improve on quality of the Human Resource, the Management has procured the services of an independent reputable firm (Price Waterhouse Coopers) in November, 2022 to conduct Payroll and Personnel Census Audit with an aim of identifying irregularities in the payroll, officers responsible for the irregularities and ultimately reducing the wage bill significantly. The exercise was officially launched on 6th December and a two weeks' pilot exercise conducted in three (3) departments and all the eight (8) Sub-Counties. The entire exercise is divided into three phases and is expected to last for a duration of twelve (12) weeks.

After conclusion of this exercise, the management will explore the Public Service Commission to issue all Homa Bay County Government employees with personal numbers to enable their integration into the Integrated Personnel Payroll Database (IPPD).

Committee Observation

The Committee noted that the County Executive did not have all the employees on the Integrated Personnel and Payroll Database (IPPD) System.

Committee Recommendations

The Committee recommends that;

1) **The County Executive should engage the State Department of Public Service to fast-track the issuance of personal numbers to enable them onboard all employees on the Integrated Personnel and Payroll Database (IPPD) System; and**
2) **the Auditor General to monitor the matter in subsequent audit cycle.**

2.3 Use of Goods and Services

The statement of receipts and payments reflects use of goods and services payments totaling Kshs.1,103,968,018. The balance includes purchases of specialized materials and services totalling Kshs.324,647,785 which in turn includes Kshs.4,610,600 spent on purchase of emergency livestock vaccines. The vaccines were bought through cash payments even though the respective transaction values were higher than the low-value purchases threshold prescribed in the First Schedule of the Public Procurement and Asset Disposal Act, 2015. Further, the items were not entered in stock control cards.
In the circumstance, the regularity of the procurement and the use of the livestock vaccines valued Kshs. 4,610,600 could not be confirmed.

Management Response

The management stated that from the documents available, there was an emergency outbreak of livestock diseases necessitating a prompt and urgent response. Approval for the purchase was sought and given by both the CECMs in charge of Finance and Agriculture respectively. All the purchased vaccines were received by S13 and issued to all affected wards vide S11. Documents detailing the transactions including payment vouchers and distribution were submitted for verification.

Going forward, the management had put in place internal controls to ensure compliance with Public Procurement and Asset Disposal Act by issuing an executive order to all departments that all procurements must be approved by the County Executive Committee members meeting. Further, the CEC-M Finance had issued a memo stopping all cash purchases.

Committee Observation

The Committee noted that the matter has since been addressed.

Committee Recommendation

The committee recommends that the matter be marked as resolved.

2.4 Other Grants and transfers

The statement of receipts and payments reflects other grants and transfers totaling Kshs. 257,605,986. However, the analysis provided for the balance in Note 12 to the financial statements reflects transfers totaling Kshs. 248,805,986 only made to National Agricultural and Rural Inclusive Growth Project (NARIGP). As a result, the nature and destination of the unanalyzed transfers totaling Kshs. 8,800,000 could not be confirmed.

In addition, Management did not submit for audit financial statements or expenditure returns on the transfers made to the Project.
In view of these issues, the accuracy, validity, completeness and propriety of the other transfers balance totaling Kshs. 257,605,986 reflected in the statement of receipts and payments could not be confirmed.

Management Response
The management submitted that as indicated in Note 12 of the financial statements, a transfer of capital grants of Kshs. 257,605,986 was made. This included Kshs. 248,805,986 to NARIGP and Kshs. 8,800,000 to Kenya Urban Support Programme (KUSP-UIG). Bank statements supporting transfer of kshs. 8,800,000 to KUSP-UIG was submitted for audit verification.

Committee Observations
The Committee noted that:
1) the County Executive did not submit documents on time to the Auditor General during the audit exercise;
2) that the Kshs. 8,800,000 grants to Kenya Urban Support Programme (KUSP-UIG) were adequately responded to and therefore resolved; and
3) the National Agricultural and Rural Inclusive Growth Project (NARIGP) will lapse by March 2023 and it will be succeeded by the National Value Chain Programme.

Committee Recommendations

The Committee recommends that:

1) **the accounting officer undertakes administrative actions against the officers who failed to provide the documents to the auditors in accordance with section 156 of the Public Finance Management Act and provide a status update to the Office of the Auditor General within 60 days of adoption of this report; and**
2) **the Auditor General to carry out a special audit of the National Agricultural and Rural Inclusive Growth Project (NARIGP) programme in all Counties.**

2.5 Capital Grants and transfers

The statement of receipts and payments reflects capital grants and transfers totaling Kshs.120,535,273 made in the year under review. Note 11 to the financial statements indicates that transfers totaling Kshs.85,371,975 were made to the Homa Bay Municipal Board and the remainder Kshs.35,163,298 to village youth polytechnics. However, Management did not submit for audit the financial statements or expenditure returns on use of the grants.

As a result, the accuracy, completeness and propriety of the grant transfers could not be confirmed.

Management Response

The management stated that the Village Youth Polytechnic grant was disbursed to various village polytechnics for the purpose of capitation and purchase of equipment for use in the institutions. The expenditure on how the grant was disbursed and used was submitted for verification.

Further, the statement of receipts and payments reflected capital grants and transfers totaling to Kshs. 85,371,975 made in the year under review as in note II to financial statement on transfers to Homa-Bay Municipal. The Municipal board had prepared and submitted a separate financial statement to the Auditor General.

Committee Observation
The Committee noted that the management did not submit the relevant documents and information to the Auditor General at the time of audit .

Committee Recommendation

The County CEO undertakes administrative actions against the responsible officer(s) who failed to provide the documents to the auditors in accordance with section 156 of the Public Finance Management Act and submit a status report to the Office of the Auditor General within 60 days from the adoption of this report.

2.6 Acquisition of Assets

2.6.1 Fencing at Kigoto Maize Processing Plant
The statement of receipts and payments reflects acquisition of assets expenditure totaling Kshs. 2,769,144,159 as further disclosed in Note 10 to the financial statements. The balance includes payments for other infrastructure and civil works totaling Kshs. 1,543,228,854 out of which Kshs. 1,833,949 was paid to a contractor to fence Kigoto Maize Processing Plant in Suba South Sub-County. However, audit inspection of the project site in October, 2020 indicated that although the fencing posts were erected, the chain-link was not installed. In addition, the contractor was not on site. Further, the respective procurement and payment documents for the expenditure and the Bills of Quantities were not presented for audit review.

In view of the failure to complete the works as contracted, value for money was not attained on the expenditure totaling Kshs. 1,833,949 spent on the fencing contract. In addition, in the absence of sufficient records, the accuracy and validity of the expenditure could not be confirmed.

Management Response
At the Initial stages of the construction of the Maize processing plant at Kigoto, there was a land ownership dispute between the county government of Homa Bay and the locals which made it impossible for the contractor to complete the works within the stipulated timelines.
Due to this conflict, the contractor only managed to perform the works up to the point of erecting posts before being stopped by a section of the community. The incidence was reported to the police station as stated herein: Kigoto land dispute destruction of

poles erected by the contractor, OB: 08/24/06/19, Investigator: Major Boker.
Later, the matter was settled out of court and the contractor was paid an amount commensurate with the works done and materials on site of Ksh. 1,833,949 out of the total contract sum of Ksh. 2,983,949.
After settlement of the land dispute, the works were retendered and awarded to a different contractor who had since completed the works. The management was waiting for the defect liability period to elapse in order to issue a completion certificate.

Committee Observation
The Committee observed that:
1) the County Executive had completed the fencing of the plant.
2) absence of proper governance structure for Kigoto Maize Mill will hinder its optimal performance.
3) there were delays in submission of relevant documents to the Auditor General for verification.

Committee Recommendation
The Committee recommends that:
1) **The County Executive to put in place a governance structure for Kigoto Maize Mill and submit a status report 60 days from the adoption of this report.**
2) **The Matter be marked as resolved.**

2.6.2 Undelivered Animal-Feeds Milling Equipment

The statement of receipts and payments for the year ended 30 June, 2020 reflects acquisition of assets payments totaling Kshs. 2,769,144,159, as further disclosed in Note 10 to the financial statements. Included in the balance are payments for purchase of specialized plant equipment and machinery amounting to Kshs. 116,328,542 out of which Kshs.16,000,000 was paid to a firm to import animal-feeds milling equipment from India.

As reported in the audit report for the previous year, the Department of Trade and Industrialization had in June, 2014 contracted the firm to supply and install a nine (9) ton- per-hour animal feed processing mill for the Homa Bay Feeds Industries Limited at a cost of Kshs.42, 245,280.

However, an audit inspection conducted in October, 2020 established that the equipment had not been installed in spite of payments totalling Kshs. 16,000,000 having been made to the contractor. As a result, the propriety and validity of the payments could not be confirmed.

Management Response
The management awarded the contract to Manpro- Eng services to supply, install and commission an animal feeds processing plant in 2014. The plant was not delivered on record time as there were challenges in prompt payments as per the contract agreement. At the time of inspection, the plant had not been delivered. However, the animal feeds processing plant had since been delivered to Homa Bay awaiting installation once the factory house is completed.

Committee Observation
The Committee noted that the total cost for the machine was Ksh 42 million while the County Executive had made an advance payment of Ksh 16 million.

Committee recommendation
The Committee recommends that the Auditor General carries out an Audit and submit a status report within 60 days from the adoption of this report.

2.7 Fixed Assets

Disclosed in Annex 3 to the financial statements is a summary of the County Executive's fixed assets register which reflects assets valued at Kshs.1,769,315,881 as at 30 June, 2020. However, the summary register does not include the additions and disposals of assets made during the year and assets valued at Kshs. 56,165,738 brought forward from the previous year.
In the circumstance, ownership and valuation ofthe fixed assets totalling Kshs. 1,769,315,881 reflected in the financial statements was not confirmed.
In addition, expenditure records indicated that Kshs. 3,834,230 was paid to a freight company to process the importation of one (Renault) ambulance and two units of (Volvo FL6) firefighting trucks reportedly donated by the County Council of Cumbria in England. However, the County Government had as at 30 June, 2020 not acquired the log-books for the three specialized motor vehicles. As a result, ownership of the equipment by the County Government could not be confirmed.

Management Response
The Management concurred with the auditor's observation that the assets register had not been updated by the time of audit.
The management was updating the fixed asset register to incorporate all assets which were acquired after the inception of the County Government. Also, the management was awaiting the compilation of the defunct Local Authorities Assets and Liabilities, an exercise conducted nationally. The exercise was finalized and submitted to the Intergovernmental Relations Technical Committee (IGTRC). Further, the management had setup a Pending Bills and Assets Verification taskforce with detailed Terms of Reference.

Committee Observation
The Committee noted that the County Government had not yet obtained the logbooks for the three specialized motor vehicles received from England. Further, the Committee noted that the fixed assets register was not updated.

Committee Recommendation
The Committee recommends that; -

1) **the County executive should fast-track acquisition of the logbooks for the three specialized motor vehicles;**
2) **County entities should update and present their Fixed Assets Register in the format prescribed by the Public Sector Accounting Standards Board;**

3) **County entities should adopt and implement the report of the Inter-Governmental Technical Relations Committee (IGTRC) on assets and liabilities from defunct Local Authorities and provide a status update to the Office of the Auditor General within 90 days of adoption of this Report; and**
4) **Office of the Auditor General should progressively review and report on the matter in the subsequent Financial Years.**

2.8 Payments Made Outside the Integrated Financial Management Information System

Bank statements for development and recurrent accounts operated at the Central Bank of Kenya reflected transfers of cash to departmental operations accounts totaling Kshs. 43,760,651. However, the transactions were not affected through the Integrated Financial Management Information System (IFMIS).
Consequently, the validity, accuracy and completeness of the payments made outside IFMIS totaling Kshs. 43,760,651 in the year under review could not be confirmed.

Management Response
The Management submitted that that the payments totaling to Kshs. 43,760,651 made outside the IFMIS were grants, operations and maintenance funds to departments as detailed below:

i. Homabay County Vocational Support Grant Account Kenya Commercial Bank Homabay Branch A/c No. 1233231693 – Kshs. 17,581,649
ii. Homabay County ASDSP II Account Kenya Commercial Bank Homabay Branch A/C No. 12339144715- Kshs. 13,179,002
iii. Homabay County, UIG Account Kenya Commercial Bank Homabay Branch A/c No. 12599560562- Kshs. 13,000,000

It was a requirement by donors and development partners, that the projects funded by these funds should open and operate local special purpose bank accounts for the purpose of disbursement and accounting for the projects' funds. The donor funds and grants are normally credited to County Revenue Funds accounts at the Central Bank of Kenya. Subsequently, the County Treasury seeks for approval of transfer of these funds from the Office of Controller of Budget in order to transfer the funds to respective special purpose Accounts held at the CBK according to budget and approved work plans.
The respective departments make requisitions for funds upon approval from the departments. The requisitions are processed using vote books in the IFMIS system.
Afterwards, the requisitions are transmitted to the Internet Banking (IB) platform from where the funds are transferred from Central bank special purpose account to the projects' Special purpose local bank accounts. Thereafter, the payments are done with supported payments vouchers and other related documented evidence.

Committee Observations
The Committee noted that the county entity had made payments outside the IFMIS system contrary to Section 12 of the Public Finance Management Act, 2012. However, the conditions of the grants required the County to open accounts with commercial banks.

Committee Recommendations

The Committee recommends that the County CEO should ensure that all payments are made on the Integrated Financial Management System (IFMIS).

2.9 Pending Accounts payables

Note 18 to the financial statements reflects Kshs. 314,867,512 in respect to opening account payables and a closing balance as at 30 June, 2020 totaling Kshs. 646,637,491. However, the opening balance excludes Kshs. 136,000,000 owed as at 30th June, 2019 under the contract for improvement of Kadongo-Gendia Road to bitumen standards.
As a result of the omission, the closing pending bills balance totaling Kshs. 646,637,491 as at 30 June, 2020 may not be fairly stated.
Further, the closing pending bills balance rose sharply relative to the previous year, suggesting that Management did not pay eligible old and new bills as advised by The National Treasury.

Management Response

The management acknowledged the auditor's observation that no works were done in the FY 2019-2020 on Kadongo-Gendia road. However, the pending bill of Kshs. 136,000,000 related to works done before 30th June 2018. A taskforce was formed and gazetted on 12th July 2019 vide gazette no. 6413 on the directive of the Senate and the National Treasury to audit the pending bills between the period of 2013 to 30th June 2018. The Kshs. 136,000,000 was approved by the taskforce on pending bills.

These pending bills were part of the pending bills approved by the taskforce committee in their report dated 30th September, 2019 on pages 39, 46, and 47.
The new administration was in receipt of various reports from different Government agencies on the status of Homa Bay County pending bills. The administration had received conflicting reports from the Office of the Auditor General (405m), office of the Controller of Budget (246m), pending bills handed over from the previous administration (848m), and pending bills reports from different departments (1.8 billion). To achieve clarity, through a cabinet resolution, a Pending Bills and Asset Verification Taskforce was constituted to reconcile these reports and work on a payment plan of the genuine pending bills.

Committee Observations

The Committee observed that;

1. the non-disclosure of the pending bill of Ksh. 136,000,000 for Kadongo-Gendia Road project resulted to an understatement of the pending bills of the County for Financial year under review.
2. the County Executive did not provide a status report on all its pending bills as prescribed by the Public Sector Accounting Standards Board. This could lead to inadequate disclosures of the pending bills;

Committee Recommendations

The Committee therefore recommends that:

1) **the National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate so as to enable county entities settle their obligations on time; and**
2) **the county executive puts in place measures to enhance own generated revenue in order to meet its revenue target and address revenue shortfalls that contribute to the challenge of pending bills.**
3) **Pending bills deemed ineligible should be forwarded to the Directorate of Criminal Investigation (DCI) for investigation proper legal action taken against those filing false claims.**
4) **County Government to take note of judgement in a Kitale High Court Constitutional Petition E003 of 2023 that declared formation of pending bills verification committees unconstitutional and engage Office of the OAG and strengthen the internal audit functions.; and**
5) **All valid pending bills that have been reviewed by the Office of the Auditor General be paid and a payment plan be submitted to the county assembly for approval and progress report on implementation sent to the Senate and the Office of the Controller of Budget.**

Other Matter

1.0 Budgetary Control and Performance

1.1 Receipts

Revenue records indicated that the County Executive realized receipts totaling Kshs.9,170,732,26 in the year under review, against Kshs.8,969,578,696 budgeted for, resulting to a surplus of Kshs.201,153.

Management Response
The Management submitted that financial statements were prepared on a cash basis and the surplus receipt of Kshs. 201,153 was attributable to the late disbursement of funds from the National Treasury in the previous financial year 2018/2019 and had to be accounted for in the financial year under review.

Committee Observation

The Committee noted that delays in receiving exchequer releases from the National Treasury and under-collection of own source revenue hindered optimal Program implementation and budget execution.

Committee Recommendations

The Committee recommends that:

1) The National Treasury should ensure timely release of funds to county

Governments in line with the cash disbursement schedules approved by the

Senate; and

2) The County executive puts in place measures to enhance its own generated Revenue in order to meet its revenue target and address revenue shortfalls.

1.2 Expenditure

The budgeted expenditure totaled Kshs.8,969,578,696 and actual expenditure Kshs.8,278,738,551 resulting to net under-expenditure of Kshs.690,840,145 or 8% of the budget.
The under-expenditure constrained the ability of the County Executive to implement planned projects and deliver services to the residents of Homa Bay County.

Management Response
The Management submitted that the under-expenditure was as a result of late disbursement of funds from the National Treasury.

Committee Observation
The Committee noted that the county entity experienced delay in exchequer releases from the National Treasury thereby hampering program implementation and budget execution.

Committee Recommendations
The Committee recommends that-

1) **the National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate; and**
2) **the County executive puts in place measures to enhance its own generated revenue in order to meet its revenue target and address revenue shortfalls.**

1.3 County Own-Generated Receipts

County-own generated revenues totaling Kshs.177,591,524 were budgeted for but actual collections were Kshs.274,595,613 resulting to a surplus of Kshs.97,004,089.

Management Response
The management stated that the increase in revenue was attributed to equipping of Homa Bay County Teaching and Referral Hospital with working MRI Unit. Also, a surgical unit was opened at Rachuonyo North Sub-County Hospital. Further, the County Government increased the budget for medical drugs which consequently led to increase in revenue.

Committee Observations
The Committee observed that the County executive realized an increase in own source revenue collection.

Committee Recommendation

The Committee recommends that the County should map out all potential revenue streams and set realistic revenue targets.

1.4 Nil Revenue Collection on Eleven Items

Examination of revenue records indicated that eleven (11) revenue streams through which Management had budgeted for receipts totaling Kshs.3,046,816 in the year under review recorded nil balances. These included lease charges, nursery school fees, sale of tender documents, inspection fees, liquor licensing and conservancy fees, among others. The underperformance suggested that Management may not have established effective means to collect revenue under these items.

Management Response

The management submitted that there was an anomaly at the point of budgeting and this was corrected in the supplementary budget and the following revenue streams were adjusted due to the reasons tabulated below;

Revenue Stream	Reason for adjustment
Liquor license	Liquor licensing fund was established under the Homabay County Alcoholic Drinks Control Act, 2015 and a separate financial statement prepared
Forestry permit fees (Certificate of original & movement of forest products)	Under national government hence not collectable by the County Government.
Sewerage bill	Under HOMAWASCO which is semi-autonomous agency
Conservancy Fees/Wildlife Grants	Under national government hence not collectable by the County Government.
Survey/sub-division Fees	Under national government hence not collectable by the County Government.
Nursery School Fees	The County Government does not charge Nursery School Fees.
Registration of Groups/ Schools/ Renewals	Under national government.

Sale of Tender Document

The procurement department had digitalized the tendering process where all tender documents were downloaded online hence no revenue collection realized since the documents can be downloaded online at no fee.

Fire inspection Fees and Hire of Open Spaces/ Social Facilities

The county government did not realize collection from the above two revenue streams due to the inadequate collection structures that were in place but moving forward plans were underway to effectively and efficiently streamline their collections.

However, the Management had enhanced management of revenue by the following measures;

i. Valuation of revenue streams to charge the right rates- the management had begun the process of procuring valuation roll to map all the revenue streams and establish the right revenue rates.
ii. Digitization of Revenue Collection where the County Government has gone cashless for all revenue streams collection.
iii. Establishment of the Homa Bay County Revenue Board to administer the revenue collection.
iv. Institution of a monthly Revenue Round table for key stakeholders to review and plan revenue administration.
v. Procuring new automated revenue collection and management system to provide automated support in revenue collection and management.

The above measures had begun to bear fruits as evidenced in the recent revenue collection reports.

Committee Observations

The Committee noted that the County executive:

1. did not fully disclose its own source revenue receipts during the financial year; and
2. had not updated its valuation roll.

Committee Recommendations

The Committee recommends that;-

1. **the County Executive should disclose all their revenue sources and total amounts collected;**
2. **put in place measures to enhance collection of their own source revenue to meet their target;**
3. **the County executive should expedite updating of valuation roll in accordance with Section 3 of the Valuation for Rating Act CAP 266 so as to reflect current market values for optimal revenue collection and comply with the guidelines of the Public Sector Accounting Sector Boards of reporting in the FY 2023/2024; and**
4. **automate and map out all potential revenue streams and set realistic revenue targets.**

2.0 Delayed Exchequer Receipts

Note 1 to the financial statements reflects exchequer releases totalling Kshs.7,231,797,300 out of which Kshs.1,676,842, 500 were for the previous (2018/2019) financial year received in the year under review. The balance includes Kshs.1,070,112,000 received in the last week of June, 2020, as indicated in the table below:

Received Date	Reference Number	Details	Amount (Kshs.)
05 July, 2019	FT191186349T8	Exchequer issue	535,056,000
05 July, 2019	FT191186M42JC	Exchequer issue	535,056,000
	Total		**1,070,112,000**
24 June, 2020	FT20176BZHJ5	Exchequer issue	606,730,500
	Total		**1,676,842,500**

Other records indicated that Kshs.579,764,700 of the year's budgeted funds were released by The National Treasury on 5 August, 2020.
The late receipt of budgeted funds resulted in delay in implementation of planned programmes and activities and denied the County residents access to goods and services expected in the year under review.

Management Response
The management concurred with the auditor's observation that delay in release of funds from the National Treasury denied County residents access to goods and services as budgeted.

Committee Observation
The Committee observed that there was non-implementation of budgeted projects by the County Executive during the year due to late exchequer releases by the National Treasury. The delay in projects implementation will deny the county residents the required service delivery accruing from those projects.

Committee Recommendation
The Committee recommends that the National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

1.0 Unsatisfactory Implementation of Projects

1.1 Failure to implement Budgeted Projects

The Projects Implementation Status Report as at 30 June, 2020 indicated that forty- six (46) projects valued at Kshs. 186,249,288 contracted out for implementation in the year under review had not started as at 30 June, 2020, as indicated in Appendix 1 to this report.

As a result, the residents of Homa Bay County did not obtain the benefits they had been promised the projects would provide to them.

Management Response

The management stated that the projects were not implemented due to delay in release of funds from the National Treasury. However, the projects were re- budgeted for in the subsequent financial years and some are now complete and operational as tabulated;

Completed Projects

Project Activity		Budget	Management Response
1.	Installation of Solar Lights in the County	20,000,000	In the financial year under review, the project was not implemented due to delay in release of funds from the National Treasury. However, in the subsequent financial years, this project was prioritized, done and completed in 8 sub-counties. However, the management faces the challenge of vandalism. To mitigate against vandalism, the management has resolved to procure solar lights that have inbuilt batteries, and to erect razor wires around the poles. Also, the management intends to provide for maintenance budget in the subsequent financial years.
2.	Delineation of Urban Areas	13,000,000	In the financial year under review, the project was not implemented due to delay in release of funds from the National Treasury. However, the project was re-budgeted in the subsequent financial Years and five urban areas (Ndhiwa, Oyugis, Mbita, Kendu bay, and Homa Bay) have since been delineated and further been classified and gazette at a cost of kshs. 2,500,000.
3.	Drilling of Angiya Borehole	2,972,475	The project was implemented under ward-based projects, FY 2019/2020. The contractor was to drill and equip the borehole with a solar system and construct a water kiosk at a cost of kshs. 2,972,475. The works were done; however, the borehole is dry.

4.	Drilling of Apuoche Borehole	2,972,475	Implemented under wards-based projects FY 2019/2020. The contract was awarded to Liab Business Solution Ltd. The contractor was to drill and equip the borehole with a solar system and construct a water kiosk at a cost of kshs. 2,972,475. The contractor drilled and capped the borehole.
5.	Distribution of water from Mitmeda Borehole	2,200,000	The project was implemented under ward-based projects in FY 2019-2020. The contractor was to construct two water kiosks at Kokwanyo Health centre and Kokwanyo secondry school and connect them with pipeline from borehole drilled and fitted with solar pumping system by Kabondo Kasipul CDF. The contractor constructed the two water kiosks.
6.	Drilling of Kital Borehole	2,975,897	The project was also implemented under ward-based projects FY 2019/2020. The contractor was to do test pumping, installation of solar pump and pipeline extension at a contract sum 2,975,897. The contractor equipped the borehole with solar pumping unit, a pipeline and water kiosk.
7.	Drilling of Kigenya Borehole	2,973,836	The project was implemented under ward-based FY 2019/2020. The contractor was to drill and equip the borehole with solar at a cost of Ksh. 2,973,836. The contractor drilled and capped the borehole in front of the old water tank.
8.	Drilling of Rapedhi Borehole	3,365,267	The project was also implemented under ward-based projects FY 2019/2020. The contractor was to drill and equip the borehole with solar pumping unit at a cost of Ksh. 2,972,475. All the works were done as per the contract and the project is in use.
9.	Construction of Shooting Range Box Culvert	3,764,670	In the financial year under review, the project was not implemented due to delay in release of funds from the National Treasury. However, the Project was completed satisfactorily.

10.	Grading and gravelling of Wirakuom-Ochuoga-Kanyangasi	1,390,956	In the financial year under review, the project was not implemented due to delay in release of funds from the National Treasury. However, this project has since been awarded to Branrich Ltd who has since completed the works as supported award letters and other evidences. The road is in use.
11.	Grading and gravelling of Yago-Kiseke Rd	2,020,000	In the financial year under review, the project was not implemented due to delay in release of funds from the National Treasury. However, the project was awarded to Raynmaya Ltd who has since completed the works.
12.	Grading and gravelling of Simbi-Paul Mboya School Road	2,377,597	In the financial year under review, the project was not implemented due to delay in release of funds from the National Treasury. However, the Project was completed satisfactorily and currently under routine maintenance.
13.	Construction of Kilusi Dispensary	4,950,760	In the financial year under review, the project was not completed due to delay in release of funds from the National Treasury and had stalled. However, the project was prioritized in the subsequent financial years. The project was completed and in use.
14.	Construction of Sena Level 4 hospital	3,712,809	In the financial year under review, the project was not completed due to delay in release of funds from the National Treasury and had stalled. However, the project was prioritized in the subsequent financial years and was complete and in use.
15.	Construction of a new ECDE	1,543,425	In the financial year under review, the project was not implemented due to delay in release of funds from the National Treasury and was not prioritized in the subsequent financial years. However, the projects will be prioritized in the subsequent financial years.

	Classroom at Waringa		

1. Ongoing Projects

Project Activity		Budget	Management Response
1.	Construction Works at Akuba Fish Market	5,970,824	In the financial year under review, the project was not implemented due to delay in release of funds from the National Treasury. However, the project was re-budgeted in the subsequent financial years and works are ongoing awaiting installation of three-phase transformer by the KPLC to ensure the market is put in use.
2.	Kenya Informal Settlements Improvement Programme	5,000,000	Mapping of the target urban areas ongoing in Kendu Bay and Ndhiwa towns

2. Projects to be Prioritized in the Subsequent Financial Years

Project Activity		Budget	Management Response
1.	Drilling of Olweya Ratanga Borehole	2,972,475	Project Implemented under ward-based projects FY 2019/2020. Hydrogeological survey was done and the site for drilling pegged. However, the project stalled at that point.
2	Construction of a new ECDE Classroom at Kijawa	1,790,400	In the financial year under review, the project was not implemented due to delay in release of funds from the National Treasury and was prioritized in the subsequent financial years. The project is stalled and will be reevaluated for prioritization in the subsequent financial years.

3.	Construction of Ward Administrator 's Office at Sori-Kabondo	4,620,003	In the financial year under review, the project was not completed due to delay in release of funds from the National Treasury and had stalled. However, the project will be prioritized in the subsequent financial years.
4.	Construction of Ward Administrator 's Office at Dol Kodera	4,620,003	In the financial year under review, the project was not completed due to delay in release of funds from the National Treasury and had stalled. However, the project will be prioritized in the subsequent financial years.
5.	Construction of Ward Administrator 's Office at Imbo	4,620,003	In the financial year under review, the project was not completed due to delay in release of funds from the National Treasury and had stalled. However, the project will be prioritized in the subsequent financial years.
6.	Construction of ward administrator 's Office at Mariwa-Kanyadoto	4,620,003	In the financial year under review, the project was not completed due to delay in release of funds from the National Treasury and had stalled. However, the project will be prioritized in the subsequent financial years.
7.	Construction of ward administrator 's Office at Kitare-Gembe	4,620,003	In the financial year under review, the project was not completed due to delay in release of funds from the National Treasury and had stalled. However, the project will be prioritized in the subsequent financial years.
8.	Construction of Ward administrator 's Office at Kitawa Market	4,620,003	In the financial year under review, the project was not completed due to delay in release of funds from the National Treasury and had stalled. However, the project will be prioritized in the subsequent financial years.
9.	Construction of Ward Administrator 's Office at Ndiru	4,620,003	In the financial year under review, the project was not completed due to delay in release of funds from the National Treasury and had stalled. However, the project will be prioritized in the subsequent financial years.
10.	Construction of Amoyo Dispensary	4,289,645	In the financial year under review, the project was not completed due to delay in release of funds from the National Treasury and had stalled at the lintel level. However, the

			project will be prioritized in the subsequent financial years.
11.	Construction of Minyere Dispensary	4,195,361	In the financial year under review, the project was not completed due to delay in release of funds from the National Treasury and had stalled at the walling level with no fence, gate, and toilets. However, the project will be prioritized in the subsequent financial years.
12.	Construction of Nyawawa Dispensary	2,484,275	In the financial year under review, the project was not completed due to delay in release of funds from the National Treasury and had stalled. However, the project will be prioritized in the subsequent financial years.
13.	Construction of Masogo Dispensary	1,954,194	In the financial year under review, the project was not completed due to delay in release of funds from the National Treasury and had stalled. However, the project will be prioritized in the subsequent financial years.
14.	Construction of Ponge Structure	3,681,260	The contract was awarded but the contractor failed to go to site. It has since been re-awarded to Kabadere Ventures and works are stalled. No expenditure had been made by the time of appearance before the Committee.
15.	Construction of Anyuongi Health Centre	4,025,095	In the financial year under review, the project was not completed due to delay in release of funds from the National Treasury. However, the project will be prioritized in the subsequent financial years.
16.	Construction of Selemia Ochieng Dispensary	4,262,200	In the financial year under review, the project was not completed due to delay in release of funds from the National Treasury. However, the project will be prioritized in the subsequent financial years.
17	Construction of a new ECDE Classroom at Waregi	1,462,482	In the financial year under review, the project was not completed due to delay in release of funds from the National Treasury and was not prioritized in the subsequent financial years. The works stalled at 60% awaiting roofing and finishes. However, the project will be prioritized in the subsequent financial years.

18	Construction of a new ECDE Classroom at Oriwo	1,780,307	In the financial year under review, the project was not implemented due to delay in release of funds from the National Treasury and was not prioritized in the subsequent financial years. The project stalled at 20% at the foundation level with no slab. However, this project will be prioritized in the subsequent financial years.
20	Construction of a new ECDE Classroom at Kibuogi in Kaksingri	1,796,562	In the financial year under review, the project was not implemented due to delay in release of funds from the National Treasury and the contractor left materials on site. However, the projects will be prioritized in the subsequent financial years.
21	Construction of a new ECDE Classroom at Nyadenda	1,796,562	In the financial year under review, the project was not implemented due to delay in release of funds from the National Treasury and the contractor left materials on site. However, the projects will be prioritized in the subsequent financial years.
22	Construction of a new ECDE Classroom at Kogela Kalanya	2,182,366	In the financial year under review, the project was not implemented due to delay in release of funds from the National Treasury and the contractor left materials on site. However, the projects will be prioritized in the subsequent financial years.
23	Construction of a new ECDE Centre Classroom at Nyakasera	1,543,425	In the financial year under review, the project was not implemented due to delay in release of funds from the National Treasury and were not prioritized in the subsequent financial years at remained at 80% completion awaiting finishes. However, the projects will be prioritized in the subsequent financial years.
24	Acquisition of Land for Dumpsite	6,000,000	In the financial year under review, the project was not implemented due to delay in release of funds from the National Treasury
25	Wadhbuoch Box33 Culvert	5,540,105	In the financial year under review, the project was not completed because the contractor abandoned site.

26	Construction of Samakera Dispensary	2,000,000	In the financial year under review, the project was not completed due to delay in release of funds from the National Treasury. However, the project was prioritized in the subsequent financial years but stalled.

Committee Observation

The Committee observed that there was non-implementation of budgeted projects by the County Executive during the year due to;

1) Lack of proper project conceptualization and implementation; and
2) late exchequer releases by The National Treasury; and
3) Under-collection of own source revenue.

Committee Recommendation

The Committee recommends that:

1) **the National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate;**
2) **the County executive puts in place measures to enhance its own generated revenue in order to meet its revenue target and address revenue shortfalls;**
3) **the County Executive to establish a project implementation, monitoring and evaluation team provide periodic project status; and**
4) **the county executive should undertake proper project conceptualization, planning and execution to ensure timely completion of projects as well as realization of value for money.**

1.2 Uncompleted Projects

Further, examination of the Projects Implementation Status Report revealed that forty-seven projects with an aggregate budget of Kshs. 225,810,131 scheduled for completion by 30 June, 2020 were not completed. Payments totaling Kshs. 105,570,505 had been made to the respective contractors as at 30 June, 2020, as summarized in Appendix II.

Management Response

1. Completed Projects and in Use

Project Name		Amount	Remarks by management
1.	Homa Bay Municipal Market Phase II	49,875,800	In the financial year under review, the project was not completed due to delay in release of funds from the National Treasury and was prioritized in the subsequent

			financial years. The project is now complete and in use.
2.	Grading and Gravelling of Mfangano Ring Road	18,259,890	In the financial year under review, the project was not completed due to delay in release of funds from the National Treasury and was prioritized in the subsequent financial years. The project is now complete (36 km) and in use.
4.	Construction of a New ECDE Classroom at Mwamba	1,006,710	In the financial year under review, the project was not completed due to delay in release of funds from the National Treasury and was prioritized in the subsequent financial years. The project is now complete and in use.
9.	Construction of a New ECDE Classroom at Ochunyo	750,000	In the financial year under review, the project was not completed due to delay in release of funds from the National Treasury and prioritized in the subsequent financial years and completed and in use.
10.	Construction of a New ECDE Classroom at Umayi	717,587	In the financial year under review, the project was not completed due to delay in release of funds from the National Treasury and was prioritized in the subsequent financial years. The project is now complete and in use.

11.	Construction of a New ECDE Class room at Ogango	682,206	In the financial year under review, the project was not completed due to delay in release of funds from the National Treasury and was prioritized in the subsequent financial years. The project is now complete and in use.
12.	Construction of a New ECDE Class room at Agoro Sare	341,175	In the financial year under review, the project was not completed due to delay in release of funds from the National Treasury and was prioritized in the subsequent financial years. The project is now complete and in use.
13.	Construction of a New ECDE Class room at Otaro	300,000	In the financial year under review, the project was not completed due to delay in release of funds from the National Treasury and was prioritized in the subsequent financial years. The project is now complete and in use.
14.	Construction of a New ECDE Classroom at Lieta Kabunde	600,000	In the financial year under review, the project was not completed due to delay in release of funds from the National Treasury and was prioritized in the subsequent financial years. The project is now complete and in use.
15	Construction of Magoma Structure	800,000	In the financial year under review, the project was not completed due to delay in release of funds from the National Treasury and was prioritized in the subsequent financial years. The project is completed and in use.

16.	Construction of Njeri- Sare Drainage	850,000	In the financial year under review, the project was not completed due to delay in release of funds from the National Treasury and was prioritized in the subsequent financial years. The project is now complete and in use.
17.	Construction of Koliech Box Culvert and approaches	630,000	In the financial year under review, the project was not completed due to delay in release of funds from the National Treasury and was prioritized in the subsequent financial years. The project is now complete and in use.
18.	Grading and gravelling of Kawaindia Gaka-Nyandiwa Road	600,000	In the financial year under review, the project was not completed due to delay in release of funds from the National Treasury and was prioritized in the subsequent financial years. The project is now complete and in use.
19.	Grading and gravelling of Nyatindo-Ojwando-Anyona Road	1,820,000	In the financial year under review, the project was not completed due to delay in release of funds from the National Treasury and was prioritized in the subsequent financial years. The project is now complete and in use.
20.	Grading and Gravellin g of Kosiare-Kanga Road	800,000	In the financial year under review, the project was not completed due to delay in release of funds from the National Treasury and was prioritized in the subsequent financial years. The project is now complete and in use.

21.	Grading and Gravelling of Ragwe-Obawa-Onjinyo Road	2,600,000	In the financial year under review, the project was not completed due to delay in release of funds from the National Treasury and was prioritized in the subsequent financial years. The project is now complete and in use.
22.	Grading and gravelling of Ongukwa-Kona Kogelo-Ligongo Road	600,000	In the financial year under review, the project was not completed due to delay in release of funds from the National Treasury and was prioritized in the subsequent financial years. The project is now complete and in use.
23	Construction of Kichawa Health Centre	600,000	In the financial year under review, the project was not completed due to delay in release of funds from the National Treasury. However, the project was prioritized in the subsequent financial years and is now complete.
24	Construction of Wiga Dispensary	600,000	In the financial year under review, the project was not completed due to delay in release of funds from the National Treasury and had stalled. However, the project was prioritized in the subsequent financial years and is now complete and in use.
25	Construction of Oyombe Dispensary	600,000	In the financial year under review, the project was not completed due to delay in release of funds from the National Treasury and had stalled. However, the project was prioritized in the subsequent financial years and is now complete and in use.

26	Construction of Got Agulu Dispensary	600,000	In the financial year under review, the project was not completed due to delay in release of funds from the National Treasury and had stalled. However, the project was prioritized in the subsequent financial years and is now complete and in use.
27	Construction of Oriwo Health Centre	400,000	In the financial year under review, the project was not completed due to delay in release of funds from the National Treasury and had stalled. However, the project was prioritized in the subsequent financial years and is now complete and in use.
28	Construction of Adiedo Health Centre	600,000	In the financial year under review, the project was not completed due to delay in release of funds from the National Treasury and had stalled. However, the project was prioritized in the subsequent financial years and is now complete and in use.

2. Projects to be prioritized in the subsequent years

Project Name		**Amount paid to date**	**Remarks by management**
1.	Construction of a New ECDE Classroom at Ndwara	800,170	In the financial year under review, the project was not implemented due to delay in release of funds from the National Treasury and was not prioritized in the subsequent financial years. However, the project will be prioritized in the subsequent financial years.

2	Construction of a New ECDE Classroom at Kogonda	1,066,710	In the financial year under review, the project was not completed due to delay in release of funds from the National Treasury and was prioritized in the subsequent financial years. The project was at 80% completion rate awaiting internal finishes and board.
3	Construction of a New ECDE Classroom at Orero	830,000	In the financial year under review, the project was not completed and the works were at 80% awaiting plastering and finishes.
4	Construction of a New ECDE Classroom at Kamasi	823,042	In the financial year under review, the project was not completed and the works were at 80% awaiting paint works and fittings.
5	Construction of a New ECDE Classroom at Osika	800,170	In the financial year under review, the project was not completed due to delay in release of funds from the National Treasury and was prioritized in the subsequent financial years. The project is now at 80% completion.
6.	Construction of a New ECDE Classroom at Atemo	800,170	This project **was** at 90% completion awaiting paint works.
7.	Construction of a New ECDE Classroom at	681,290	The project was at 80% completion awaiting plastering and painting.

	Nyawino		
8.	Construction of a New ECDE Classroom at Rambim	677,240	In the financial year under review, the project was not implemented due to delay in release of funds from the National Treasury and was implemented in the subsequent financial years and was at 80% completion awaiting paint works.
9.	Construction of a new ECDE Classroom at Weta	620,417	This project was at 80% awaiting fittings of doors, windows and paint works.
10.	Construction of a New ECDE Classroom at Sero	500,000	The project was at lintel level awaiting roofing, fitting, plastering and paint works.
11.	Construction of a new ECDE Classroom at Kome	600,117	The project was at lintel level awaiting roofing, fitting, plastering and paint works.
12	Construction of a New ECDE Classroom at Wikoteng	750,000	The project was at the roofing level awaiting plastering and paint works.
13	Construction of a New ECDE Classroom at Wiodielo	800,000	The project was at (60%) lintel level awaiting roofing, fitting, plastering and paint works.

14	Construction of a New ECDE Classroom at Longo	700,000	The project was at (60%) lintel level awaiting roofing, fitting, plastering and paint works.
15.	Construction of a new ECDE Classroom at Rangenya	700,000	The works stalled at window level (45%)
16.	Construction of a New ECDE Classroom at Yiembe	720,000	The project was at (60%) lintel level awaiting roofing, fitting, plastering and paint works.
17.	Construction of a New ECDE Classroom at Abuoro	840,000	This project was at 90% completion awaiting glazing and paint works.
18.	Construction of a New ECDE Classroom at Bondo	600,000	This project was at 80% awaiting plastering, glazing and paint works.
19.	Construction of a new ECDE Classroom at Osani	600,000	The works stalled at window level (45%)

20.	Construction of Mkende Dispensary	600,000	In the financial year under review, the project was not completed due to delay in release of funds from the National Treasury and had stalled. However, the project will be prioritized in the subsequent Financial years.
21.	Construction of Manga Dispensary	600,000	In the financial year under review, the project was not completed due to delay in release of funds from the National Treasury and had stalled. However, the project will be prioritized in the subsequent financial years.
22.	Construction of Nyambare Dispensary	600,000	In the financial year under review, the project was not completed due to delay in release of funds from the National Treasury and had stalled. However, the project will be prioritized in the subsequent financial years.
23.	Construction of Gendo Dispensary	600,000	In the financial year under review, the project was not completed due to delay in release of funds from the National Treasury and had stalled. However, the project will be prioritized in the subsequent financial years.
24.	Construction of Samakera Dispensary	600,000	In the financial year under review, the project was not completed due to delay in release of funds from the National Treasury and had stalled. However, the project will be prioritized in the subsequent financial years.

25.	Construction of Ringa Health Centre	600,000	In the financial year under review, the project was not completed due to delay in release of funds from the National Treasury and had stalled. However, the project will be prioritized in the subsequent financial years.
26.	Construction of Wagwe Health Centre	600,000	In the financial year under review, the project was not completed due to delay in release of funds from the National Treasury and had stalled. However, the project was prioritized in the subsequent financial years and was completed and in use.
27.	Constuction of Msare Dispensary	600,000	In the financial year under review, the project was not completed due to delay in release of funds from the National Treasury and had stalled pending interior plastering. However, the project will be prioritized in the subsequent financial years.
28.	Construction of Adita Dispensary	600,000	In the financial year under review, the project was not completed due to delay in release of funds from the National Treasury and had stalled. However, the project will be prioritized in the subsequent financial years.
29.	Construction of Pala Kakumu Health Centre	600,000	In the financial year under review, the project was not completed due to delay in release of funds from the National Treasury and had stalled. However, the project will be prioritized in the subsequent financial years.

30	Construction of Kuge Health Centre	600,000	In the financial year under review, the project was not completed due to delay in release of funds from the National Treasury and had stalled. However, the project will be prioritized in the subsequent financial years.
31	Construction of Ngeta Dispensary	600,000	In the financial year under review, the project was not completed due to delay in release of funds from the National Treasury and had stalled. However, the project will be prioritized in the subsequent financial years.
32.	Construction of Nyaruenya Health Centre	900,000	In the financial year under review, the project was not completed due to delay in release of funds from the National Treasury and had stalled. However, the project will be prioritized in the subsequent financial years.
33.	Construction of Kobino Jakafuata Structure	600,000	The project was awarded to a contractor who did not manage to complete the works. An interim certificate was honored corresponding to the works achieved The remaining works have been procured and re-awarded to Jubex Enterprises Ltd.
34	Grading and Gravelling of Nyakwere-Chuowe Rd	11,113,366	In the financial year under review, the project was not completed due to delay in release of funds from the National Treasury and was prioritized in the subsequent financial years. The project was done to completion (3kms). However, the road has since

			been damaged by sand harvesters.

Committee Observation

The Committee observed that there was non-implementation of budgeted projects by the County Executive during the year due to;

1) Lack of proper project conceptualization and implementation; and
2) late exchequer releases by The National Treasury; and under-collection of own source revenue.

Committee Recommendation

The Committee recommends that;

1) **the National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate;**
2) **the County executive puts in place measures to enhance its own generated revenue in order to meet its revenue target and address revenue shortfalls;**
3) **the County Executive to establish a project implementation, monitoring and evaluation team to provide periodic project status;**
4) **the county executive should give priority to ongoing projects before commencing new projects to ensure there is value for money already expended; and**
5) **the county executive should undertake proper project conceptualization, planning and execution to ensure timely completion of projects as well as realization of value for money.**

1.3 Stalled Projects

The Project Status Report as at 30 June, 2020 further indicated that the following two (2) projects approved for implementation in the 2014/2015 financial year had since stalled.

1.3.1 Construction of Animal Feeds Factory at Arujo

As previously reported, the County Government contracted a firm to build an animal feeds factory and stores at Arujo in the financial year 2014/2015. The contract was valued at Kshs. 45,160,064 and was to be implemented in eight months from 28 April, 2015 to 31 December, 2015. However, examination of the contract documents and physical verification of the project site in October, 2020, revealed the following unsatisfactory matters:

i. The works had not been completed even though the contract period had expired more than five years earlier. Only the substructure and superstructure works had been done.
ii. The contractor was not at the project site, which appeared to have long been abandoned.
iii. Further, the project's budgetary allocation totaling Kshs. 27,300,000 in the year under review was not utilized.

In view of the delay in completing the project, the benefits it was expected to provide to farmers and other stakeholders in the County have not been realized.

Management Response

The management agreed with the audit findings on the contract for the construction of Animal Feeds Factory at Arujo and stated that it was awarded to Carolina construction company limited during the FY 2014/2015 and was to be completed within 8(eight months) from the time of contract signing.

However, that did not take place as the contractor was not able to complete the project in record time and requested for extension of time citing reasons for the same. Major reason was due to mass excavation not anticipated during designs leading to variations that later surpassed allowable 25% as per the PPAD Act 2015. It was therefore agreed that the project be terminated at the ring beam level and roofing and other related works be treated as a new tender.

The contract for completion had been awarded and the contractor was on site.

Committee Observations

The Committee noted that

1) The works had not been completed even though the contract period had expired more than five years earlier. Only the substructure and superstructure works had been done.
2) The contractor was not at the project site, which appeared to have long been abandoned.
3) the project's budgetary allocation totaling Kshs. 27,300,000 in the year under review was not utilized.

Committee Recommendations

The Committee recommends that

1) **the County Executive to put in place measures to ensure the project is completed and submit a status report 60 days from the adoption of this report .**
2) **the county executive should undertake proper project conceptualization, planning and execution to ensure timely completion of projects as well as realization of value for money.**
3) **The Auditor General to monitor the project in the subsequent audit cycle.**
4) **The EACC to investigate the project valued at Kshs. 45,160,064 from inception and recommend prosecution in the event of loss of public funds.**

1.3.2. Construction of Kenya Medical Training College at Sindo

Management in the year 2015/2016 awarded a contract for construction of classrooms, an office and an ablution block at Kenya Medical Training College at Sindo in Suba North at a contract sum of Kshs.18,650,109. The project was to be executed in eight (8) weeks starting from 18 October to 5 December, 2016. Documents provided for audit indicated that Management paid the contactor Kshs.9,646,565 in 2017/2018 financial year. However, physical verification of the project site in October, 2020 revealed that the works were abandoned at 45% level of completion.

In addition to denying potential learners and residents services and other benefits, the stalled project may result in waste of public funds.

Management Response

The management concurred with the auditor that the construction of Kenya Medical Training College at Sindo was at 45% level of completion at the time of Audit. However, the County Government of Homabay had made effort to reach the contractor and he went back on site and did the grills and windows.

The management was considering proposal to fully revert the construction of the facility to the National Government.

Committee Observations

The Committee noted that the County Executive spent significant funds to undertake a function assigned to the National Government under the Fourth Schedule to the Constitution without prior agreement with the National Government as anticipated under Article 187 (1) of the Constitution.

The Committee further noted that there was no value for money from the project, in violation of Section 72 (1) of the Public Finance Management Act, 2012.

Committee Recommendations

The Committee recommends that the County Executive:

1) **ensures that it only undertakes functions assigned to county governments under the Constitution; and**
2) **engages the National Government with a view to having the project completed by the National Government, either directly or through the respective National Government Constituency Development Fund.**

1.4 Other Unsatisfactory Projects Works

1.4.1 Conversion of Blood Bank into an Intensive Care Unit at Homa Bay County Referral Hospital

Expenditure records indicated that Kshs.5,847,020 was paid to a contractor to convert part of the Homa Bay County Referral Hospital Blood Bank into an Intensive Care Unit (ICU) under a contract valued at Kshs.11,841,316.

The contract was awarded through Request for Quotations procedure contrary to Section 91(1) of Public Procurement and Asset Disposal Act, 2015 which prescribes

open tendering as the preferred procurement method for procurement of goods, works and services. Therefore, Management may have breached the law.
An audit verification done in October, 2020 confirmed that the County Government did not have trained personnel to operate the specialized ICU equipment installed at the Centre. As a result, the expenditure totalling Kshs.11,841,316 budgeted for the project may not be spent in an effective way.

Management Response
The management agreed with the auditor on this issue. Due to corona pandemic and the need to save lives of the citizens, the management decided to move with speed since the tendering process could take long as compared to request for quotation due to exigency of the pandemic.
The management further concurred with the auditor that at the time of the audit the ICU Equipment were installed and there were no qualified staffs employed. However, when the building was completed and equipment fully installed, the management employed qualified technical staff to run the facility. At the time of appearance, the ICU had four operational beds that were well equipped.

Committee Observation
The Committee observed that the County Executive breached Section 91(1) of Public Procurement and Asset Disposal Act, 2015 which prescribes open tendering as the preferred procurement method for procurement of goods, works and services.

Committee Recommendation
The Committee recommends that:

1) **the administrative action be taken against responsible officer(s) for breach of Section 91(1) of Public Procurement and Asset Disposal Act, 2015;**
2) **the county executive takes measures to operationalize the facility; and**
3) **the County Executive to establish a project implementation, monitoring and evaluation team to provide periodic project status.**

1.4.2 Irregularities and Poor Quality Work in Construction of Classrooms at Ondiwa Gamba Primary School

Records on acquisition of assets expenditure indicated that Kshs.1,066,710 was spent on construction of Early Childhood Education (ECDE) classrooms at Ondiwa Gamba Primary School at a contract sum of Kshs.1,780,307. However, physical verification on 21 October, 2020 revealed the following anomalies:

a) The walls were weak ostensibly due to the improper mixture of cement and sand used to build the embedded bricks, contrary to specifications in the Bill of quantities;
b) The Chief Officer Roads, Transport and Public Works in a letter dated 26 May, 2020 requested the Chief Officer, Ministry of Education to pay the contactor the 1st interim certificate amounting to Kshs. 1,066,710 citing attachments which included Bills of Quantities, contractor's letter of request for payment and the Inspection Report. However, audit examination of the Inspection and Acceptance Committee Report indicated that it was signed on 30 June, 2020.

Therefore, the basis and validity of the payment recommended by the Engineer on 26 May, 2020 was not clear.

c) The mortar used on the walls would peel-off by mere scratching and further, part of the wall had collapsed both indicators of low-quality workmanship.

In view of these issues, the regularity and value for money on the payment amounting to Kshs. 1,066,710 made in respect to the contract in the year under review could not be confirmed.

Management Response

The management concurred with the auditor's observation that works at Ondiwa Gamba ECDE were poorly done. The department had written to the Contractor in April 2022 to go back to site and rectify the defects. However, the contractor did not comply and the management was in the process of terminating the contract.

Committee Observation

The Committee noted that the matter has since been addressed.

Committee recommendation

The committee recommends that the matter be marked as resolved.

1.4.3 Lingering Delay in Construction of Maize Processing Plant

The acquisition of assets records indicated that a contractor was hired to build a maize processing plant at Kigoto-Suba North Sub-County in the 2014/2015 financial year at a contract sum of Kshs.12,940,392. The contract was expected to be executed in six (6) months from July to December, 2015 but had not been completed six years later as at 30 June 2020. Payments totalling Kshs.11,550,395 were made in the financial year under review.

Physical verification conducted in October, 2020 noted the slow pace of construction in spite 89% of the contract sum having been paid to the contractor. No records were provided to confirm the level of project completion attained. Management did not provide a satisfactory explanation for the delay in completion of the project.

In view of the delay, the benefits expected to have been received by farmers and other stakeholders in the County have not been realized.

Management Response

The construction of the Maize milling plant was initially awarded on 24th June 2015 at a tender sum of 12,940,392 and for a period of Six months.

The physical verification was conducted in October 2020, at that time there was minimal activity on site. However, the project has since been completed and the plant is operational.

Committee Observation

The Committee noted that:

1. there was a delay in the completion of the project beyond the contract period; and
2. the county executive had made payments of up to 89% of the contract price for works that had not been certified. This could lead to loss of funds;

Committee Recommendations

The Committee recommends that—

1. **The payment of project works should only be done for certified works so that the County does not incur wasteful expenditure due to incomplete works;**
2. **the County Executive should put in place proper project monitoring systems to ensure projects are implemented as per specifications and within the contract period; and**
3. **the Auditor General reviews the matter to ascertain project completion and utilization in the subsequent financial year.**

1.4.4 Slow Pace of Work in Construction of Homa Bay Stadium

Project records indicated that Kshs.123,537,869 had as at 30 June, 2020 been paid to a contractor for the construction of Homa Bay County Stadium. The respective contract was awarded in the previous financial year at Kshs.369,781,250 and entailed construction of the main works, a main pavilion and western wing. The contract agreement was signed on 20 June, 2019 and the commencement date set for 5 July, 2019 for execution in 78 weeks to 1 January, 2021. However, the following anomalies were noted in respect to implementation of the contract:

A cost variation was made to include construction of an underground water tank. However, the variation was not quantified.

i. Supervision of the project was shortly after commencement handed over to the National Government. However, the terms and conditions of the handover were not provided for audit review.
ii. The project's Bills of Quantities were not provided for audit review.
iii. Payments totalling Kshs.123,537,869 were made to the contractor in the year under review and as a result, the approved budget allocation totalling Kshs.120,329,509 was irregularly exceeded by Kshs.3,208,360.
iv. Audit verification in the month of October, 2020, revealed that the works were behind schedule and were unlikely to be completed before the end of the contract period on 21 January, 2021.

In view of these issues, the regularity and value for money on the contract valued at Kshs.369,781,250 could not be confirmed.

Management Response

The management stated that the Proposed Construction of Homa bay County Stadium was as follows;

	Description	**Remarks**
1	Initial contract period	78 weeks
2	Site Handover	21st June 2019
3	Commencement date	5th July 2019
4	Revised Completion date	30th April 2023
5	Period lapsed	182 weeks
6	% Period lapsed	233%

7	Initial contract sum	369,781,250
8	Revised contract sum	460,772,557.21
9	Amount certified to date	338,525,768
10	% Amount certified	73.5%
11	Work progress	80%

The above amounts excluded other works not in the current contract. The excluded scope of works was;

1. Completion of perimeter wall
2. Cabro-paved car park
3. Gate

At the time of appearance, the project was on course to be completed by end of April 2023 awaiting completion of the following remaining works;

i. Second trimming and compacting of the grass on the pitch
ii. Completion of the remaining 20% of internal electrical fittings
iii. Construction of standby generator and transformer room which is 40% complete
iv. Installation of sanitary water in toilets
v. Borehole drilling and equipping
vi. Final painting works on the pavilion walls
vii. Installation of sprinklers for grass on the pitch
viii. Cabling works for CCTV cameras
ix. Fixing of PVC chairs on VIP pavilion terraces

Committee Observation

The Committee noted that:

1. the contract was varied without adherence to the procedure stipulated under section 139 of the Public Procurement and Assets Disposal Act, 2015;
2. the conditions of the handing over of the project supervision to the National Government were not stipulated;
3. the expenditure on the project in the financial year was beyond what the County Executive had budgeted for; and
4. there was a delay in the completion of the project beyond the contract period.

Committee Recommendations

The Committee recommends that:

1. **the County Executive should prioritize completion of the project by providing adequate budget;**
2. **the County CEO to take administrative action against the responsible officer(s) who failed to provide documents to the Auditor General during time of audit in accordance to section 156 of the Public Finance Management Act, 2012 and provides a status report to the Auditor General within sixty(60) days from the adoption of this report;**
3. **the County Executive should put in place proper project implementation, monitoring and evaluation teams to give periodic status report on projects; and**

4. **the Auditor General reviews the matter to ascertain project completion and utilization in the subsequent financial year.**
5. **The EACC to carry out an investigation to ascertain whether the variation was lawful and whether all the project components were delivered as per contract.**

1.4.5 Completed Projects Not Put to Use

Expenditure records indicated that payments totalling Kshs. 25,503,916 were made to six (6) contractors for construction of dispensaries as detailed below:

	Project Name	Amount Paid	Status
1.	Construction of Outpatient Block at God Agak Dispensary	4,353,584	Not in use
2.	Construction of Outpatient Block at Ogwang Bware Dispensary	4,493,289	Not in use
3.	Construction of Rapogi Dispensary	4,408,520	Not in use
4.	Construction of Outpatient Block at Thuon Gweno Dispensary	4,060,862	Not in use
5.	Construction of Pedo Health Centre	4,235,000	Not in use
6.	Construction at Kilambo Dispensary	3,952,661	Not in use
	Total	**25,503,916**	

However, verification of the respective project sites in October, 2020 revealed that the projects were not put to use upon their completion. Therefore, the benefits they were expected to provide to the residents of Homa Bay County were not realized and as a result, no value for money was obtained on the expenditure totaling Kshs.25,503,916 spent on the projects.

Failure to utilize the projects contravened Section 162(2)(c)(i) of the Public Finance Management Act, 2012 which requires Accounting Officers to make adequate arrangements for proper use, custody, safeguarding and maintenance of public property.

Management Response

The management agreed with the Auditor that at the time of the audit the above listed projects were not in use. The management submitted that the status of those facilities at the time of appearance was as tabulated below;

Project Name	Amount Paid (Kshs.)	Status

1.	Construction of Outpatient Block at God Agak Dispensary	4,353,584	in use
2.	Construction of Outpatient Block at Ogwang Bware Dispensary	4,493,289	in use
3.	Construction of Rapogi Dispensary	4,408,520	Not in use
4.	Construction of Outpatient Block at Thuon Gweno Dispensary	4,060,862	Incomplete
5.	Construction of Pedo Health Centre	4,235,000	in use
6.	Construction at Kilambo Dispensary	3,952,661	Not in use
	Total	**25,503,916**	

Agak and Ogwang Bware Health Facilities were completed, and qualified personnel had been deployed to operationalize the facilities. Further, the management was working to ensure the remaining facilities were put in use in the subsequent financial years.

Committee Observation
The Committee noted that the matter has since been addressed.
Committee Recommendations
The committee recommends that the matter be marked as resolved.

1.4.6 Uncompetitive Award of Tender for Construction of God Nyango Box Culvert

Expenditures records indicated that the County Executive spent Kshs. 704,869,209 on construction of major roads, access roads and bridges in the year under review. The expenditure included Kshs. 7,016,260 spent on construction of God Nyango Box culvert awarded to a contractor in the previous financial year.
Review of the tender documents revealed that Management awarded the contract to the second (2) lowest bidder instead of the lowest bidder at Kshs. 4,942,470. As a result, savings of public funds totaling Kshs. 2,073,790, being the difference between the lowest bid and the contracted sum, were forfeited.
No plausible explanation was provided for the failure to award the tender to the lowest bidder.
Consequently, the propriety and value for money on the expenditure totaling Kshs. 7,016,260 incurred on the project could not be confirmed.

Management Response
The management responded that the bidder who quoted kshs. 4,942,470 was not awarded and the project was awarded to a bidder with the least evaluated quote of kshs.

7,016,260.M/s Ralu Investments Ltd, the bidder who quoted kshs. 4,942,470 did not meet the minimum requirements and was eliminated at the preliminaries and did not feature in the Financial Analysis report. Therefore, the lowest evaluated bidder was Mason Graphite ltd at Kshs. 7,016,260.

Committee Observation
The Committee observed that the matter has since been resolved as the county executive submitted the report of the evaluation committee to the auditor for verification.

Committee Recommendation
The Committee recommends that the matter be marked as resolved.

1.4.7 Unsatisfactory Execution of Covid-19 Mitigation Projects

Revenue records indicated that by the time of the audit in October 2020, the County Executive had received Kshs.170,825,535 for funding Covid-19 mitigation. The following unsatisfactory issues were noted in respect of Covid-19 funds spent in the year under review:

1.4.7.1 Renovated Kisegi Health Centre Not Put to Use

Procurement records indicated that a contract for renovation and alteration of Kisegi Health Centre was awarded at Kshs.8,804,288 and the contract agreement signed on 8 June, 2020. However, on 13 July, 2020 Management paid Kshs.7,264,972 to the contractor before the contractor submitted the Letter of Acceptance to undertake the contract. In addition, an audit inspection conducted on 28 October, 2020 revealed that the Centre was not put to use after the renovations were completed. Further, there was no record of qualified medical practitioners having been deployed at the Centre.

In the circumstance, Management breached the law and further, value for money was not obtained on expenditure totaling Kshs.7,264,972 incurred on the works.

Management Response
The management concurred with the auditor that at the time of Audit the project was not put into use and qualified staff were not deployed. However, the facility was in use, qualified staffs deployed and the facility was operational.

Committee Observations
The Committee observed that-

1. Management paid Kshs.7,264,972 to the contractor before the contractor submitted the Letter of Acceptance to undertake the contract.
2. the Centre was not put to use after the renovations were completed

Committee recommendation
The Committee recommends that the Auditor General reviews the matter to ascertain project completion and utilization in the subsequent financial year.

1.4.7.2 Low Quality Workmanship in Renovation of Tom Mboya Hospital

Expenditure records indicated that the County Executive awarded a contractor for renovation of Tom Mboya Hospital at a contract sum of Kshs.3,051,192. The contract agreement was signed on 29 June, 2020 and a payment of Kshs.3,027,350 was thereafter made to the contractor on 13 July, 2020.

However, the tender documents were not provided for audit review. Further, an audit inspection conducted in October, 2020 revealed the following unsatisfactory issues:

i. Workmanship on the gatehouse was of low quality as there were cracks on the structure.
ii. The ceiling board displayed cracks too and the painting work was of low quality.
iii. There was no running water for use at the facility.

Consequently, propriety and value for money on expenditure totaling Kshs. 3,051,192 spent on the project could not be confirmed.

Management Response

The management agreed with the Auditor that, the tender documents were not provided for the review since the officer who oversaw the exercise was hospitalized at the time of the Audit. The management had since availed the documents for verification.

For the workmanship on the gate house and the ceiling board which displayed cracks, the management recalled the contractor and all defects were rectified.

Committee Observation

The Committee observed that the matter has since been addressed as the county executive submitted the documents to the auditor for verification. Further, the Committee noted the mitigation by the County Executive.

Committee Recommendation

The Committee recommends that the matter be marked as resolved.

1.4.7.3 Low Quality Workmanship in Renovation of Nyangiela Health Centre

A contract for renovation of Nyangiela Health Centre awarded at Kshs. 5,215,244 was varied by Kshs. 811,005 to Kshs. 6,026,249 only one and a half months after it was awarded. The variation related to repair of a three-door pit latrine and construction of a four-door one, even though these had been provided for in the Bills of Quantities at Kshs. 100,000 and Kshs. 350,000 respectively. Further, physical inspection of the building in October, 2020 indicated that the quality of the work done was low.

In addition, records showing utilization of provisional sums totaling Kshs. 752,500 set aside in the Bills of Quantities were not provided for audit.

In view of these anomalies, value for money may not have been attained on expenditure totaling Kshs. 6,026,249 incurred on the contract.

Management Response

The management agreed with the auditor that the quality for the work done was low. With regard to repair of a 3-door pit latrine and construction of a 4 Door pit latrine. However, the management took the initiative to bring the contractor back on site and the works were completed effectively.

Committee Observation
The Committee observed that the matter has since been addressed as the county executive submitted the documents to the auditor for verification. Further, the Committee noted the mitigation by the County Executive.

Committee Recommendation
The Committee recommends that the matter be marked as resolved.

1.4.7.4 Works Paid for Not Done in Renovation of Nyagoro Health Centre

A contract for the renovation of Nyagoro Health Centre at a contract sum of Kshs.3,429,516 was signed on 23 June, 2020. The works entailed tiling, painting and fixing of windows and doors at the Centre. Records on the project indicated that an invoice was issued on 30 June, 2020 and the payment certificate on 6 July, 2020 with the payment following thereafter on 13 July, 2020.
Physical inspection of the project in October, 2020 indicated that works valued at Kshs.332,000 were not done despite a certificate of completion having been issued to the contractor by Management. Further, records on the project indicated that the contractor carried out the works in an improbable one week from the date the contract agreement was signed on 23 June, 2020 to the invoice date of 30 June, 2020. Consequently, the propriety and value for money on the payments totalling Kshs.332,000 could not be confirmed.

Management Response
The management agreed with the auditor on the issues raised above. However, the management after the audit carried independent verification of the project with the departmental respective Engineers and all the defects that were realized at the management visit were rectified and the facility put into use.

Committee Observation

The Committee observed that the matter has since been addressed as the county executive submitted the documents to the auditor for verification. Further, the Committee noted the mitigation by the County Executive.

Committee Recommendation

The Committee recommends that the matter be marked as resolved.

2.0 Un-Surrendered Imprests

Note 14 of other important disclosures to the financial statements reflects outstanding imprests totalling Kshs.16,537,980 that were not surrendered within seven (7) days after the imprest holders returned to their respective duty stations. Failure to surrender the

imprests contravened Regulation 93(5) of the Public Finance Management (County Governments) Act, 2015 which requires a holder of a temporary imprest to account or surrender for the imprest within seven (7) working days after returning to duty station. Consequently, Management is in breach of the law.

Management Response
The management stated that the outstanding imprests were still active by the end of the financial year 2019-2020. However, the imprests have since been surrendered and the surrender vouchers were available for audit verification.

Committee Observations
The Committee observed that the County Executive had contravened Regulation 93(5) of the Public Finance Management (County Governments) Act, 2015; and
The Committee noted that the matter has since been addressed as the supporting documents relating to the imprests were submitted for audit verification.

Committee Recommendations
The Committee therefore recommends that the County Executive should strictly adhere to paragraph 93 of the Public Finance Management (County Government) Regulations, 2015 on imprest management.
The committee recommends that the matter be marked as resolved.

3.0 High Wage Bill

Expenditure records indicated that the County Executive spent Kshs.3,145,409,833 on compensation of employees in the year under review. The spending was equivalent to 38% of the County revenue for the year totalling Kshs.8,213,774,541 and was therefore above the threshold of 35% prescribed for the item in Regulation 25(1)(b) of the Public Finance Management (County Governments) Regulations, 2015.
In the circumstance, Management breached the law on prudent use of public funds and constrained its capacity to fund public services required by the residents.

Management Response
The management agreed with the auditor's observation that as at the time of audit, the compensation of employees translated to 38 percent exceeding the required threshold of 35 percent. This was attributed to the following reasons:

i. Collective Bargaining Agreement that the county government signed with the medical staff resulting to the increase of their salaries and allowances.
ii. Staff inherited from the defunct local authority whose wage and other benefits were increased through a CBA signed before 2013.
iii. The county government also recruited additional staff because employees inherited from the defunct local authority lacked the adequate capacity to implement government programmes.
iv. The growth of the salaries as a result of the annual staff increment.

As at 30th June 2022, the management inherited staff compensation costs at 52%. This did not include 1,700 ECDE teachers who were confirmed from local contract to

permanent and pensionable terms but were yet to be affected in the payroll systems meaning the inherited wage bill was even higher. In addition, there were staff who were already at service but not yet remunerated.

However, to control the situation, the County Government of Homa Bay was taking the following measures:

i. The management was conducting a Human Resource Audit and census.
ii. Establishing an optimal staffing structure to ensure expenditure on personnel emoluments complied with the law.
iii. The County Government was exploring other revenue streams to expand the revenue base and reduce the high percentage of expenditure on personnel emolument.

Committee Observation

The Committee observed that the County Executive's wage bill during the FY 2019/20 stood at 38% of its total receipts which was above the threshold of 35%.

Committee Recommendations

The Committee recommends that;

1) **the management should strictly adhere to the provision of paragraph 25(1)(b) of the PFM Act (county government) regulations, 2015 which stipulate that the county wage bill should not exceed 35 per cent of the county total revenue;**
2) **the management should provide to the Auditor General a three-year strategy of measures it will put in place to contain the high wage bill within sixty (60) days of the adoption of this report;**
3) **the County Executive enhances the capacity of the County Public Service Board to effectively and efficiently carry out is mandate.**

4.0 Improper Use of Project Funds

Records on domestic travel and subsistence indicated that payments totalling Kshs. 3,392,000 were made to Members of Homa Bay County Assembly (MCA'S) who attended a workshop organized by the National Agricultural and Rural Inclusive Growth Project (NARIGP) in Kisumu County for two days. Paragraph 1.2.1. of the Project's funding provisions indicated that its objective was to increase agricultural productivity and profitability in targeted rural communities living in selected counties. In the circumstance, the use of the project's funds in a workshop for the MCAs held outside the County did not appear to support this objective. As a result, it was not possible to confirm whether value for money was obtained on the expenditure totalling Kshs. 3,392,000 incurred on the workshop.

Management Response

The management stated that the referred activity was captured in the annual work plan and budget for the Financial Year 2018/2019 as Sensitization of County Stakeholders because the project was to be implemented in 20 wards within the County. The MCAs play a greater role in mobilization of farmers and influencing farmers to own the project,

which is pre-requisite for project sustainability. It was also important to sensitize the Agriculture County Assembly committee members for purposes of understanding the project to inform the assembly Project budget deliberations.
The National Agricultural and Rural Inclusive Growth Project (NARIGP) Considered the Members of County Assembly in whose wards the Project would be implemented and those in Agriculture Committee as Stakeholders in the project Implementation. This is why it was necessary to sensitize and apprise the referred group of MCAs on NARIGP.

Committee Observation
The Committee noted that the matter has since been addressed.

Committee Recommendation
The Committee recommends that the matter be marked as resolved. However, the Auditor General should carry out a performance audit on NARIGP across the 47 counties within 90 days of adoption of this report.

5.0. Lack of Diversity in Staffing

Review of human resource records indicated that the County Executive had 4,590 employees as at 30 June, 2020 out of whom 4,302 or 94% were members of the ethnic community dominant in the County. The high level of dominance by one community was contrary to the provisions of Section 7(1) of the National Cohesion and Integration Act, No 12 of 2008 which requires representation of the diversity of the people of Kenya in staff establishments of public entities.
In the circumstance, the County Executive of Homa Bay may be in breach of the law.

Management Response
The actual County's Staff in the IPPD comprises of 74 percent of the dominant community and 26 percent other ethnic communities as detailed in the table;

Distribution of Staff by Ethnic Groups			
S/no	**Ethnic Group**	**No of employees**	**Percentage**
1	Luo	3,850	73.7
2	Kisii	148	2.7
3	Luhya	94	2.0
4	Kalenjin	31	0.7
5	Basuba	641	14.0
6	Kikuyu	10	0.2
7	Kamba	6	0.1
8	Meru	6	0.1
9	Teso	6	0.1
10	Kuria	5	0.1
11	Masai	4	0.1
12	MijiKenda	4	0.1

13	Other Kenyans	8	0.2
	Total	**4,793**	**100**

Committee Observation
The Committee observed that the County Executive was in breach of Section 7(1) of the National Cohesion and Integration Act, 2008 as 94% were members of the ethnic community dominant in the County.

Committee Recommendations
The Committee recommends that-

1. **The County Executive should work progressively towards attaining the requirement of the provisions of Section 65(1)(e) of County Government Act on ethnic inclusivity.**

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

1.0 Lack of Staff Establishment

Audit review of human resource records indicated that the County Executive did not have an approved staff establishment. As a result, Management lacked objective means to recruit and deploy staff for optimal results. Consequently, it was not possible to confirm whether staffing in the County Executive was regular and optimal.

Management Response
The management stated that during the period under review, the County Executive did not have an approved staff establishment, leading to lack of objective means to recruit and deploy staff for optimal results. Consequently, it was not possible to confirm whether staffing in the County Executive was regular and optimal.
Despite the above, the County Executive was committed to ensuring that they conform to the law and had engaged Price Waterhouse Coopers whose terms of reference included development of a customized Homa Bay County Government Staff Establishment that will help in the establishment of an optimal staffing structure that will ensure expenditure on personnel emoluments comply with the law.

Committee Observation
The Committee noted that the County Government did not have an approved staff establishment.

Committee Recommendation
The Committee recommends that the County Executive should expedite development and approval of its staff establishment and a status report should be submitted to the Auditor General for verification within sixty (60) days of the adoption of this report.

2.0 Lack of Information Technology and Risk Management polices

Audit review of the County Executive's use of Information Communication Technology (ICT) revealed that Management had not formulated a policy to guide investment in and use of the technology. Therefore, the investments made by the County Executive in the technology may not be effective. Further, Management did not have means to identify, measure and mitigate operational and other risks dependent on the technology.

Management Response

The management concurred with the auditor's observation that at the time of audit, the County Government did not have in place an ICT policy and Risk Management Policy. However, through the County Executive Committee meeting, the management had engaged the department of Blue Economy, Fisheries, Mining, and Digital Economy to prepare and develop an ICT Policy under the budget for the Financial year 2023- 2024. Further, the management had initiated a procurement process to acquire an integrated ERP system that will bring about necessary efficiency and process controls. Also, a County wide risk assessment was being carried out to enable the development of effective policies, procedures and controls aimed at minimizing risk.

Committee Observation

The Committee noted that the County Executive did not have ICT and Risk Management Policies.

Committee Recommendation

The Committee recommends that the County Executive should expedite development of a Risk Management Policy and ICT Policy and should submit to the Auditor General for verification within sixty (60) days of the adoption of this report.

CHAPTER THREE

REPORT OF THE SENATE COUNTY PUBLIC ACCOUNTS COMMITTEE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF KAKAMEGA COUNTY EXECUTIVE FOR THE FINANCIAL YEAR 2019/2020

The Governor of Kakamega County Executive Hon. Fernandes Baraza appeared before the Committee on Wednesday 29th March 2023 to respond (under oath) to audit queries raised in the Report of the Auditor General on Financial Statements for Kakamega County Executive for the Financial Year 2019/2020.

Qualified Opinion

EXECUTIVE SUMMARY OF UN-RESOLVED AUDIT QUERIES.				
S/NO	**Query**	**Recommendation**	**Actor**	**Timeline**
1	**1.0 Variations Between the Financial Statements and the IFMIS Ledgers.** There was an unreconciled variance of Ksh 1,678,003,622 between the expenditure figure in the financial statements and the IFMIS ledger.	1)The County CEO undertakes administrative action against officer(s) responsible for failure to undertake reconciliation of financial statements within the stipulated timelines in accordance with section 156 of the Public Finance Management Act, 2012 and submit a report to the Office of the Auditor General within 60 days of adoption of this report.	The County Chief Executive Officer	60 Days from date of adoption of this report.
2	**2.0 Misclassification of Expenditure.** There were specific expenditures that were charged to wrong accounts leading to a haphazard grouping of expenditures amounting to Kshs.1,515,298,856.	1) The County CEO undertakes administrative action against the responsible officer(s) for failure to undertake reconciliation of financial statements within the stipulated timelines in accordance with section 156 of the	The County Chief Executive Officer	60 Days from the date of adoption of this report.

		Public Finance Management Act, 2012; and 2) County CEO ensures strict adherence to the Public Audit Act, 2015 by providing accurate and reliable bank reconciliation statements and bank certificates during the audit cycle.		
3	**3.0 Inaccuracies in Cash and Bank Balances.** Kshs. 1,710,582,883 maintained in fifty-nine (59) bank accounts. Revenue of the bank account details revealed that seven (7) of the accounts were dormant with three (3) of the accounts having a Nil balance, the other three (3) having a balance of Kshs. 6,983,246 while the last account had a negative balance of Kshs.227,772. Explanation for the negative balance, closure and dormancy of accounts, and the reconciliation statements were not provided for verification.	The Committee recommends that;- 1) the Auditor General conducts a special audit on the Sugar Development Fund and provide a status update to the Senate within 90 days of adoption of this report; 2) the County Executive submit to the Auditor General a report on the Sugar Development Fund outlining the following to facilitate seamless audit; legal framework within which it was established, approvals by the Kakamega County Assembly and budgets supporting the	The Auditor General The County Chief Executive Officer ICPAK	60 Days from the date of adoption of this report.

		expenditure, the details of the company-Mumias Distributors Ltd, CR12- ascertaining ownership, how Mumias Distributors Ltd was procured, amounts alleged to have been received by Kakamega county, accounts the money was deposited in, how they were treated in the financial statements, details of farmers who were paid, number of bags of sugar that Mumias Distributors Ltd. Received and the agreement signed between the county and Mumias Distributors Ltd within 60 days of adoption of this Report. 3) The County CEO undertakes administrative action against the accounting officer, the Chief Officer Finance, the Head of County Treasury and any other officer(s) responsible for		

		failure to undertake reconciliation of financial statements within the stipulated timelines and submit a report to the Office of Auditor General within 60 days of adoption of this report; 4) The Institute of Certified Public Accountants (ICPAK) takes action(s) against the Head of Treasury for misrepresentation of financial statements which constitutes professional misconduct pursuant to Section 8 (a) and 30 of the Accountants Act CAP 531 and reports to the Office of Auditor General within 60 days of adoption of this report.		
4	**4.0 Inaccuracies in County Own Generated Receipts** The Kakamega County Alcoholic Drinks Control Fund financial statements provided for review reported a total collection figure of Kshs. 15,556,710	1) The County CEO undertakes administrative action against the officer(s) responsible for failure to undertake reconciliation of financial	The County Chief Executive Officer	60 Days from the date of adoption of this report.

	while the bank statements reflected an amount of Kshs. 16,211,310. The variances had not been reconciled or explained at the time of the audit.	statements within the stipulated timelines in accordance with Section 156 of the Public Finance Management Act, 2012 and submit a status report to the off ice of the Auditor General within 60 days of adoption of this report; 2) The County CEO undertakes administrative action against the accounting officer, the Chief Officer Finance, the Head of County Treasury and any other officer(s) responsible for failure to undertake reconciliation of financial statements within the stipulated timelines and submit a report to the Office of Auditor General within 60 days of adoption of this report; 3) The Institute of Certified Public Accountants (ICPAK) takes action(s) against the Head of Treasury for		

		misrepresentation of financial statements which constitutes professional misconduct pursuant to Section 8 (a) and 30 of the Accountants Act CAP 531 and reports to the Office of Auditor General within 60 days of adoption of this report		
5	**5.0 Compensation to Employees** There was a variance of Kshs. 21,009,970 between the financial statements and IFMIS ledgers. Further, a variance of Kshs. 136,879,342 reflected in the payroll schedule was not reconciled or explained.	1) The County CEO undertakes administrative action against the officer(s) responsible for failure to undertake reconciliation of financial statements within the stipulated timelines in accordance with Section 156 of the Public Finance Management Act, 2012 and submit a status report to the off ice of the Auditor General within 60 days of adoption of this report; 2) The County CEO undertakes administrative action against the accounting officer, the Chief	The County Chief Executive Officer	60 Days from the date of adoption of this report.

		Officer Finance, the Head of County Treasury and any other officer(s) responsible for failure to undertake reconciliation of financial statements within the stipulated timelines and submit a report to the Office of Auditor General within 60 days of adoption of this report; 3) The Institute of Certified Public Accountants (ICPAK) takes action(s) against the Head of Treasury for misrepresentation of financial statements which constitutes professional misconduct pursuant to Section 8 (a) and 30 of the Accountants Act CAP 531 and reports to the Office of Auditor General within 60 days of adoption of this report.		
6	**7.0 Transfer to Other Government Entities - The Kakamega County Urban Water**	The EACC cause an investigation into the possible loss of public funds amounting to Kshs.	The Ethics and Anti-Corruption Commission.	60 Days from the date of

	and Sewerage. Kshs.27,000,000 was transferred to Kakamega County Urban Water and Sewerage Company (KACWASCO) illegally, as it was not in the budget of the County Executive. Review of receipt by the Kakamega County Urban Water and Sewerage Company revealed that the Company received Kshs. 12,000,000. The balance of Kshs. 15,000,000 was deposited in a separate bank account whose details were not provided for audit review.	15,000,000 with the view of recovering the funds.		adoption of this report.
	Unsupported Accounts Receivable-Outstanding Imprest The statement of assets and liabilities and as disclosed under Note 13 to the financial statements reflects outstanding imprest balance of Kshs. 31,786,077 as at 30 June, 2020. However, the imprest register was not provided for audit verification. In the circumstances, the accuracy and completeness of the outstanding imprest	The Committee recommends;- 1) that the Accounting Officer(s) recover the outstanding imprests with interest as per provisions Regulation 93 (6) of the Public Finance Management (County Governments) Regulations, 2015 and provides a status report to the Office of the Auditor General within sixty (60) days from the	The County CEO CECM Finance and Economic Planning	Within sixty (60) days from the adoption of this report

	balance of Ksh. 31,786,077 could not be confirmed.	adoption of this report; and 2) sanction and surcharge of Accounting Officers who fail to recover outstanding imprests in line with Regulation 93(7) of the PFM (County Government) Regulations, 2015 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report.		

Basis for Qualified Opinion

1.0 Variations between the Financial Statements and the IFMIS Ledgers

The statement of receipts and payments reflects a total expenditure figure of Kshs. 12,667,723,059 relating to various expenditure items. A review of related IFMIS ledgers revealed a total expenditure figure of Kshs. 10,989,719,437 for the various items resulting to unreconciled variance of Kshs. 1,678,003,622 as detailed below:

Item	Financial Statement Figures (Kshs.)	IFMIS Ledger Figures (Kshs.)	Variance (Kshs.)
Acquisition of Assets	3,490,481,041	2,360,816,884	1,129,664,157
Compensation of Employees	4,395,102,410	4,374,092,440	21,009,970
Other Grants and Transfers	1,824,247,635	2,520,039,929	(695,792,294)
Transfers to Other Government Units	1,044,698,080	0	1,044,698,080
Use of Goods and Services	1,913,193,898	1,734,770,184	178,423,714

Though, the Management explained that the variation was as a result of payments made outside the Integrated Financial Management Information System (IFMIS), no explanation was provided for operating outside the prescribed financial management system and the subsequent failure to pass journal entries to capture the expenditure in the system.
Consequently, the accuracy and completeness of the financial statement for the year ended 30 June, 2020 could not be ascertained.

Management Response
The Management submitted the following;
Unreconciled variance of Kshs. 1,678,003,622 between the Financial Statements and the IFMIS Ledgers.
The variance between the Financial Statements Figure and the IFMIS Ledger was as a result of transfers made to other County Entities during the year under review as summarized in the table below:

County Entity	**Amount (Kshs.)**
County Assembly	977,375,288
Other County Entities	103,885,274
County Health Facilities	284,346,060
County Vocational Training Centers	101,397,000
County Early Childhood Development Centers	211,000,000
TOTAL	1,678,003,622

The funds were spent on various programs and activities as budgeted for under the specific Entities. The office of the Auditor General had an opportunity to audit the funds as spent by the respective Entities. The variance arose as a result of consolidating the annual financial statements for all the County Entities as required by Paragraph 2.1.34 to 2.1.56 of the International Public Sector Accounting Standards (IPSAS).

Kshs. 977,375,288 was transfers to the County Assembly as captured in the statement of receipts and payments under the title Transfers to Other Government Units. This expenditure was reported through IFMIS at the Kakamega County Assembly and thus the County Executive could not capture the expenditures again in IFMIS since this would amount to double recognition. The County Assembly being semi-autonomous, reports and is audited independently.
Some of the entities are spread across the county in remote areas where IFMIS is not accessible due to connectivity problems, for example, Health facilities which spent Kshs. 284,346,060, County Vocational Training Centers which spent Ksh. 101,397,000 and Early Childhood Development Education Centers which spent Kshs. 211,000,000.

Other transfers related to County Entities which prepare separate financial statements using IPSAS Accrual basis of accounting, that is, Kakamega Dairy Development Corporation (KDDC) which spent Kshs. 40,322,792.

Kakamega County Water and Sanitation Company (KACWASCO) which spent Ksh. 27,000,000 and Imarisha Afya ya Mama na Mtoto which spent Ksh. 36,562,482. These entities are semi-autonomous and thus report independently and are audited separately. Capturing their expenditures in IFMIS would amount to double reporting.

During the year under review, the County had not established and installed the Vote Book Management System (VBMS) which aids in capturing expenditures of funds transferred to other County Entities located in remote areas, for example, Village Polytechnics, Early Childhood Development Centers, Health Facilities and Sub County Treasuries. The Vote Book Management System was introduced by the National Treasury to enable capture expenditures of funds sent to the District Treasuries across the Country.
Kakamega County Treasury adopted the same to ensure expenditures for funds transferred to Sub County Treasuries and institutions located in Sub Counties were journalized and posted into the VBMS. The management was working with the National Treasury to interface the VBMS with the IFMIS system which would ensure the expenditures captured in the VBMS were uploaded into the prescribed financial management system.

Some of the semi-autonomous entities, that is, Kakamega County Water and Sanitation Company, Kakamega Dairy Development Corporation and Imarisha Afya Ya Mama Na Mtoto, report on IPSAS accrual basis thus the County Assembly could not pass journal entries to IFMIS system since they report separately and doing so would amount to double reporting.

The County Assembly had captured their expenditures into the IFMIS system and reported separately. Thus, there was no need to pass journal entries for funds transferred to it since it would amount to double reporting.
Thus, the accuracy and completeness of the financial statements for the period ended 30th June, 2020 was ascertained.

Committee Observation
The Committee noted that the County Executive had not submitted evidence supporting operating outside the prescribed financial management system and the subsequent failure to pass journal entries to capture the expenditure in the system and therefore reconcile the financial statements.

Committee Recommendations
The Committee recommends that;

1. **The County CEO undertakes administrative action against the officer(s) responsible for failure to undertake reconciliation of financial statements within the stipulated timelines in accordance with Section 156**

of the Public Finance Management Act, 2012 and submit a status report to the off ice of the Auditor General within 60 days of adoption of this report;

2. **County CEO must ensure strict adherence to the Public Audit Act, 2015 by providing accurate and reliable bank reconciliation statements and bank certificates during the audit cycle and;**

2.0 Misclassification of Expenditure

The statement of receipts and payments reflects a total expenditure figure of Kshs. 12,667,723,059 relating to various expenditure items. Review of the expenditure schedules provided for audit revealed specific expenditures that were charged to wrong accounts leading to a haphazard grouping of expenditures amounting to Kshs.1,515,298,856 explained hereunder: -

i. Included in the use of goods and services figure of Kshs.1,913,193,893 is an amount of Kshs.94,820,237 relating to compensation of employees, subsidies, grants, investment in non- financial assets, acquisition of assets and miscellaneous amount of Kshs.9,000,324 which was misclassified.

ii. Included in the other grants and transfers figure of Kshs.1,824,247,635 is an amount of Kshs.831,004,432 relating to recurrent bank account, acquisition of assets, development bank account, use of goods & services and miscellaneous amount of Kshs.258,822,232 which was misclassified.

iii. Included in the compensation of employees' figure of Kshs.4,395,102,410 is an amount of Kshs.44,167,342 relating to use of goods & services, grants and an adjustment of Kshs.8,191,282 which was misclassified.

iv. Included in the acquisition of assets figure of Kshs. 3,490,481,041 is an amount of Kshs. 545,306,845 relating to use of goods & services, subsidies, grants Development Bank Account, Salary Deductions and miscellaneous amount of Kshs. 4,500,000 which was misclassified. Management did not provide explanations on what the miscellaneous amount were intended for.

Consequently, the accuracy, completeness and fair statement of the financial statement as at 30 June, 2020 could not be confirmed.

Management Response

Miscellaneous amount of Kshs. 9,000,324 under use of good services Figure of Kshs. 1,824,247,635.

The management was not aware about this miscellaneous figure. The management requested the auditor to provide further information on this so that we can respond accurately. Miscellaneous amount of Kshs. 258,822,232 under Other Grants and Transfers Figure of Kshs. 1,824,247,635.

The management was not aware about this miscellaneous figure. The management requested the auditor to provide further information on this so that the County Executive respond accurately.

Miscellaneous amount of Kshs. 8,191,282 under Compensation of Employees Figure of Kshs. 4,395,102,410.

The management is not aware about this miscellaneous figure. The management requested the auditor to provide further information on this so that the County Executive can respond accurately. Miscellaneous amount of Kshs. 4,500,000 under Acquisition of Assets Figure of Kshs. 3,490,481,041.

The Kshs. 4,500,000 was paid to the Kenya Animal Genetics Resources Centre for the supply and delivery of Semen for artificial insemination activities across the County.

The amount was described as such in the books of accounts including the schedules provided to the auditor for audit verification and not as miscellaneous amount as indicated by the auditor.

Hence the accuracy, completeness and fair statement of the financial statements as at 30 June. 2020 is hereby confirmed.

Committee Observation

The Committee noted that the County Executive had not submitted reconciled statement on receipt and payments.

Committee Recommendations

The Committee recommends that;

1. **The County CEO undertakes administrative action against officer(s) responsible for failure to undertake reconciliation of financial statements within the stipulated timelines in accordance with Section 156 of the Public Finance Management Act, 2012 and submit a status report to the off ice of the Auditor General within 60 days of adoption of this report; and**
2. **County CEO must ensure strict adherence to the Public Audit Act, 2015 by providing accurate and reliable bank reconciliation statements and bank certificates during the audit cycle and;**
3. **The Committee further recommends that the matter be marked as resolved.**

3.0 Inaccuracies in Cash and Bank Balances

The statement of assets and liabilities and as disclosed under Note 12A to the financial statements reflected cash and cash equivalent balance of Kshs. 1,710,582,883 maintained in fifty-nine (59) bank accounts. Revenue of the bank account details revealed that seven (7) of the accounts were dormant with three (3) of the accounts having a Nil balance, the other three (3) having a balance of Kshs. 6,983,246 while the last account had a negative balance of Kshs.227,772.

Management did not provide explanations on the negative balance, why the accounts were not closed and remained dormant. Further, the bank reconciliation statements were not provided for audit verification.
Consequently, the accuracy, completeness of the cash and cash equivalents of Kshs. 1,710,582,883 as of 30 June 2020 could not be confirmed.

Management Response

Explanation on the Negative Balance of Kshs. 227,772 on Lumino Dam Water Project Account Number 1255191341 held at KCB Bank Kakamega Branch.
The negative balance of Kshs. 227,772 on the above account was as a result of bank charges in the form of Letter of Credit commission and related importation taxes. The negative normalized later due to deposit of more funds on the project account to ensure continuity of the project.

Explanation on why the seven accounts were not closed and remained dormant CGH Development Account No.01001088987000 held at the National Bank of Kenya – Kakamega Branch, Kshs.0.00 balance
The account was maintained for expenditures related to the proposed renovation of the Kakamega County General Hospital. The account remained dormant because the project was completed. The management has closed the account as per the auditor's recommendation.

Shamakhubu Health Centre Account No.01141632398300 held at the Co-operative Bank of Kenya Ltd- Kakamega Branch Kshs. 1,255.75.
The account was maintained for expenditures related to the proposed construction of Shamakhubu Health Centre in Shinyalu Sub County. The account remained dormant at the time of audit since the project was yet to be completed. The management initiated the process of closing the account and any further expenditures on the project shall be cleared through the Central Bank of Kenya (CBK) Development Account.

Farm Mechanization Account No.01141632689500 held at the Co-operative Bank of Kenya Ltd – Kakamega Branch Kshs.0.00 balance.
The account was erroneously captured under Note 12A to the financial statements page 31-Bank Balances as belonging to Farm Mechanization. The account number 01141632689500 is for Farm Inputs Account maintained at the Co-operative Bank Kakamega branch as it was captured correctly under Note 12A to the financial statements page 30 and not for Farm Mechanization. County Executive did not affect the cash and cash equivalents position since it had a nil balance.

10 Km Ward Development Project Account No.1178747425 held at the KCB Bank Kakamega Branch Kshs.0.00 balance.
The account was maintained for implementation of ward-based development projects, particularly maintenance of 10 kilometers of roads in each ward. Due to implementation challenges of this project, the management decided to suspend the program and issued

instructions to the Branch manager KCB Bank Kakamega to close the account on 17 July, 2018.

Mumias West Hospital Development Account No.1182466079 held at the KCB Bank-Kakamega – Branch Kshs. 1,982,591.35 balance

The account was maintained for the proposed construction of Mumias West Level 4 Hospital. The account remained dormant due to funding issues and the need to manage all the projects centrally at the County Treasury.

The management had closed the account and any subsequent expenditures were cleared at the Central County Treasury.

Sugar Development Fund Account No.01141631142100 held at the Co-operative Bank of Kenya Ltd – Kakamega Branch Kshs. 4,999,400

The account was maintained for the purpose of lending funds to Mumias Sugar Company with an aim of reducing the debt owed to its farmers for sugarcane delivered to the company since Mumias was highly indebted and could not settle farmer's dues on time as expected. The account remained dormant as a result of a cabinet decision to wound up the fund once the contract between Mumias Sugar Company and the County came to the end on 15th August 2015. The management was yet to close the account because Mumias Sugar Company was yet to refund Kshs. 38,506,881.80 from the Kshs. 197,506,881.80 that was advanced. Kshs. 159,000,000 principal amount had since been refunded.

Lumino Dam Water Project Development Account No. 1255191341 held at the KCB Bank- Kakamega Branch Kshs. (227,772) balance.

The account was maintained for importation of a containerized water system for Lumino Dam Water Project. The account was not dormant but remained operational until June 2022 when the balance in the account was swept to the County CRF account held at the Central Bank of Kenya. The management had since closed the account and any subsequent expenditures on the project would be cleared at the Central County Treasury.

Explanation on why the Bank Reconciliations related to the seven accounts were not provided for audit verification. Some of the bank reconciliations related to the above accounts were done and were available for a further audit verification while others were closed earlier than the period under review.

Committee Observations

The Committee noted that;-

1) the County Executive had not provided bank reconciliation statements to the Auditor General at the time of audit;
2) there was a need to carry out a special audit on the Sugar development fund in Kakamega;
3) there was loss of public funds and the reported value might not be correct;
4) the Sugar development fund was not developed in line with the provisions of the PFM Act, 2012 and its regulations;

5) Commercial banks in violation with Section 82 of the PFM Act, 2012 (County Government Regulations), thus cannot be audited by OAG.

Committee Recommendations

The Committee recommends that;-

1) **the Auditor General conducts a special audit on the Sugar Development Fund and provide a status update to the Senate within 90 days of adoption of this report;**
2) **the County Executive submit to the Auditor General a report on the Sugar Development Fund outlining the following to facilitate seamless audit; legal framework within which it was established, approvals by the Kakamega County Assembly and budgets supporting the expenditure, the details of the company-Mumias Distributors Ltd, CR12-ascertaining ownership, how Mumias Distributors Ltd was procured, amounts alleged to have been received by Kakamega county, accounts the money was deposited in, how they were treated in the financial statements, details of farmers who were paid, number of bags of sugar that Mumias Distributors Ltd. Received and the agreement signed between the county and Mumias Distributors Ltd within 60 days of adoption of this Report;**
3) **The County CEO undertakes administrative action against the accounting officer, the Chief Officer Finance, the Head of County Treasury and any other officer(s) responsible for failure to undertake reconciliation of financial statements within the stipulated timelines and submit a report to the Office of Auditor General within 60 days of adoption of this report;**
4) **The Institute of Certified Public Accountants (ICPAK) takes action(s) against the Head of Treasury for misrepresentation of financial statements which constitutes professional misconduct pursuant to Section 8 (a) and 30 of the Accountants Act CAP 531 and reports to the Office of Auditor General within 60 days of adoption of this report.**

4.0 Inaccuracies in County Own Generated Receipts

The statement of receipts and payments and disclosed under note 4 to the financial statements is an amount of Kshs.1,180,228,345 relating to County own generated receipts. The following anomalies were noted during the audit: -

4.1 Income from Liquor Licenses

Disclosed under Note 4 to the financial statements is revenue of Kshs. 16,915,000 collected from liquor licensing. The Kakamega County Alcoholic Drinks Control Fund financial statements provided for review reported a total collection figure of Kshs. 15,556,710 while the bank statements reflected an amount of Kshs. 16,211,310.
The variances had not been reconciled or explained at the time of the audit.

Management Response

Variance of Kshs. 1,358,290 between note 4 of the Financial Statements figure of Kshs. 16,915,000 and Alcoholic Drinks Fund Financial Statements of Kshs. 15,556,710.

The variance above was as a result of the Alcoholic Drinks Fund not including the cashless collections in their books totaling Kshs. 1,364,240 while the revenue agency included this amount in their revenue report since they were the host of the cashless system. On the other hand, the Alcoholic Drinks Fund factored bank charges totaling Kshs. 5,950 in what was reported in the fund financial statements, while the revenue agency did not capture the same in their report. The net variance of Kshs. 1,358,290 (i.e. Ksh. 1,364,240-Kshs. 5,950) was hereby explained.

Variance between note 4 of the Financial Statements figure of Kshs. 16,915,000 and the Bank Statements figure of Kshs. 16,211,310.

Committee Observation

The Committee noted that the matter was outstanding as the variances in the Kakamega County Alcoholic Drinks Control Fund financial statements provided for review had not been reconciled.

Committee Recommendations

The Committee recommends that;

1. **The County CEO undertakes administrative action against the officer(s) responsible for failure to undertake reconciliation of financial statements within the stipulated timelines in accordance with section 156 of the Public Finance Management Act, 2012 and submit a report to the Office of Auditor General within 60 days of adoption of this report;**
2. **The County CEO undertakes administrative action against the accounting officer, the Chief Officer Finance, the Head of County Treasury and any other officer(s) responsible for failure to undertake reconciliation of financial statements within the stipulated timelines and submit a report to the Office of Auditor General within 60 days of adoption of this report;**
3. **The Institute of Certified Public Accountants (ICPAK) takes action(s) against the Head of Treasury for misrepresentation of financial statements which constitutes professional misconduct pursuant to Section 8 (a) and 30 of the Accountants Act CAP 531 and reports to the Office of Auditor General within 60 days of adoption of this report;**
4. **County CEO must ensure strict adherence to the Regulation (62)of the Public Audit Act, 2015 by providing accurate and reliable bank reconciliation statements and bank certificates during the audit cycle, and the management emphasize on capacity building of the staff in the accounting departments.**

4.2 Other Local Receipts

Disclosed under Note 4 to the financial statements is Kshs. 44,997,833 relating to Other Local Receipts. A review of supporting schedules provided, reflected a total of Kshs. 41,109,992 resulting to an unexplained and unreconciled variance of Kshs. 3,887,841.

Management Response
The variance of Kshs. 3,887,841 was caused by a few revenue sources which had not been captured on the original schedule provided to the auditors at the commencement of the audit. These revenue streams included Land transfer fees, Burial Fees, Registration of Groups, Fire Compliance, Noise Control, Bukhungu Stadium Hire, Weights and measures. The final schedule was adjusted while amending the final set of financial statements and availed to the auditors.

Committee Observation
The Committee noted that the matter has since been addressed.

Committee Recommendation
The Committee recommends that the matter be marked as resolved.

4.3 Public Health Services
Disclosed under Note 4 to the financial statements is Kshs. 234,793,412 in respect of revenue from Public Health Services. This was at variance with the schedules received from the Hospitals which reflected an amount of Kshs. 216,431,64 and the subsequent list provided in response to the audit query raised during the audit which reflected Kshs.218,548,945. The variances had not been reconciled or explained at the time of the audit.

Management Response
Clarification on the composition of Kshs. 234,793,412 being revenue from Public Health Services Note 4 to the financial statements indicated that the County collected a total of Kshs. 234,793,412 from Public Health Services. We wish to clarify that the description of Public Health Services as used in Note 4 to the financial statements includes hospital user fees of Kshs. 218,548,945 and public health services fees of Kshs. 16,244,467. This figure excludes hospital user fees collected through the National Insurance Fund (NHIF).

Variance of Kshs. 18,361,772 between Note 4 to the Financial Statements figure of Kshs. 234,793,412 and the original Schedule provided to the auditors of Kshs. 216,431,640.
The variance of Kshs. 18,361,772 comprised of Kshs. 16,244,467 being revenue generated from public health services and Kshs. 2,117,305 being part of the user fee revenues generated from the Kakamega General Hospital which had not been captured on the original schedule provided to auditors. This was adjusted on the final schedule provided.

Variance of Kshs. 16,244,467 between Note 4 to the Financial Statements figure of Kshs. 234,793,412 and the second Schedule provided of Kshs. 218,548,945.
The variance of Kshs. 16,244,467 was as a result of revenue generated from public health services. This schedule was provided to the auditors though they did not factor it in their audit review and only considered the schedule of Kshs. 218,548,945 being

revenues generated from hospital user fees.

Committee Observation
The Committee noted that the matter has since been addressed.

Committee Recommendation
The Committee recommends that the matter be marked as resolved.

4.4 Unsupported National Hospital Insurance Fund (NHIF)
Disclosed under Note 4 to the financial statements is revenue figure of Kshs.285,926,691 collected through NHIF arrangement where the total claims from each health facility is processed and later reimbursement and channeled through individual health facility bank accounts. However, the record provided indicated a block figure of Kshs. 285,926,691. Management did not provide a breakdown on how the amount was collected for audit review.

Management Response
The breakdown on how the NHIF amount was collected by various health facilities was in place and still available for a further audit review.

Committee Observation
The Committee noted that the matter has since been addressed.

Committee Recommendation
The Committee recommends that the matter be marked as resolved.

4.5 Unreconciled Farm Input Revenue Figures
Disclosed under Note 4 to the financial statements is farm input revenue of Kshs. 316,393,600. Review of the farm office records indicated an amount of Kshs.275,238,350 which was at variance with the records provided by the County Revenue Officer of Kshs.314,642,850. The variances had not been reconciled or explained at the time of the audit.

In addition, the following unsatisfactory matters were noted;

(i) A random inspection on license status for liquor outlets within the Kakamega CBD revealed that eight (8) outlets were operating on expired license, depriving the Executive of revenue amounting to Kshs. 364,200.

(ii) 225 liquor outlets had not paid their annual fee licenses while 12 others did not have a clear payment status. Although the County Executive explained that the failure to collect revenue was due to a petition by traders for a fresh consideration of the invoiced amounts since they had closed for more than six months as a result of Covid-19, no evidence was provided for audit review on the resolution of the petition as per Section 64(3) of the Public Finance Management (County Government) Regulations, 2015.

(iii) No quarterly reports showing statement of arrears of revenue and reasons for material differences between the approved estimates and the actual revenue collected were provided to support the amount collected contrary to Section 64 of Public Finance Management (County Government) Regulations, 2015.

Consequently, accuracy and completeness of the county own generated receipts figure of Kshs.1,180,228,345 as at 30 June, 2020 could not be confirmed.

Management Response

Variance of Kshs.41,155,250 between Note 4 to the Financial Statements figure of Kshs.316,393,600 and the Farm Office Records figure of Kshs.275,238,350.

The above variance arose as a result of the farm office records omitting the revenue that had been realized from sale of outstanding quantities of farm inputs, that's planting, top dressing fertilizers and maize seeds that had been procured in the prior FY 2018/2019.

The original schedule provided to the auditors of Kshs. 275,238,350 captured only revenue realized from farm inputs that had been procured in the current year under review. At the recommendation of the auditor at the management letter level, the original schedule was adjusted with the omitted revenue to what was now captured in the amended financial statements of Kshs. 316,393,600 as total revenue collected from farm inputs.

Variance of Kshs. 1,750,750 between Note 4 to the Financial Statements of Kshs. 316,393,600 and the County Revenue Office figure of Kshs. 314,642,850

The variance above was as a result of farm mechanization revenue which the auditor did not factor while reviewing the financial statements. The auditor only reviewed the schedule of Kshs. 314,642,850 which was revenues received from farm inputs only, that is, sale of fertilizer and maize seeds.

Eight (8) liquor outlets within Kakamega CBD operating on expired license depriving the County Executive a revenue of Kshs. 364,200.

Towards the end of the year 2019, the deadly Corona virus hit the Kenyan territory. At the beginning of the year 2020, the National Government declared Corona a national disaster and invoked the Public Health measures for prevention, control and spread of COVID 19. Subsequently, alcoholic drinks outlets all over the country were closed between 15th March and 28th September 2020.

The audit exercise was done immediately after the president had temporarily lifted the ban. There was a likelihood of some trader's licenses having expired during the closure period since no much government business was going on at the time to renew or enforce compliance during this difficult period. The government encouraged officers to work from home. The management followed up and renewed the licenses of the eight (8) outlets.

No evidence provided for audit review on the resolution on the petition

submitted by 225 liquor traders pleading for a reduction (waiver) in the invoiced amount.

After the devastating effects of the Covid-19 pandemic on businesses and homes, the said traders petitioned the County Government to consider a reduction in the invoiced amounts since they had been off business for some time.

The County Government was hesitant to consider this petition because any reduction or waiver of the invoiced amount was not provided for in the Kakamega County Alcoholic Drinks Control Act, 2014. Any action towards this meant that an amendment had to be done on the act and subjected to public participation and County Assembly approval, which processes were not feasible and if feasible would have taken a long time given the current prevailing circumstances at that time. This is why there was no evidence of the resolution of this petition.

No quarterly reports showing statement of revenue arrears submitted to the auditor for review contrary to section 64 of the PFM (CG) Regulations, 2015.

The general provisions of the quoted section of law provides that an accounting officer or receiver of revenue shall keep books of accounts related to revenue collection in the county. These books which include, revenue reports, revenue control sheets, revenue receipt books, revenue cash books and bank statements etc., were kept and the annual revenue reports being a consolidation of the quarterly revenue reports were provided to the auditor at the time of the audit.

The statement of revenue arrears particularly on land rates was in place and still available for a further audit verification. Therefore, the county government was not in contravention of the stated section of the law.

Reasons for material differences between the approved own source revenue estimates and actual own source revenue collection

The county estimated to collect Kshs. 1,666,143,695 in the year under review. On actual comparison, the county collected Kshs. 1,180,228,345 leading to an under performance of Kshs. 485,915,350. The main reason for the under collection was the effects of the Covid 19 pandemic that left most businesses and government offices closed. Nevertheless, the county recorded an improvement of 18.1% in own source revenue collection as compared to Kshs. 999,827,089 collected in the prior year. Consequently, the accuracy and completeness of the own source revenue generated figure of Kshs. 1,180,228,345 as reported in the financial statements is hereby confirmed.

Committee Observations

The Committee noted that the County Executive had not done reconciliation of the financial statements during the audit cycle.

Committee Recommendations

The Committee recommends that;

1. **The County CEO undertakes administrative action against officer(s) responsible for failure to undertake reconciliation of financial**

statements within the stipulated timelines in accordance with section 156 of the Public Finance Management Act, 2012 and submit a report to the Office of the Auditor General within 60 days of adoption of this report;

2. **County CEO must ensure strict adherence to the Public Audit Act, 2015 by providing accurate and reliable bank reconciliation statements and bank certificates during the audit cycle and ;**
3. **The Committee further recommends that the matter be marked as resolved.**

5.0 Compensation to Employees

The statement of receipts and payments and as disclosed under Note 5 to the financial statements reflects an expenditure of Kshs. 4,395,102,410 in respect of compensation of employees. Review of IFMIS ledgers presented for audit reflected a figure of Kshs. 4,374,092,440 resulting to a variance of Kshs. 21,009,970. Further, the payroll schedules reflected an amount of Kshs. 4,531,981,752 resulting to a variance of Kshs. 136,879,342 which has not been reconciled or explained. Consequently, the accuracy and completeness of the Kshs. 4,395,102,410 in respect of compensation of employees as at 30 June, 2020 could not be confirmed.

Management Response

The Variance of Kshs.21,009,970 between Note 5 to the Financial Statements figure of Kshs.4,395,102,410 and the IFMIS Ledger figure of Kshs.4,374,092,440.
The variance above arose as result of manual salary payments done outside IFMIS and which had not been captured in the system at the time of audit. A journal entry was passed and the salaries posted in IFMIS Ledger.
Variance of Kshs.136,879,342 between Note 5 to the Financial Statements figure of Kshs.4,395,410 and the Payroll Schedules figure of Kshs.4,531,981,752 .

The variance above represented unpaid staff salary deductions as at the closure of the financial year 2019/2020. Since the County Government prepares its accounts on cash basis of accounting, the unpaid salary deductions could not be captured in the financial statements as an expenditure in the year under review. These deductions were paid in quarter one of the subsequent Financial Year 2020/2021.
Consequently, the accuracy and completeness of the Kshs. 4,395,102,410 in respect of compensation of employees as at 30 June, 2020 is hereby confirmed.

Committee Observation

The Committee noted that the County Executive provided reconciled financial statements after the audit.

Committee Recommendations

The Committee further recommends that the matter be marked as resolved.

6.0 Inaccuracies in Use of Goods and Services

The statement of receipts and payments and as disclosed under Note 6 to the

financial statements reflects Kshs. 1,913,193,893 in respect use of goods and services. However, the expenditure differs with what is captured in the IFMIS of Kshs. 1,734,770,184 by Kshs. 178,423,709 that was explained to be expenditure incurred outside IFMIS but reasons for this were not given.

6.1 Specialized Materials and Services
Included in the use of goods and services amount of Kshs. 1,913,193,893 is Kshs. 364,178,102 relating to the procurement of specialized materials and supplies. This was at variance with the supporting schedules provided for audit which reflected an amount of Kshs. 370,018,502 resulting in a variance of Kshs. 21,947,491 which was not reconciled or explained.

Management Response
The correct variance between the specialized materials and supplies figure of Kshs.364,178,102 and the original schedule provided figure of Kshs.370,018,502 is Kshs.5,840,400 and not Kshs.21,947,491 as reported by the auditor. The variance arose as a result of including the items listed in the table below on the original schedule of Kshs. 370,018,502 for Specialized Materials and Supplies. This was corrected at the point of amending the final financial statements by reclassifying the expenditures into their respective expenditure schedules. The original schedule of Kshs. 370,018,502 on specialized materials and supplies was revised downwards to Kshs.364,178,102 as reflected in the financial statements.

Code	Description	Amount (Kshs.)
3111302	Supply of animal semen	4,500,000.00
2640599	Supply of vaccines	308,000.00
2520199	Field Machinery Inspection	129,100.00
2211006	Supply and delivery of working tools	897,062.05
2211006	Supply and delivery of Building Materials	6,237.95
Total		5,840,400.00

Committee Observation
The Committee noted that the County Executive provided reconciled financial statements after the audit.

Committee Recommendation
The Committee further recommends that the matter be marked as resolved.

6.2 Domestic Travel and Subsistence
Included in the use of goods and services amount of Kshs. 1,913,193,893 is an

amount of Kshs. 301,058,609 in respect of domestic travel and subsistence. Review of the expenditure revealed that an amount of Kshs. 9,506,938 was misclassified as domestic travel and subsistence. Further, a review of the supporting schedules revealed that an amount of Kshs. 85,632,158 was paid outside the IFMIS system which is the recommended system of government financial management as prescribed by law.

Management Response
Misclassification of Kshs. 9,506,938 as domestic travel and subsistence from the Domestic travel and subsistence expenditure of Kshs. 301,058,609
There was no misclassification of the above expenditure since the two relate to one and the same thing, i.e., Domestic Travel and Subsistence.
Domestic travel and subsistence expenditure of Kshs. 85,632,158 reported outside the recommended system of government financial management.

The variance of Kshs. 85,632,158 relates to Domestic Travel and Subsistence expenditure incurred by the county institutions spread across the county, that's health facilities, vocational training centers and early childhood development education centers as explained in query 1.0. The reason why this expenditure was incurred outside IFMIS was well explained under management response to query 1.0 and query 6.0 above.

Committee Observation
The Committee noted that the management had not made all payments through the IFMIS system.

Committee Recommendation
The Committee recommends that the Management should ensure that all payments are captured in IFMIS and provide a status report within 60 days after adoption of this report.

6.3 Hospitality, Supplies and Services and Fuel, Oil and Lubricants
Included in the use of goods and services figure of Kshs.1,913,193,893 is an amount of Kshs.314,455,965 in respect of hospitality, supplies and services and Kshs.37,073,729 incurred on fuel, oil and lubricants. However, payment records for expenditure totaling Kshs. 12,116,162 were not provided for audit review.

Management Response
The management was unable to adequately respond to this query since the auditor did not provide a schedule or breakdown of the Kshs. 12,116,162 to facilitate retrieval of the payment records. The management is still waiting for a response from the regional hub audit office.

Committee Observation
The Committee noted that the County Executive did not provide payment records for expenditure at the time of audit.

Committee Recommendation

The Committee recommends that the accounting officer takes administrative actions against the responsible officers in the accounting department for failure to keep and provide records for the expenditure in accordance with section 156 of the Public Finance Management Act, 2012 and provide a status update to the Office of the Auditor General within 60 days of adoption of this report.

6.4 Over-Statement of Other Operating Expenses

Included under use of goods and services figure of Kshs1,913,193,893 is an amount of Kshs.289,097,122 for other operating expenses which does not agree with the supporting schedule totaling Kshs. 286,880,447 by Kshs.2,216,675.

Consequently, the accuracy, completeness and recording of the expenditure of Kshs. 1,913,193,893 incurred on use of goods and services as 30 June, 2020 could not be confirmed.

Management Response

The difference of Kshs. 2,216,675 relates to expenditures incurred on contracted guards and cleaning services of Kshs. 1,827,431 and on Legal Fees of Kshs. 389,244 which were previously captured under "Compensation of Employees". The reclassification was done pursuant to the recommendation made by the auditor in the management letter.

Committee Observation

The Committee noted that the matter has since been addressed.

Committee Recommendation

The Committee recommends that the matter be marked as resolved.

7.0 Transfer to Other Government Entities - The Kakamega County Urban Water and Sewerage

The statement of receipts and payments reflect transfers to other government entities figure of Kshs. 1,044,698,080. Included in this amount is Kshs. 27,000,000 transferred to Kakamega County Urban Water and Sewerage Company (KACWASCO). However, the following anomalies were noted;

i. The amount was not in the budget of the County Executive.

ii. Review of receipt by the Kakamega County Urban Water and Sewerage Company revealed that the Company received Kshs. 12,000,000. The balance of Kshs. 15,000,000 was deposited in a separate bank account whose details were not provided for audit review.

Management Response

Amount of Kshs. 27,000,000 was not in the Budget of the County Executive

The Department of Water, Environment and Natural Resources had a budget of Kshs. 51,000,000 as per the last approved supplementary budget which was earmarked for transfer to the Water Companies. Details of the separate Bank Account where the Kshs. 15,000,000 was transferred were attached.

The Kshs. 15,000,000 was deposited in the Kakamega County Water and Sanitation Revenue Account No.1251924468 held at the KCB Bank Kakamega Branch. The funds were meant for operations to support operations at the water entity due to the effects of Covid-19 pandemic on its customers.

Committee Observation

The Committee observed that;

a) There was possible loss of public funds, totaling to Kshs. 15,000,000.
b) the County Executive did not submit relevant documents to the Auditor General at the time of audit exercise contrary to the Section 62 of the Public Audit Act, 2015.

Committee Recommendation

The Committee recommends that;-

1) **The County CEO undertakes administrative action against the responsible officer(s) who failed to provide the documents to the auditors in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report; and**
2) **the EACC cause an investigation into the possible loss of public funds amounting to Kshs. 15,000,000 was deposited in a separate bank account whose details were not provided for audit review.**

8.0 Other Grants and Transfers

The statement of receipts and payments and as disclosed under Note 8 to the financial statements reflects other grants and transfers figure of Kshs. 1,824,247,635. This was at variance with the IFMIS amount of Kshs. 1,572,916,769 resulting to an unexplained and unreconciled variance of Kshs. 251,330,866. Further, the following anomalies were noted:

i. Included in the other grants and transfers figure of Kshs. 1,824,247,635 is an amount of Kshs. 653,309,155 in respect of scholarships and other educational benefits. However, audit review revealed that expenditure amounting to Kshs. 434,808,022 was misclassified as scholarships disbursement.

ii. The County Executive made a payment of Kshs. 1,000,000 to West Pokot County as an emergency donation for an undisclosed occurrence. The payment voucher and supporting documentation for expenditure was not provided for audit verification.

iii. Included in other grants and transfers is an amount of Kshs. 56,181,659 indicated as transfers to retention account. However, no additional information was provided to show what the transfer relates to and why retention money is a payment.

iv. Included in the figure for rental of produced assets of Kshs. 130,979,137 is an amount of Kshs.43,482,335 paid for lease of two properties which was at variance with the expected amount of Kshs.38,168,312 resulting in an unexplained and unreconciled variance of Kshs.5,314,023.

v. The transfers and other grants balance of Kshs.1,824,247,635 include transfers to Linda Afya ya Mama na Mtoto amount of Kshs.36,190,682. However, information available indicates that an amount of Kshs. 60,000,000 was transferred to the Fund resulting in an unexplained and unreconciled variance of Kshs. 23,809,318.

vi. The grants and other transfers include Kenya Devolution Support Programme (KDSP) expenses of Kshs.144,399,886, Kenya climate smart agricultural expenses of Kshs.65,520,351 and special purpose universal care expenses amount of Kshs.85,418,753 for which no documentation was provided on what the transfers were for and how the funds were utilized.

Consequently, the accuracy and completeness of the expenditure on other grants and transfers amount of Kshs. 1,824,247,635 could not be confirmed as at 30 June, 2020.

Management Response

Variance of Kshs. 251,330,866 between Note 8 to the Financial Statements figure of Kshs. 1,824,247,635 and the IFMIS Ledger figure of 1,572,916,769 on Other Grants and Transfers. The IFMIS amount of Kshs. 1,572,916,769 reflected by the auditor in this query differs with the IFMIS amount of Kshs. 2,520,039,929 he reflected in query 1.0. Therefore, we cannot authenticate the accuracy of the variance of Kshs. 251,330,866 stated in this query which differs significantly with the variance of Kshs. 695,792,294 reflected in query 1.0 and to which we have responded to.

Concerning the misclassification of Kshs.434,808,022 as scholarship disbursements, the management stated that the amount was classified under other grants and transfers basing on the budget classification and the chart of accounts which classifies the expenditures incurred under the economic classification – "Other Transfers and Emergency Relief" overall class 2640000. The expenditure was mostly incurred on bursaries, provision of educational benefits to our vocational training centers and ECDE centers like furniture, tools and equipment, capacity building, and fee capitation through village polytechnic grant from the National Government ministry of Education, Science and Technology. Therefore, the expenditure was not misclassified. The undisclosed occurrence, payment voucher and supporting documentation for the Payment of Kshs. 1,000,000 to West Pokot County was attached.

The tentative information the management had on the above payment is that it was meant to support the landslide affected families in West Pokot County, whose position will be confirmed once the management gets the transaction documents which were misplaced during the audit exercise. The management had a bank statement showing the funds were paid to West Pokot Emergency Fund Account on 02/12/2019 and have written to the Manager, Co-operative Bank Kakamega Branch and West Pokot County to supply the management with more information.

Concerning what the retention money transfer of Kshs. 56,181,659 relates to, and why

retention money is a payment, the management clarified that during the year under review, the National Treasury had numerous challenges in resource mobilization and subsequent failure or delays in exchequer disbursement to counties due to the Covid 19 pandemic. The County was also unable to mobilize enough own source revenues as a result of most businesses closing down to mitigate spread of the Corona virus. Due to this, the County had to transfer some funds from the retention account to solve urgent and pressing operational needs. In the year under review, the County transferred a total of Kshs. 275,552,201. During the previous year, a balance of Kshs. 85,981,691.47 was yet to be refunded back bringing a total of Kshs. 361,533,892.47 owed to the retention account. In the same year, the management transferred a total of Kshs. 417,715,551 back to the retention account resulting in an excess transfer of the Kshs. 56,181,659 above.

The management asserted that the unexplained and unreconciled variance of Kshs.5,314,023 between the actual amount of Kshs.43,482,335 spent on lease of two properties and the expected amount of Kshs.38,168,312, was as a result of the original lease agreements providing for the quarterly lease rentals exclusive of VAT. The interpretation here then was that the County was to compute the VAT component and add to the net lease rentals as had been captured in the lease agreement. After the audit recommendation, the subsequent lease agreements were revised to include VAT component on the lease rentals.

Concerning the Unexplained and unreconciled variance of Kshs.23,809,318 between the actual expenditure of Kshs.36,190,682 and the amount transferred to Imarisha Afya ya Mama na Mtoto Programme of Kshs. 60,000,000, the management stated that Imarisha Afya ya Mama na Mtoto is a semi-autonomous County Entity funded by the Ministry of Health through the County Treasury. At the beginning of the FY 2019/2020, the entity had an opening cash book balance of Kshs. 21,820,140 and received transfers of Kshs. 60,000,000 from the ministry of Health budget. A total of Kshs 81,820,140 was therefore available for the Agency to use during the year. Out of this total the entity incurred expenses worth Kshs. 36,190,682 as captured in the Financial Statements leaving a reconciled cash book closing balance of Kshs. 45,602,808. Therefore, the variance of Kshs. 23,809,318 was unspent cash at the closure of the financial year under review and was included in the cash book closing balance of Kshs. 45,629,458.

No documents provided on transfers to Kenya Devolution Support Programme (KDSP) Kshs. 144,399,886, Kenya Climate Smart Agricultural Project Kshs. 65,520,351 and Universal Health Care Project Kshs. 85,418,753 and how the funds were utilized. Funds transfer documents not availed. The transfer documents of the above stated conditional grants were in place at the time of audit and still available for a further audit verification.
On how the funds were utilized, the management stated that the Kenya Devolution Support programme (KDSP) is a conditional world bank funded project which caters for capacity building at Level 1 and project development at Level 2. The Kshs. 144,399,886 was utilized on Level 1 capacity building and Level 2 Water Projects

development as was supported by the expenditure schedules provided to the auditors.

Concerning the Kenya Climate Smart Agriculture project, the management clarified that is the project is a conditional World Bank funded Programme. The expenditure of Kshs. 65,520,351 was for project coordination, grants to communities and building technical/institutional capacity. The amount was supported by an expenditure schedule which was provided to the auditors and is still available for a further audit review.
The management also stated that the Universal Health Care grant is a conditional World Bank funded Programme. The expenditure of Kshs. 85,418,753 incurred under this grant was spent on universal health coverage which ensured that all citizens in the County accessed quality health services to safeguard them from public health risks. The expenditure schedule of Kshs. 85,418,753 was provided during the audit and is still available for a further audit review.

Committee Observation
The committee observed that the matter was addressed and documents submitted for the committee review.

Committee Recommendation
The committee recommends that the matter be marked as resolved.

9.0 Inaccuracies in Acquisition of Assets
The statement of receipts and payments reflects expenditure on acquisition of assets amount of Kshs.3,490,481,041, This was at variance with the IFMIS amount of Kshs.2,360,816,884 and the schedules amount of Kshs.3,485,981,041 provided to support the amount resulting in unexplained and unreconciled variances of Kshs1,129,664,157 and Kshs.4,500,000 respectively.

In addition, the expenditure on acquisition of assets included an expenditure of Kshs. 10,381,600 in respect of research, feasibility studies, project preparation & design, and project supervision. This was at variance with the supporting schedules provided for audit which reflected an amount of Kshs. 40,265,295

Consequently, the accuracy and completeness of the expenditure on acquisition of assets amount of Kshs. 3,490,481,041 as at 30 June, 2020 could not be ascertained.

Management Response
The variance of Kshs. 1,129,664,157 relates to acquisition of assets expenditure incurred by the county institutions spread across the county, that's health facilities, vocational training centers and early childhood development education centres as explained in query 1.0. The reason why this expenditure was incurred outside IFMIS was well explained above.

The variance of Kshs. 4,500,000 was an amount spent on supply and delivery of animal semen for artificial insemination activities across the county and which had

originally been classified under specialized materials and services – use of goods and services. Upon recommendation by the auditor at the management level, the same was classified under Acquisition of strategic stocks and commodities – Acquisition of Assets. This meant that the original schedule of Kshs. 3,485,981,041 provided to the auditors on acquisition of assets had to be adjusted by incorporating this expenditure. Refer also to query 2.0 (iv) above.

The variance of Kshs. 29,883,695 was as a result of including allowances related to board committees, seminars and conferences on the original schedule of research, feasibility studies, project preparation, design and supervision of Kshs. 40,265,295. Upon recommendation by the auditors at the management letter level, the final schedule was adjusted to Kshs. 10,381,600 with the variance moved to the schedule of Board committees, seminars and conferences.

Committee Observation
The Committee noted that the expenditure on acquisition of assets had a variance of Kshs. 40,265,295. The variance was however explained satisfactorily.

Committee Recommendations
The Committee recommends that the matter be marked as resolved.

10.0 Unsupported Accounts Receivable- Outstanding Imprest
The statement of assets and liabilities and as disclosed under Note 13 to the financial statements reflects outstanding imprest balance of Kshs. 31,786,077 as at 30 June, 2020.
However, the imprest register was not provided for audit verification.
In the circumstances, the accuracy and completeness of the outstanding imprest balance of Ksh. 31,786,077 could not be confirmed.

Management Response
The imprest register was in place at the time of audit and still available for a further audit review. Out of the Kshs.31,786,077, Kshs.18,411,445 relate to staff who have left the service of the county, Kshs.11,777,066 who are still in service and Kshs.1,597,566 had been surrendered. The new management has now put in place the following measures to address this emotive area of imprest management:

i. Follow up with payroll office on the status of staff who owe the county and are no longer in service.
ii. Follow up with the payroll office on status of recovery of the long outstanding imprest.
iii. Write off any loss in line with section 150 of the PFM Act 2012 where all options deem impossible to recover due to demise of staff.
iv. Ensure proper management of imprest currently in line with paragraphs 91 to 94 of the Public Finance Management (County Governments) Regulations, 2015.

Committee Observation

The Committee noted that the county executive had weak internal controls in terms of management of imprest.

Committee Recommendation
The Committee recommends that;-

1) **the Accounting Officer(s) recover the outstanding imprests with interest as per provisions Regulation 93 (6) of the Public Finance Management (County Governments) Regulations, 2015; and**
2) **sanction and surcharge of Accounting Officers who fail to recover outstanding imprests in line with Regulation 93(7) of the PFM (County Government) Regulations, 2015.**

11.0 Unsupported Accounts Payable
The statement of assets and liabilities reflects a balance of Kshs. 316,041,196 in respect of deposits and retention monies. Management made withdrawals and transfers of funds from the account to other accounts for other operational expenditure amounting to Kshs. 225,384,566.
However, supporting analysis and documentation of the deposits and retention monies together with the supporting documents for the withdrawals was not provided for audit.
Consequently, the accuracy and completeness of the deposits and retention monies balance of Ksh. 316,041,096 reflected in the financial statements as at 30 June, 2020 could not be confirmed.

Management Response
The Kshs. 225,384,566 was part of the Kshs. 275,552,201 transferred from the deposit retention account to solve urgent financial needs especially when there was a delay by the National Treasury in releasing of equitable share to Counties. During this year, the National Treasury had numerous challenges in resource mobilization and subsequent disbursement to counties due to the Covid 19 pandemic.

The County was also unable to mobilize enough own source revenues as a result of most businesses closing down to mitigate spread of the Coronavirus. Due to this, the County had to transfer some funds from the retention account. The management refunded the entire amount in question to the retention account before the closure of the financial year under review. Analysis schedule of the amount and supporting withdrawal instructions were in place and still available for further audit verification.

Committee Observation
The committee noted that the borrowing was irregular unless there was a confirmation of approval by the County Assembly which has that power in the Public Finance Management (PFM) Act, 2012.

Committee Recommendations
The committee however recommends that the matter be marked as resolved.

Other Matter

1.0 Failure to Submit Financial Statements for Audit

The County Executive transferred Kshs. 468,344,081 to the Kakamega County Sugar Fund, the Investment and Development Corporation, Kakamega County Emergency Fund, Farm Inputs Fund and the Kakamega County Youth and Sports Fund during the year under review. However, the County Executive Management did not prepare and submit for audit by the Auditor-General financial statements for the entities and funds.

Management Response

Kakamega County Sugar Fund

The Kakamega Sugar Fund was not in operation in the financial year under review as it was wound up by a resolution of the Cabinet upon expiry of the contract agreement between the County and Mumias Sugar Company on 15th August 2015. No funds were transferred to the Fund in the year under review hence financial statements for the FY 2019-2020 could not be prepared.

Investment and Development Corporation Kshs. 43,440,600

The expenditure above includes Kshs. 42,500,000 being funds transferred to the Kakamega County Microfinance Corporation as budgeted for in the year under review and not to Investment and Development Corporation (KCMFC) as indicated by the auditor. The balance of Kshs. 940,600 was spent on operational activities of the fund drawn from the Department of Trade, Tourism and Industrialization. The Kakamega County Microfinance Corporation prepared and submitted its financial statements to the Auditor General during the year under review.

Kakamega County Emergency Fund Kshs. 12,446,052

The above amount was spent on emergency relief programmes as had been budgeted for under the Department of Finance and Economic Planning Vote Head Emergency Fund code 2810205. Funds transferred to the fund were captured in the financial statements of the County Executive as the fund had not been fully operationalized during the year under review. Subsequent transfers to the Fund in the following Financial Year were well reported in the financial statements of the Fund which were prepared and audited since FY2020/2021 onwards.

Farm Inputs Fund Kshs. 303,656,636

The above expenditure was incurred on purchase of farm inputs, that's planting, top dressing, maize seeds and its related distribution expenses as had been budgeted for under the department of Agriculture, Livestock, Fisheries and Co-operatives Vote Head Farm Inputs code 2510199. The expenditure was captured in the County Executive Financial Statements under discussion since payments were made direct to suppliers from the IFMIS and Internet Banking Platform. Any other amount in excess of the above expenditure transferred to the Fund during the year under review, was captured in the fund financial statements prepared and submitted to the Auditor General.

Kakamega County Youth and Sports Fund Kshs. 108,800,793
No funds were transferred to this Fund since it was not operational during the year under review as envisaged.
The above expenditure was incurred on social and cultural services as budgeted for in the year under review in various departments, that's, Social Services, Youth and Sports; Education, Science and Technology; Lands, Housing, Urban Areas and Physical Planning. These expenditures were captured in the audited financial statements for the County Executive under discussion.

Committee Observations
The committee observed that the matter was addressed satisfactorily.

Committee Recommendations
The Committee recommends that the matter be marked as resolved.

2.0 Budgetary Control and Performance
The statement of comparative budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.15,407,059,188 and Kshs.12,416,574,234 respectively resulting to an under-funding of Kshs. 2,990,484,954 or 19% of the budget. Similarly, the County Executive expended Kshs. 12,667,723,059 against an approved budget of Kshs. 15,407,059,188 resulting to an under-expenditure of Kshs. 2,739,336,129 or 18% of the budget. The underfunding and underperformance affected the planned activities and may have impacted negatively on service delivery to the public.

Management Response
Receipts Budget under-funding of Kshs. 2,990,484,954
The under-funding was as a result of the county not receiving full equitable share from the National Treasury, Donor grants from both foreign and domestic partners and under-performance in own source revenue collection as a result of Covid-19 pandemic.
Budget Under expenditure of Kshs. 2,739,336,129
During the FY 2019/2020 the County had an approved budget of Kshs. 15,407,059,188 but only managed to spend Kshs. 12,667,723,059 which translated to an absorption rate of 82% as observed by the Auditor. The following reasons explains the under-expenditure figure of Kshs. 2,739,336,129 above.

1. The County received equitable share for June 2020 amounting to Kshs.895 million in August 2020.
   This was after the closure of the FY 2019/2020 when the window period for spending had closed.
2. The County did not meet the own source revenue target by Kshs. 485,915,350 due to Covid-19 pandemic.
3. Under and non- disbursement of some donor funds for Example EU-Water Tower Protection and Climate Change Mitigation and Adaptation Programme (WaTER).

4. Late disbursement of Donor funds for projects for example Kenya Urban Development Programme which was disbursed on July 2nd 2020 (Kshs.278 million out of 389 million).
5. Slow implementation of planed activities and projects due to the Covid-19 pandemic lockdown measures.

Committee Observation
The Committee noted that delays in receiving exchequer releases from the National Treasury and under-collection of own source revenue hindered optimal program implementation and effective budget execution.

Committee Recommendations
The Committee recommends that:

1. **the National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate; and**
2. **The County executive puts in place measures to enhance its own generated revenue in order to meet its revenue target and address revenue shortfalls.**

3.0 Delayed Disbursement of Exchequer
The County Executive received exchequer releases amounting to Kshs. 9,517,344,900 during the year under review. Included in this amount is Kshs. 1,932,408,025 received between 4 June 2020 and 6 July 2020. The delay in disbursements of funds by The National Treasury adversely affected implementation of projects for financial year 2019/2020.

Management Response
The Management agreed with the auditor's observation on delayed disbursement of exchequer funds and urged the National Treasury to observe the provisions of the Constitution of Kenya 2010, the Public Finance Management Act, 2012 and the annual County Allocation of Revenue Acts by ensuring timely disbursement of funds to counties. This will enable timely implementation of planned activities and minimize accumulation of pending bills.

Committee Observation
The Committee noted that delays in receiving exchequer releases from the National Treasury and under-collection of own source revenue hindered optimal program implementation and budget execution.

Committee Recommendations
The Committee therefore recommends that:

1) **the National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate so as to enable county entities settle their obligations on time; and**

2) **the county executive puts in place measures to enhance own generated revenue in order to meet its revenue target and address revenue shortfalls that contribute to the challenge of pending bills.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

1.0 Failure to Utilize Covid-19 Funds

The County Executive allocated Kshs. 487,618,000 towards mitigation of Covid-19 pandemic. However, the County Executive did not have approved work plans and procurement plans for COVID-19 prevention, mitigation and response. The funds from the government grant, KDSP and DANIDA had not been utilized by 30 June, 2020 due to lack of work plans and procurement plans. This was contrary to Section 107(2) of the County Governments Act, 2012 which requires that the county government plans shall be the basis of all budgeting and spending in a county. Consequently, the County Executive Management was in breach of law and value for money was not realized on the allocation of the funds.

Management Response

The above funds were received late towards the closure of the financial year under review. These funds were emergency funds meant to combat the effects of Covid-19 pandemic and the County could not foresee the emergence of the pandemic when preparing the budget estimates in early 2019. Since these funds had not been captured in the original budget, the county had to prepare a supplementary budget at the end of the financial

Committee Observation

The committee observed that the matter was addressed satisfactorily

Committee Recommendation

The Committee recommends that the matter be marked as resolved.

2.0 Construction of Markets

2.1 Construction of Kambi Somali Market in Lurambi Sub-County

The County Executive awarded the contract for the construction of Kambi Somali Market in Lurambi Sub-County at a contract sum of Kshs. 17,000,000. The project commenced on 22 May, 2017 with the expected completion date set for 22 May, 2019. However, as at the time of audit in October 2020 the following anomalies were noted;

i. The project was incomplete with about 80% of the works completed 15 months after the expected completion date.
ii. A perimeter wall was constructed at a cost of Kshs. 3,014,234. However, this was not provided for in the original Bills of Quantities. Management did not provide explanations on how the cost for the perimeter wall was arrived at.
iii. iii. Repair of the ablution block had commenced at the time of the audit.

However, this was contrary to the contract agreement which provided for construction of a new ablution block.

Management Response

There was a delay in completion of the project due to the contract variation from constructing a chain link fence to a wall fence around the market which required more time and extra budgetary resources. The project is now complete and in use.

How the cost of the perimeter wall Kshs. 3,014,234 was arrived at.

The original bill of quantities included construction of a chain link and concrete posts fence around the market.

However, the project implementation committee approved a variation to move from the chain link fence to construction of a perimeter wall. An additional Bill of Quantities for the Perimeter wall was then prepared that arrived at the above cost.

Repair visa vie construction of a new ablution block

The original contract sums as quoted by the lowest bidder was Kshs.22, 967,998 which included construction of a new ablution block. Due to budgetary constraints and in line with Section 131 (c) of the Public Procurement and Asset Disposal Act, 2015, the management-initiated negotiations with the lowest bidder with an objective of reducing the quoted sum from Kshs.22,967,998 to Kshs.17,000,000 to suit the engineer's estimates and the available budgetary allocation. The lowest bidder agreed but with a condition that he will not construct a new ablution block but renovate the one existing so that he doesn't incur losses at the expense of the County. Both parties agreed on this proposal and that is why renovation of the existing block was ongoing and not construction of a new one as stipulated in the original bill of quantities when the auditor visited the site.

2.2 Construction of VIP Toilets at Mudiri Estate

The County Executive awarded the contract for the construction of VIP Toilets at Mudiri Estate at a contract price of Kshs. 2,292,478. The project was scheduled to commence on 24 April, 2018 with the expected completion date set for 15 July, 2018. However, an audit inspection conducted on the project on 14 October, 2020 revealed that;

i. The toilets have not been handed over but were in use.

ii. Two of the pit latrines had holes on their floors reflecting poor workmanship by the contractor.

iii. A flat roof had been erected on the toilets instead of the proposed gable roof provided for in the drawings. iv. The roofing was completed using ordinary iron sheets instead of the pre-painted iron sheets provided for in the contract.

v. The paint work was poorly done with weak doors which were falling apart.

Management Response

Toilets not handed over but were in use

Due to high need of the sanitary facility from the citizens around Mudiri area, some started using the toilets before they could be handed over by the contractor as observed by the auditor.

Holes on the floor of two of the Toilets
Instructions were issued to the Contractor to make good any defects on the toilets on 15th October, 2020. His retention monies were still withheld until the defects were rectified.

A flat roof erected instead of proposed gable roof
Instructions were issued to the Contractor to make good any defects on the toilets on 1st March, 2018. His retention monies were still withheld until the defects were rectified.

Use of ordinary iron sheets instead of pre-painted iron sheets
Instructions were issued to the Contractor to make good any defects on the toilets on 15th October, 2020. His retention monies were still withheld until the defects were rectified.

Paint work poorly done with weak doors
Instructions were issued to the Contractor to make good any defects on the toilets on 15th October, 2020. His retention monies were still withheld until the defects were rectified.

2.3 Delayed Hand Over of Bukura Modern Market
The County Executive entered into a contract for the construction of the Bukura Modern Market in 2015. The project had not been handed over and work had stopped. Also, the final accounts providing how prime cost and provisional sums totalling Kshs. 5,850,000 was spent have were not provided. Management did not provide explanation on when the project would be handed over for use.

Management Response
Project not handed over and work stopped
At the time of audit visit, the project was still work in progress though the contractor was not on site due to funding issues. The contractor later resumed works and the Bukura Modern Market was completed, handed over on 19th June, 2020 and commissioned on 19th January, 2022.

Final accounts on how prime costs and provisional sums totaling Kshs.5,850,000 were spent not provided Out of the prime cost and provisional sums of Kshs.5,850,000, the contractor spent Kshs.4,427,500 on plumbing and drainage works, electrical works, elevated water tank, landscaping and gates as provided in the valuation statement no.5.
The management provided the valuation statement no.5 on how the prime cost and provisional sums were spent at the time of audit. The valuation statement is still available for further audit verification.

2.4 Delayed Hand Over of Mumias West Market
The County Executive entered into a contract for the construction of the Mumias

West Market in 2015. The County Executive incurred expenditure of Kshs. 4,500,300 on the gate houses and gates for the Phase 1 and 2. However, Management did not provide for audit documents and information on how the procurement for the works was done. Further, Management provided for Kshs. 6,225,000 as prime cost and provisional sums for which documents in support were not provided for audit verification. The project was yet to be handed over due to failure to connect electricity to the market because the County Executive had not provided for the cost of electricity connection. Consequently, value for money has not been realized from the implementation of the projects.

Management Response

Procurement of Gate Houses and Gate for Phase 1 and 2 of Mumias West Market

The gate houses and gates for the above market was costed at Kshs. 4,200,300 and not Kshs. 4,500,300 as indicated by the auditor. The component was included in the main contract/Bill of Quantities, Bill No.3 and thus followed the normal procurement process as required by law. The procurement file/documents for the entire project were provided to the auditors for review during the audit exercise. The same is still available for further audit verification.

Documents in support of prime costs Kshs. 6,225,000 not provided

The above prime cost and provisional sums was made of Kshs. 5,200,000 under phase I and Kshs.1,025,000 under phase II of the project. Under Phase 1, the contractor spent Kshs. 4,612,945 on prime cost and provisional sums, while Kshs. 268,293.10 was spent on Phase II of the project. Therefore, a total of Kshs. 4,881,238.10 out of the budgeted prime cost and provisional sums was spent.

Handover of the project and electricity connection

The project was handed over to the procuring entity on 26 May 2020 by the contractor. The department of Trade, industrialization and Tourism later handed over the project to the department of Lands, Housing, Urban Areas and Physical Planning since the project falls under Mumias Municipality on 27th May, 2021. Electricity was later connected and the project is now in use.

3.0 Mumias West Level 4 Hospital

The County Executive awarded the tender for the construction of Mumias West Level 4 Hospital on 19 February. 2016 at a contract price of Kshs. 191,116,022. The contract was for a duration of 104 weeks. However, additional works were included and captured under variation order (V.O) Nos.1-16 amounting to Kshs. 13,552,737. This included expenditure of Kshs. 6,406,228 which was not supported. Audit verification of the project in October, 2020 revealed the following matters:

i. The project was handed over by the contractor and had been put to use. Management explained that only some of the buildings were handed over. The final handover report was not provided for audit verification.

ii. Some areas such as walkways remained incomplete.

iii. The variation costs for paving slabs carried out at a cost of Kshs.5,952,000 was not supported.
iv. The water reticulation project, the elevated steel water tank and a large ground steel water tank were poorly constructed and not valued.
v. Proper analysis of the variation orders showing omissions and additions was not provided for evaluation.
vi. Management did not explain how prime cost and provisional sums were arrived at and accounted for. Consequently, value for money has not been realized in the construction of the Mumias West Level 4 Hospital.

Management Response
Expenditure of Kshs. 6,406,228 included under variation orders (V.O) No.1-16 not supported. The variations on record were thirteen (13) in number totaling Kshs. 11,489,156.79 and not Sixteen (16) totaling Kshs. 13,552,737 as indicated by the auditor. We have attached the summary analysis of the variation orders and page 280 of the draft project final accounts which also gives the summary.

Final handover report not provided for audit verification
At the time of audit and due to Covid-19 outbreak the county executive committee passed a resolution to use completed parts of the facility as a Covid-19 treatment and isolation center.
Due to budgetary constraints, the county administration has allocated Kshs. 50,000,000 in this financial year's budget for the completion of the project. Thus, at the time of audit, the management could not provide the final handover report to the auditor since the project was yet to be completed. Some areas such as walkways remained incomplete.

During the Covid-19 period, works on the facility were interrupted by the conversion of the facility into a Covid-19 treatment and isolation center. Furthermore, one of the key directors of the contracted company passed on. These two events contributed to the walkways remaining incomplete as observed by the auditor.

Variation costs for paving slabs carried out at a cost of Kshs. 5,952,000 not supported
The bill of quantities for variation costs for paving slabs were provided and indicated an estimated cost of Kshs. 8,651,985. The contractor spent Kshs. 5,952,000 on actual as indicated above by the auditor. The bill of quantities for paving of slabs costs of Kshs. 8,651,985 was available and still available for audit verification.
Poorly done and not valued water reticulation project, the elevated steel water tank and a large ground steel water tank.

Although the auditor did not point out specific areas of deviation from the BQ or architectural designs that would justify the poor workmanship, the observation was taken up by the project management team. The contractor is yet to complete the project and yet to be paid his retention monies. The valuation for the said components of the project were valued in the Bill of Quantities. Proper analysis of the variation

orders showing omissions and additions not provided for evaluation.

Explanation on how prime cost and provisional sums were arrived at and accounted for

The bill of quantities for the project provides how the prime cost and provisional sums of Kshs. 23,000,000 was arrived at. This document was provided to the auditors during the audit exercise.

The prime cost and provisional sums of Kshs. 23,000,000 was part of the original contract sum of Kshs. 191,116,022. At the time of audit, the management could not provide the final account of how the prime cost was spent since the project was still work in progress. Once the project is fully completed and handed over, the management will provide an analysis of how the prime cost and provisional sums were applied.

4.0 Stalled Construction of Lumakanda Wards in Lugari

The County Executive awarded the tender for the construction of a 24-bed ward at Lumakanda at a contract sum of Kshs. 8,658,445.324 December, 2015. The project which commenced on 9 February, 2016 was expected to be completed by September, 2016. The project stalled when it was about seventy percent (70%) complete. The County Executive Management decided to change the project into a health center after realizing that wards were six (6) kilometers away from the nearest health facility. However, Management has not taken any action to implement the decision. Consequently, value for money in constructing the wards and converting the wards into health center has not been realized.

Management Response

The management has prepared a bill of quantities and architectural design for the proposed completion of the 24-bed general ward into a health centre in Lumakanda. Due to budgetary constraints and time factor, the management intends to allocate the proposed cost of the project Kshs. 6,052,938 to complete the project into the next financial year's budget.

Committee Observation

The committee noted that the management failed to provide any correspondences to prove the intension to allocate a budget for implementation of the idea to change the ward into a health facility.

Committee Recommendation

The Committee recommends that the auditor follow up the matter in the next audit cycle and provide a status report on the usability of the project to the public and to confirm value for money.

5.0 Irregularities in Supply of Furniture and Electronics at Bukhungu Stadium

The County Executive entered into a contract for the supply of furniture and electronics at a contract cost of Kshs. 14,992,768. However, anomalies were noted as detailed below:

i. The automatic Ice Making Machine purchased at Kshs. 264,000 was not in use as at the time of the audit.
ii. The contracted for supply and delivery of two hundred and ten (210 square metres of 5mm carpet at a cost of Kshs. 3,045,000. However, the County received one hundred and thirty-eight (138) square metres of carpet was supplied and laid out at the stadium.
iii. The wet and dry industrial vacuum purchased at Kshs. 128,000 had not been delivered at the time of the audit.

Consequently, value for money has not been realized from the purchase of the furniture and electronics for the Bukhungu Stadium

Management Response

Automatic Ice Making Machine not in use.

The Automatic Ice Making Machine had not been installed at the time of audit as observed by the auditor. However, the machine has since been installed at the home team changing room and well-functioning. The auditor is invited to the site for audit verification.

The wet and dry industrial vacuum purchased at Kshs. 128,000 not delivered at the time of the audit. The wet and dry Industrial Vacuum machine has since been delivered, inspected and accepted in good condition. The auditor is invited to the site for audit verification.

The Contractor/supplier was to supply a red carpet of 210 square meters by 5mm thick but the county only received a carpet of 138 square meters by 5mm thick.

The carpet was supplied and received according to the ordered specifications. That is, 210 sq. meters of 5mm thickness. Out of this, 138sq. meters was fitted at the VVIP Lounge while the remaining 72sq. meters was fitted in the Stadium Manager's office. At the time audit, the auditor only visited the VVIP Lounge and measured the carpet laid there but did not visit the Stadium Manager's office. He is therefore invited to visit the manager's office for further audit verification.

Committee Observation

The Committee noted that the auditors during the time of audit, the items in the said contract had not been delivered fully.

Committee Recommendation

The Committee recommends that the auditors follow up the matter in the next audit cycle to confirm the availability and status of the items, to confirm value for money, and report to the Office of the Auditor General.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

1.0 Unaccounted for Supply of Water Metres (1/2" and 3")

The County Executive through the Department of Water, Environment and Natural Resources contracted for the supply water metres to facilitate control of non-revenue

water in Sango Community Water Supply pipeline, Likuyani Sub-County. Review of the supporting documents for the payment revealed that the items were received vide counter receipt voucher (S13) No.2847. However, the S13 was just a photostat copy and the original could not be traced to confirm the authenticity of the delivery. Also, there were no stores ledgers (S3 Card), counter requisition issue vouchers (S11) and procurement file relating to the supplier. Controls over store records were weak and cannot be relied upon.

Management Response
The Original Counter receipt voucher (S13), stores ledgers (S3 cards), Counter requisition Vouchers (S11) and the procurement file related to the above procurement was available during the audit exercise and still available for further audit verification.

Committee Observation
The Committee noted that the matter has since been addressed.

Committee Recommendation
The Committee recommends that the matter be marked as resolved.

2.0 Poor Internal Controls for Revenue Collection -
Bukura Agricultural Training College
The Bukura Agricultural Training College collected Kshs. 5,566,024 from various sources. However, review of the internal controls over revenue collection and banking revealed the following weaknesses; i. Used miscellaneous receipt books were not examined before issuance of new receipt books at the County Treasury. ii. Collection control sheets (CCS) were not used in surrendering of revenue. Also, the revenue office did not verify cash banked against cash collected to ensure that all the revenue collected was banked intact. iii. The County Revenue Office did not have a proper mapping of all the revenue sources at the College but relied on records as presented by the revenue collectors.

Management Response
Used miscellaneous receipt books not examined before issuance of new ones
The management has since put in place measures that ensure miscellaneous receipt books are examined before issuance of new receipt books from the County Treasury.
Collection control sheets (CCS) not used in surrendering of revenue. Also, revenue office not verify cash banked against cash collected to ensure all revenue collected is banked.
The management has since put in place measures that ensure collection control sheets are used in surrendering of revenue collected. In addition, the revenue office verifies cash banked against cash collected to ensure all revenue collected is banked intact.
County Revenue Office not having a proper mapping of all the revenue sources at the College but relied on records presented by the revenue collectors.
The county revenue office has now mapped all the revenue sources at the College and issues collection targets to the revenue collectors at the College.

Committee Observation
The Committee noted that the matter has since been addressed.

Committee Recommendation
The Committee recommends that the matter be marked as resolved.

3.0 Veterinary Revenue
Revenue under veterinary was received under cashless method, which was generated from artificial insemination, meat inspection, meat carrier fee, flayers' license, movement permit, slaughter house license, premise fee - where the skins and hides are stored and dispatch note - for transporting skins and hides. However, a block figure of Kshs. 5,035,625 is recorded as having been collected in the year under review, making it difficult to verify revenue collections from various revenue centers. Further, it was noted that the revenue collection under veterinary units had other anomalies as detailed below: (i) No receipts were issued on payment of revenue at the slaughter since there was no revenue collector. Also, there were no records of collections maintained throughout the year under review. (ii) Meat carriers were in use but fees was not being collected because there was no license book. (iii) Movement permits were not issued as they were not available.

Management Response
The management has provided a detailed schedule breaking down the block veterinary revenue figure above showing collection from various revenue centers. No receipts were issued on payment of revenue at the slaughter house since there was no revenue collector. Also, there were no records of collections maintained throughout the year under review.
At the time of audit, the county was short of enough personnel to man all the slaughter houses across the twelve sub counties. As a result, the management through the Kakamega County Revenue Agency employed more personnel who were then deployed to all the slaughter houses across the County. They now issue receipts upon payment.
Records of collections are now maintained at sub county revenue offices throughout the year. Meat carriers in use but fees not collected because of lack of license book. The management procured meat carrier License books and are used to collect fees from the operators. Movement permits were not issued as they were not available.

Committee Observation
The Committee noted that the matter has since been addressed.

Committee Recommendation
The Committee recommends that the matter be marked as resolved.

4.0 High Staff Turnover
During the year under review, three hundred and forty-two (342) members of staff left the County services through contract expiry, death, dismissal, resignation, early

retirement, retirement on medical grounds and mandatory retirement. However, the human resource records availed for review did not provide reasons for exit for six (6) members of staff. In addition, there were no detailed reports for dismissal of one hundred and three (103) staff who were alleged to have been dismissed for financial misappropriation.

Management Response
The auditor did not provide specific names of the six members of staff referred to above to enable it respond appropriately. We wrote to the auditor awaiting his response.
The 103 staff in question were revenue officers who were dismissed for financial misappropriation. A comprehensive report relating to the investigations and disciplinary process been provided review.

Committee Observation
The Committee noted that the issue is still under consideration by the auditors.

Committee Recommendation
The Committee recommends that the auditors follow up the matter in its next audit cycle, and the management provide its Staff Establishment report to the auditors within 60 days after adoption of this report.

CHAPTER FOUR

REPORT OF THE SENATE COUNTY PUBLIC ACCOUNTS COMMITTEE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF KIRINYAGA COUNTY EXECUTIVE FOR THE FINANCIAL YEAR 2019/2020

The Governor of Kirinyaga County Executive Hon. Ann Waiguru, EGH appeared before the Committee on Thursday, 20th April 2023 to respond (under oath) to audit queries raised in the Report of the Auditor General on Financial Statements for Kirinyaga County Executive for the Financial Year 2019/2020.

Qualified Opinion

EXECUTIVE SUMMARY OF UN-RESOLVED AUDIT QUERIES				
	QUERY	**COMMITTEE RECOMMENDATION**	**ACTORS**	**TIMELINE**
1	**1.4 Integrated Financial Management Information System Ledger Balances** There was an unexplained variance of Kshs.657, 446,922 between the balances in financial statements and that in the Integrated Financial Management Information (IFMIS) System.	1) The County CEO undertakes administrative action against the responsible officer(s) for failure to undertake reconciliation of financial statements within the stipulated timelines in accordance with section 156 of the Public Finance Management Act, 2012 and submit a report to the Office of the Auditor General within 60 days of adoption of this report; and 2) The County Executive to identify training needs of its staff serving in the Finance Department and initiate capacity building and training in conjunction with the National Treasury within 60 days of adoption of this report.	1. The County Chief Executive Officer 2. The Auditor - General	60 days from the adoption of this report
2	**2.1.1 Daily Subsistence Allowances** Records on the trips, including travel tickets, visas and boarding passes as	The Committee recommends that the EACC should fast track investigations into the matter and provide a status update to the Senate witin	The Ethics and Anti-Corruption Commission (EACC)	EACC to present a status report to Senate within 60

	applicable, were not submitted to the Auditor General at time of audit. The Committee noted that the matter was under investigation by the EACC.	90 days of adoption of this report.		days of adoption of this report.
3	**2.1.2 Purchase of Specialized Materials** User requisitions, Local Purchase Orders (LPOs), and other procurement documents as well as delivery notes and goods inspection and acceptance certificates were not provided to the Auditor General at time of audit. The Committee noted that the matter was under investigation by the EACC.	The Committee recommends that the EACC should fast track investigations into the matter and provide a status update to the Senate witin 90 days of adoption of this report.	The Ethics and Anti-Corruption Commission (EACC)	EACC to present a status report to Senate within 60 days of adoption of this report.
4	**2.2.1 Construction and Civil Works** Payment vouchers and procurement records were not provided to the Auditor General at time of audit.	The Committee recommends that the EACC should fast track investigations into the matter and provide a status update to the Senate witin 90 days of adoption of this report.	The Ethics and Anti-Corruption Commission (EACC)	EACC to present a status report to Senate within 60 days of adoption of this report.
5	**2.2.5 Unavailable Documents** Ownership documents for forty (40) of the seventy-two (72) parcels of land were not provided for audit verification	The Committee recommends that the- 1. the County Executive expedites the process of acquiring the title deeds to the 40 parcels of land and provides a status update to the OAG within 60 days of adoption of this report; 2. County Executive should update and	1. The County Chief Executive Officer 2. The Auditor General	60 & 90 days from the adoption of this report

		present their Fixed Assets Register in the format prescribed by the Public Sector Accounting Standards Board; 3. County Executive should adopt and implement the report of the Inter-Governmental Technical Relations Committee (IGTRC) on assets and liabilities from defunct Local Authorities and provide a status update to the Office of the Auditor General within 90 days of adoption of this Report; and 4. Office of the Auditor General should progressively review and report on the matter in the subsequent Financial Years.		
6	**3.0 Unconfirmed Pending Bills Balance** Outstanding pending accounts payable totaling Kshs.359,010,501 out of which bills totaling Kshs.150,917,677 were incurred during the year under review.	The Committee therefore recommends that: 1) the National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate so as to enable county entities settle their obligations on time; and 2) the county executive puts in place measures	1. The County Chief Executive Officer 2. The National Treasury 3. The Auditor General	Continous

		to enhance own generated revenue in order to meet its revenue target and address revenue shortfalls that contribute to the challenge of pending bills. 3) Pending bills deemed ineligible should be forwarded to the Directorate of Criminal Investigation (DCI) for investigation proper legal action taken against those filing false claims. 4) County Government to take note of judgement in a Kitale High Court Constitutional Petition E003 of 2023 that declared formation of pending bills verification committees unconstitutional and engage Office of the OAG and strengthen the internal audit functions.; and 5) All valid pending bills that have been reviewed by the Office of the Auditor General be paid and a payment plan be submitted to the county assembly for approval and progress report on implementation sent to the Senate and the		

		Office of the Controller of Budget.		
OTHER MATTER				
7	**1. Budgetary Control and Performance** There was under-funding of Kshs.272,888,861 or 4% of the budget. The County Executive spent Kshs.4,937,177,741 against an approved budget of Kshs.6,131,617,883 resulting to an under-expenditure of Kshs.1,194,440,142	i)the National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate and comply with Article 219 of the Constitution and Section 17(6) of the Public Finance Management Act, 2012; ii)the County executive puts in place measures to enhance its own generated Revenue in order to meet its revenue target and address revenue shortfalls.	1. The National Treasury 2. The County Chief Executive Officer	Continuous
8.	**3.0 Unresolved Prior Year Issues** Note 9 of other disclosures highlights only seven (7) of at least eighteen (18) issues raised in the audit report for 2018/2019 financial year. does not conform to Public Sector Accounting Standards Board (PSASB) requirements.	The Committee recommends that;- 1) the County Executive complies with section 53 of the Public Audit Act, 2015 by taking action on the issues raised by the Auditor General and submits a report to the Office of the Auditor General within sixty (60) days of the adoption of this report; and 2) The Institute of Certified Public Accountants (ICPAK) takes action(s) against the responsible officer (s) for preparing financial statements	1. The County Chief Executive Officer 2. ICPAK	60 days from the adoption of this report

		that do not conform to Public Sector Accounting Standards Board (PSASB) requirements which constitutes professional misconduct pursuant to Section 8 (a) and 30 of the Accountants Act CAP 531 and reports to the Office of the Auditor General within 60 days of adoption of this report.		
9	**2.0. Delayed Implementation of Projects** 30 (thirty) projects budgeted at Kshs.979,842,995 were ongoing as at 30 June, 2020. Implementation of 7 (seven) Projects budgeted at Kshs.36,457,362 had not started.	The National Treasury should strictly adhere to the cash disbursement schedule on the release of funds to County Governments as approved by the Senate. The Committee further recommends the Auditor General should undertake the verification of those projects within sixty (60) days from the adoption of this report.	1. The National Treasury 2. The County Chief Executive Officer 3. The Auditor General	Continuous
10.	**4.0 Irregular Payments to Council of Governors** The County Executive paid Kshs.5,438,993 to the Council of Governors.	The Committee recommends that the irregular payments to the Council of Governors (COG) be stopped and further recommends the surcharge of any Governor, in their capacity as Chief Executive Officer, who continues to make the irregular contribution. The EACC should oversee the recovery of all the public funds irregularly transferred to the Council of Governors (COG) by the Governor. This	The County Chief Executive Officer	Immediate

		is in line with the Resolution of the Senate.		
11.	**6.0 Excessive Expenditure on Personnel Emoluments.** Compensation of employees' expenditure for the year under review totaled Kshs.2,320,111,647 equivalent to 44% of the revenue of the County Executive totaling Kshs.5,287,285,007.	i. That the County Executive to strictly adhere to the provision of paragraph 25(1)(b) of the PFM Act (county government) regulations, 2015 which stipulate that the county wage bill shall not exceed 35 per cent of the county total revenue; and ii. That County Executive to provide to the Auditor General the measures put in place to contain the county higher wage bill within sixty (60) days from the adoption of this report.	1. The County Chief Executive Officer 2. The Auditor General	60 days from the adoption of this report
12.	**9.0 Officers Earning Less Than a Third Basic Pay** Several officers earned less than one third of their basic pay contrary to Section 19(3) of the Employment Act, 2007.	(i) The County Executive should provide to the Auditor General within sixty (60) days after the adoption of this report a plan of the measures put in place to mitigate on the issue as well as comply with the requirements of the law. (ii) The county should configure their IPPD system such that it is able to lock out commitments beyond the accepted thresholds. (iii) The Auditor General should continue monitoring the issue in subsequent Audit cycle.	1. The County Chief Executive Officer 2. The Auditor General	60 days from the adoption of this report.

Qualified Opinion

1.0 Discrepancies in Financial Statements

1.1 Statement of Receipts and Payments

The statement of receipts and payments reflects payments for compensation of employees totaling Kshs.2, 320,111,647. However, the ledgers presented for audit reflect balances totaling Kshs.2, 277,890,682 in respect to the account, resulting to an unexplained variance of Kshs.42, 220,965. As a result, the accuracy of compensation of employees' expenditure balance has not been confirmed.

Management Response

The Management submitted that the actual amount incurred for compensation to employees was Ksh. 2,320,111,647 as reported in the audited Financial Statements. This amount was accurately supported by corresponding ledgers. The County Government had currently addressed the above challenges of IFMIS reconciliation by Capacity building in liaison with the IFMIS Department.

Committee Observation

The Committee noted that The Management did not submit all the relevant documents and information to the Auditor General at the time of Audit as per section 62 of the Public Audit Act, 2015, the management has since submitted the documents and they were verified by The Auditor General.

Committee Recommendations

The Committee recommends that the matter be marked as resolved.

1.2 Summary Statement of Appropriation-Recurrent and Development Combined

The summary statement of appropriation-recurrent and development combined for the year ended 30 June, 2020 reflects actual receipts on returned issues to the County Revenue Fund (CRF) totalling Kshs.571,444,015. However, note 10 to the Financial Statements and the statement of receipts and payments reflect a Nil balance in respect to the item.

In the circumstance, the accuracy of the statement of appropriation: recurrent and development combined has not been confirmed.

Management Response

The Management stated that as per IPSAS cash basis accounting, amount returned to CRF and closing balance in CRF account were not included in the statement of receipt and payment. This was not the actual receipt for the year. The Management submitted the balance of Ksh. 571,444,015 was to be included in the statement of receipts, it would have amounted to accounting for the receipts twice.

Returns to CRF and closing balances in this account was accounted for in the statement of assets and appropriation account as indicated in the audited financial statements.

Committee Observation

The Committee noted that the matter has since been addressed.

Committee Recommendation
The Committee recommends that the matter be marked as resolved.

1.3 Statement of Budget Execution by Programs and Sub-Programs

The statement of budget execution by programs and sub-programs reflects payments totaling Kshs. 4,933,714,239, whereas the statement of appropriation recurrent and development combined reflects payments totaling Kshs. 4,937,177,741 resulting to an unexplained variance of Kshs. 3,463,502. As a result, the accuracy of the statement of budget execution by programs and sub-programs has not been confirmed.

Management Response
The Management stated that the statement of budget execution by programs and sub-programs was automatically generated from IFMIS. It reflected the amount of budget as captured in IFMIS. During financial year 2019/2020, the County received a grant of Kshs. 3,463,502 from Aquiculture Business development program (ABDP). This amount was not captured in IFMIS since it was not in the CARA.

The variance established in the audit report was as a result of this amount. It was manually captured and recognized in the statement of appropriation recurrent and development combined.

Committee Observation
The Committee noted that the matter has since been addressed.

Committee Recommendation
The Committee recommends that the matter be marked as resolved.

1.4 Integrated Financial Management Information System Ledger Balances

The Financial Statements reflect balances totaling Kshs.4,161,930,291 in respect to thirty-nine (39) items, whereas records on the items in the Integrated Financial Management Information (IFMIS) System reflect balances totaling Kshs.3,504,483,369 resulting to an unexplained variance of Kshs.657,446,922 between the two sets of records. The items are shown in the attached Appendix I.
In the circumstance, the accuracy of the Financial Statements for the year under review has not been confirmed.

Management Response
The Management submitted that as per IPSAS cash basis accounting, the figures in the Financial Statements were based on actual payments and receipts for the year. Under expenditures, the figures for actual payment were generated from the IFMIS payment details report while the figures for actual receipts were generated from both CRF statement and manual reports for some receipts. This contributed to some of the variances.

In case of any discrepancies between the actual receipts and payments with any other IFMIS reports, the standards recommended the use of the actuals. The IFMIS report referred to in the audit findings was not fully automated to auto reconcile all the payments and receipts with the CBK statements. This also contributed to variances. The county had resorted to manual reconciliations for all the CBK accounts since the ones generated from IFMIS were incomplete.

Under transfers to other Government entities, the expenditures were captured in the IFMIS budget using the SCOA (standard chart of accounts) sub-items and not the name of specific transfer to entities for instance FIF, DANIDA, NARIGP, ASDSP, ABDP. The Management stated that to come up with the amount for the transfers, IFMIS payment details report was sorted using the account description. These differences in capturing transfer to entities would appear as variances between what was reported in the Financial Statements and IFMIS report referred to in the audit findings.

Amount transferred to county assembly was generated from the CRF statement and not IFMIS. This contributed to variance for this sub-item as per the audit findings. The County Assembly had their own independent accounting system but shared the same CRF with the county executive. The IFMIS report used the exact cut off dates of 30th June for all the payments made during the year which was not always the case since there was always an extension to make payments after this date. This contributed to the variances.

The individual item variances identified in the audit findings were explained as tabulated below;

	Items	Financial Statements Amounts (Kshs)	IFMIS Report amounts (Kshs)	Explanation for Variances
1	County Assembly	570,764,950	-	The county executive does not capture county assembly payments in IFMIS since they have independent IFMIS accounting system. This amount was generated from CRF account hence the variance.
2	Hospital Facility improvement fund	89,718,294	-	This item was captured in IFMIS under various sub-items in health recurrent budget since there is no such an item as Hospital Facility improvement fund in IFMIS SCOA.
3	NARIGP	201,561,354	-	This item was captured in IFMIS as other grants sub-item in agriculture dept. Budget as

	Items	Financial Statements Amounts (Kshs)	IFMIS Report amounts (Kshs)	Explanation for Variances
				earlier explained since there is no such an item as NARIGP in IFMIS SCOA.
4	Health Centers DANIDA Fund	12,281,250	-	This item was captured in IFMIS under various sub-items in health recurrent budget since there is no such an item DANIDA in IFMIS SCOA.
5	Alcoholic Fund	3,084,000	-	This item was captured in IFMIS under various sub-items in Gender dept. budget since there is no such an item as alcoholic fund in IFMIS SCOA.
6	User fees	11,282,570	-	This item was captured in IFMIS under various sub-items in health recurrent budget since there is no such an item as user fees foregone in IFMIS SCOA.
7	Agriculture Sector Development Support Project	15,506,753	-	This item was captured in IFMIS under other grants sub-items in agriculture budget since there is no such an item as ASDSP in IFMIS SCOA.
8	Aqua Culture Business Development Programme	3,463,500	-	This was generated from bank statement since it was not factored in the IFMIS budget for the year.
9	Transforming Health Universal Services Care Project	34,907,139	-	This item was captured in IFMIS under various sub-items in health recurrent budget since there is no such an item THUSP in IFMIS SCOA.
10	Transfer to the Council of Governors	5,438,993	-	This item was captured in IFMIS under various sub-items in office of governor recurrent budget since there is no such an item as Transfer to the Council of Governors in IFMIS SCOA.
11	Purchase of Office Furniture &	9,311,316	10,161,816	Actual amount for this item was as per the Financial Statements as supported by ledgers. Annex 2A.

	Items	Financial Statements Amounts (Kshs)	IFMIS Report amounts (Kshs)	Explanation for Variances
	General Equipment			
12	Purchase of Specialized Plant Equipment & Machinery	65,593,118	67,193,118	Actual payments amount for this item was as per the Financial Statements as supported by ledgers. Annex 2B.
13	Purchase of Certified seeds	8,571,599	8,901,554	Actual payments amount for this item was as per the Financial Statements as supported by ledgers .Annex 2C.
14	Fuel Oil and Lubricants	61,092,213	68,228,676	The correct amount for this item was 61,092,212.80 as supported by ledgers. Annex 2D.
15	Basic Salaries Permanent Employees	2,090,548,147	2,312,048,454	Actual payment amount for this item was as per the Financial Statements as supported by ledgers. Annex 1A. Variance was as a result of lack of IFMIS auto reconciliation, use of below the lines account in payment of salaries and misclassification of sub items. The amount of 2,312,048,454 incorporated other sub-items like NHIF, NSSF and Pensions which were classified separately in the notes to Financial Statement.
16	Pension and other social security contributions	121,995,288	-	This item was charged in salary sub-item in the budget. There was no sub-item in IFMIS budget in the name of pension. IFMIS payment details report was sorted using the account description and amounted to Ksh. 121,995,287.65. Annex 1A.
17	Compulsory national social	4,081,024	-	This item was charged in salary sub-item in the budget. There was no sub-item in IFMIS budget

	Items	Financial Statements Amounts (Kshs)	IFMIS Report amounts (Kshs)	Explanation for Variances
	security schemes			in the name of NSSF. IFMIS payment details report was sorted using the account description and amounted to Ksh. 4,081,024. Annex 1A.
18	Compulsory national health insurance schemes	35,573,950	-	This item was charged in salary sub-item in the budget. There was no sub-item in IFMIS budget in the name of NHIF .IFMIS payment details report was sorted using the account description and amounted to Ksh.35,573,950 . Annex 1A.
19	Utilities, supplies and services	36,971,664	39,471,664	Actual payment amount for this item was as per the Financial Statements as supported by ledgers .Annex 2E.
20	Communication, supplies and services	6,931,264	7,205,264	Actual payment amount for this item was as per the Financial Statements as supported by ledgers .Annex 2F.
21	Domestic travel and subsistence	46,960,163	50,096,073	Actual payment amount for this item was reconciled to Ksh. 46,960,163 as supported by ledgers and amended Financial Statements. Annex 2G.
22	Foreign travel and subsistence	10,320,668	7,848,648	Actual payment amount for this item was reconciled to Ksh.10,320,668 as supported by ledgers .Annex 2H.
23	Printing, advertising and information supplies & services	31,020,101	43,908,398	Actual payment amount for this item was as per the Financial Statements as supported by ledgers .Account Annex 2J.
24	Rentals of produced assets	1,205,000	1,333,000	Actual payment amount for this item was as per the Financial Statements as supported by ledgers. Annex 2K.
25	Training expenses	15,089,394	24,053,294	Actual payment amount for this item was as per the Financial

	Items	Financial Statements Amounts (Kshs)	IFMIS Report amounts (Kshs)	Explanation for Variances
				Statements as supported by ledgers. Annex 2L.
26	Hospitality supplies and services	18,235,849	21,018,399	Actual payment amount for this item was as per the Financial Statements as supported by ledgers. Annex 2M.
27	Specialized materials and services	251,160,399	178,660,087	Actual payment amount for this item was as per the Financial Statements as supported by ledgers. Annex 2N.
28	Office and general supplies and services	12,698,209	15,862,129	Actual payment amount for this item was as per the Financial Statements as supported by ledgers. Annex 2P.
29	Other operating expenses	124,058,108	134,958,714	Actual payment amount for this item was as per the Financial Statements as supported by ledgers. Annex 2Q.
30	Routine maintenance – vehicles and other transport equipment	22,386,731	11,728,219	Actual payment amount for this item was as per the Financial Statements as supported by ledgers .Annex 2R
31	Routine maintenance – other assets	3,972,387	4,245,157	Actual payment amount for this item amounted to Ksh.3,972,386.75 as supported by ledgers. Annex 2S.
32	Other Payments	106,968,083	119,478,742	Actual payment amount for this item was as per the Financial Statements as supported by ledgers. Annex 2T.
33	Scholarships and other educational benefits/Bursary	25,000,000	26,950,000	Actual payment amount for this item was as per the Financial Statements as supported by ledgers. Annex 2U.
34	National Health Insurance Fund	35,573,950	10,000,000	This was included Under compensation to employees

	Items	Financial Statements Amounts (Kshs)	IFMIS Report amounts (Kshs)	Explanation for Variances
				amounting to Ksh. 35,573,950. Account Annex 1A. The differences were as a result of misclassification in IFMIS.
35	Current Grants to Semi-Autonomous Government Agencies	0	19,931,545	This was as a result of misclassification in IFMIS. This item was classified in note 15 under other grants and payments.
36	Capital Grants to Other levels of government	0	61,109,147	Transfer to other Government entities(note14) was captured under this item
37	Emergency Relief (food, medicine, blankets, cash grant, tents and other temporary shelter etc.)	0	200,000	This was as a result of misclassification in IFMIS. This item was classified in note 15 under other grants and payments.
38	Other Capital Grants and Trans	50,635,263	258,741,271	Transfer to other Government entities (note14 in Financial Statement) was captured under this item in the IFMIS budget
39	Purchase of Household and Institutional Appliances	17,967,600	1,150,000	The correct amount for this item was as recorded in the Financial Statements amounting to 17,967,600 as supported by ledgers. Annex 2V
	TOTAL	4,161,930,291	3,504,483,369	

Committee Observation

The Committee noted that there was an unexplained variance of Kshs.657,446,922 between the balances in the financial statements and records of the 39 items in the Integrated Financial Management Information (IFMIS) System.

Committee Recommendations

The Committee recommends that-

a) **The County CEO undertakes administrative action against the accounting officer, the Chief Officer Finance, the Head of County Treasury and any other officer(s) responsible for failure to undertake reconciliation of financial statements within the stipulated timelines and submit a report to the Office of the Auditor General within 60 days of adoption of this report;**
b) **The Institute of Certified Public Accountants (ICPAK) takes action(s) against the Head of Treasury for misrepresentation of financial statements which constitutes professional misconduct pursuant to Section 8 (a) and 30 of the Accountants Act CAP 531 and reports to the Office of the Auditor General within 60 days of adoption of this report;**
c) **County CEO must ensure strict adherence to the Public Audit Act, 2015 by providing accurate and reliable reconciliations of the financial statements, payment details and the vote books during the audit cycle; and**
d) **The County Executive to identify training needs of its staff serving in the Finance Department and initiate capacity building and training in conjunction with the National Treasury within 60 days of adoption of this report.**

1.5 Summary Statement of Appropriation

The summary statement of appropriation-development reflects an aggregate development budget of Kshs. 1,835,804,621 which, however differs from the budget sum of Kshs. 1,348,466,250 reflected in the project implementation status report as at 30 June, 2020. No explanation has been provided by Management for the difference of Kshs. 487,338,371 between the two sets of records and as a result, the accuracy of the summary statement of appropriation - development could not be confirmed.

Management Response

The Management stated that the amount shown in the project implementation report was the actual amount incurred for the projects implemented during 2019/2020 financial year. The development budget was not fully absorbed/implemented and this explained the variance between the summary statement of appropriation-development and the project implementation status report as at 30th June, 2020.

The County Executive noted that the following reasons why the budget was not fully absorbed-

1. The County accrued a budget deficit brought about by unrealized own source revenue of Kshs. 105,275,743.
2. The delayed exchequer releases by National Treasury of Kshs. 364,734,600.

Committee Observation

The Committee noted that the matter has since been addressed.

Committee Recommendation

The Committee recommends that the matter be marked as resolved.

2.0 Unaccounted for Expenditures

Several expenditure balances reflected in the Financial Statements contain payments that were not sufficiently accounted for, as explained below:

2.1 Use of Goods and Services

The statement of receipts and payments reflects Kshs. 737,443,728 in respect to use of goods and services. However, payments for the per diem and specialized materials totalling Kshs. 17,038,003 were not accounted for:

2.1.1 Daily Subsistence Allowances

Expenditure records examined, indicated subsistence allowances totalling Kshs.4,559,965 were paid to officials travelling on duty, as detailed in the attached appendix II.

However, records on the trips, including travel tickets, visas and boarding passes as applicable, were not made available for audit review.

In view of the missing records, the occurrence and validity of the payments totaling Kshs.4, 559,965 could not be confirmed. The records further indicated that payments totaling Kshs.3, 419,108 were made to a firm to supply air-tickets for use by officials of the County Executive in the year under review. However, records on the supply and use of the tickets were not provided for audit. As a result, it was not possible to confirm whether the tickets bought were supplied and used for the intended purpose.

Management Response

The County Government acknowledged that the Supporting documents relating to payment of allowances and supply of air tickets were not availed at the time of the audit since the county was under review by EACC- Central Region Office. As a result, the County Government could not avail these documents for audit review because they had already been requested and submitted to EACC.

Committee Observation

The Committee noted that the County Executive was under investigation by the Ethics and Anti-Corruption Commission, who had seized the documents, and therefore could not provide the documents at the time of audit.

Committee Recommendation

The Committee recommends that the EACC should fast track investigations into the matter and provide a status report to Senate within 90 days of adoption of this report.

2.1.2 Purchase of Specialized Materials

Other goods and services expenditure records examined, indicated that Kshs.251,160,399 was spent on purchase of specialized materials and services. However, payments totaling Kshs.12,478,038 included therein were not supported with relevant records including user requisitions, Local Purchase Orders (LPOs), and other procurement documents as well as delivery notes and goods inspection and acceptance certificates.

In the circumstance, the receipt of specialized equipment costing of Kshs.12,478,038 and the validity of the procurement process followed in their purchase could not be confirmed.

Management Response

The following payments under specialized material and equipment were made.

PV No.	Payee	Date	Amounts (Kshs)
30909	Halyard Products Limited	26th Nov.2019	5,797,738
30954	Highpharm Pharmaceuticals Limited	27th Nov.2019	6,680,300
Total			12,478,038

During the period under review, the County Government of Kirinyaga acknowledged that, relevant records including user requisitions, Local Purchase Orders (LPOs), and other procurement documents as well as delivery notes and goods inspection and acceptance certificates as indicated in the above observation by the auditor were not provided. The audit exercise was done during the same period the County was under review by EACC- Central Region Office. As a result, the County Government was not in possession of these documents since they had already been submitted to EACC.

Committee Observation

The Committee noted that the County Executive was under investigation by the Ethics and Anti-Corruption Commission, who had seized the documents, and therefore could not provide the documents at the time of audit.

Committee Recommendation

The Committee recommends that the EACC should fast track investigations into the matter and provide a status report to Senate within 90 days of adoption of this report.

2.2 Acquisition of Assets

The statement of receipts and payments reflects acquisition of assets payments totalling Kshs.641, 408,819 as further disclosed in Note 17 to the Financial Statements. The following issues were noted in respect to the balance:

2.2.1 Construction and Civil Works

The acquisition of assets balance includes Kshs.77, 474,485 spent on construction and civil works, out of which payments totalling Kshs.4, 781,211 were not supported with payment vouchers and procurement records. As a result, the occurrence and validity of payments could not be confirmed.

Management Response

The following payments were made under construction and civil works category;

Payee	Date	Amount (Kshs)
Master Rock Construction Company Limited	17/1/2020	2,670,028

Payee	Date	Amount (Kshs)
Master Rock Construction Company Limited	27/3/2020	2,111,183
Total		4,781,211

In response, the County Executive duly followed the procurement process and was in compliance with all the relevant sections of the PPAD, 2015.

During the period under review, the procurement documents had been submitted for review to EACC. As a result, the County Government was not in possession of these documents since they had already been submitted to EACC.

Committee Observation

The Committee noted that the County Executive was under investigation by the Ethics and Anti-Corruption Commission, who had seized the documents, and therefore could not provide the payment vouchers and procurement records at the time of audit.

Committee Recommendation

The Committee recommends that the EACC should fast track investigations into the matters and provide a status report to Senate within 90 days of adoption of this report.

2.2.2 Purchase of Vehicles

The balance further includes Kshs.19, 745,500 spent on purchase of vehicles and other transport equipment, including a four-wheel-drive vehicle bought at Kshs.14, 500,000. The respective tax invoice dated 14 October, 2019 identified the vehicle as a Toyota Land Cruiser Prado registration number 20CG 054A and chassis JTEBH3FJ90K217341. However, the vehicle was not presented for audit verification. In the circumstance, its receipt and ownership by the County Executive could not be confirmed.

Management Response

The County Government of Kirinyaga acknowledged, the Toyota Land Cruiser Prado registration number 20CG 054A and chassis JTEBH3FJ90K217341 was not physically available to be presented for verification by the auditor during the period under review. The Management stated that this was the official car assigned to the Governor – County Government of Kirinyaga and it was on official duty with the Governor hence could not be availed for physical verification.

Committee Observation

The Committee noted that the matter has since been addressed.

Committee Recommendation

The Committee recommends that the matter be marked as resolved.

2.2.3 Fixed Assets

Annex 5 to the Financial Statements reflects historical cost of assets totaling Kshs. 2,506,166,821. However, Management has not indicated whether the balance includes the values of assets inherited from the defunct local authorities in the County.

In addition, the costs for eleven (11) items included in the balance differ with balances reflected in respect to the items in Note 17 to the Financial Statements, as shown in the attached Appendix III.
Further, records provided for audit indicated that the County Executive had ninety-nine (99) motor vehicles. However, log books for twenty-four (24) vehicles valued at Kshs.196,791,980 were not provided for audit verification. The vehicles are listed in Appendix IV.
In the circumstance, the valuation, accuracy and completeness of the acquisition of assets balance totaling Kshs.2,506,166,821 reflected in the Financial Statements could not be confirmed.

Management Response
The Management stated that the historical cost of assets totaling Kshs.2,506,166,821 did not include assets inherited from the defunct local authorities in the County. The reason why the County's Fixed Asset Register (FAR) did not include asset and liabilities which were inherited from defunct Local Authorities was because the County was still waiting for list of verified and authenticated assets and corresponding values from IGRTC for inclusion in the FAR.

The asset verification and authentication exercise commenced by Transition Authority (TA) pursuant to Transition to Devolved Act, 2012 but was not completed before TA's term expiry. Consequently, IGRTC had taken over the residual function in accordance with Intergovernmental Relations Act, 2012. However, despite the staling, as aforementioned above, the County Government had since formed a taskforce with a mandate of conducting valuation of all County assets to develop an accurate and complete Fixed Asset Register.

The County Government had since reconciled the Cost of the eleven items.
The County Government acknowledged that logbooks for twenty-four (24) vehicles were not provided at the period of audit and but were submitted.

Committee Observation
The committee noted that the County did not submit all the relevant documents and information to the Auditor general at the time of audit as per Section 62 of the Public Audit Act, 2015. However, the documents were subsequently submitted and the matter was addressed satisfactorily.

Committee Recommendations
The Committee recommends that the matter be marked as resolved.

2.2.4 Unconfirmed Ownership of Land
Records on land owned by the County Government reflected seventy-two (72) parcels of land of varying sizes. However, the following anomalies were noted in respect to the land:

2.2.5 Unavailable Documents

Ownership documents for forty (40) of the seventy-two (72) parcels of land were not provided for audit verification. In addition, the land records did not disclose other vital information on all the parcels such as costs and carrying value, dates acquired, nature and use. Further, sixty (60) out of the seventy-two (72) parcels were not reflected in the fixed asset register.

Management Response

The parcels of land had restrictions placed on them with the registrar of land therefore no ownership documents could be provided. In addition, the parcels of land were inherited from the Defunct Local Authorities and their final transfers including their determined values was a subject matter of Inter-Governmental Relations technical Committee (IGRTC) The exact status of the parcels of land was as tabulated below:

NO.	PARCEL NO.	OWNERSHIP	STATUS	REMARKS
1.	Kabare/Nyangati/18	Mathew Githae	Restricted	Restriction CECM Land, Housing & Urban Development 2014
2.	Kabare/Nyangati 20	Ngecu Kibe	Restricted	Restriction CECM Land, Housing & Urban Development 2014
3.	Kabare/Nyangati/23	Nyumu Ngari	Restricted	Restriction CECM Land, Housing & Urban Development 2014
4.	Kabare/Nyangati/22		Restricted	Restriction CECM Land, Housing & Urban Development 2014
5.	Kabare/Nyangati/42	Mukuria Kaimori	Restricted	Restriction CECM Land, Housing & Urban Development 2014
6.	Kabare/Nyangati/66	Kiragu Nduthu	Restricted	Restriction CECM Land, Housing & Urban Development 2014
7.	Kabare/Nyangati/67	Bakari Kibicho	Restricted	Restriction CECM Land, Housing & Urban Development 2014
8.	Kabare/Nyangati/68	Joseph Mwangi Kivuva	Restricted	Restriction CECM Land, Housing & Urban Development 2014

9.	Kabare/Nyangati /82	Mbiti Njogu	Restricted	Restriction CECM Land, Housing & Urban Development 2014
10.	Kabare/Nyangati/83	Robert Gutu	Restricted	Restriction CECM Land, Housing & Urban Development 2014
11.	Kabare/Nyangati/84	Amos Muchira	Restricted	Restriction CECM Land, Housing & Urban Development 2014
12.	Kabare/Nyangati/86	Gachogu Njambuya	Restricted	Restriction CECM Land, Housing & Urban Development 2014
13.	Kabare/Nyangati/152	Machai Cewa	Restricted	Restriction CECM Land, Housing & Urban Development 2014
14.	Kabare/Nyangati/715	Benson Munene	Restricted	Restriction CECM Land, Housing & Urban Development 2014
15.	Kabare/Nyangati/146		Restricted	Restriction CECM Land, Housing & Urban Development 2014
16.	Kabare/Nyangati/148	Kinguru Gakotho	Restricted	Restriction CECM Land, Housing & Urban Development 2014
17.	Kabare/Mikarara/146	Michael Ndege Muturi	Restricted	Restriction CECM Land, Housing & Urban Development 2014
18.	Inoi/Kerugoya/194	Njau Nduna	Restricted	Restriction CECM Land, Housing & Urban Development 2014
19.	Mwerua/Kagio/128	Mutugi Kathimba	Restricted	Restriction CECM Land, Housing & Urban Development 2014
20.	Mwerua/Baricho/285	Kaguma Kabuga	Restricted	Originally recorded as

				Mwerua/Baricho/285
21.	Kabare/Nyagati/527	Wagati Kibaria	-	Sub-division 2379-2380
22.	Mwerua/Baricho/90	-	Restricted	-
23.	Kabare/Nyangati/64	Gichimu Magu	Restricted	Sub-division 2493-2504
24.	Kabare/Nyangati/215	Edith Wagatu Nguri	Restricted	Sub-division 5621-5623
25.	Kabare/Nyangati/216	Mbui Kinja	Restricted	Sub-division 650-651
26.	Kabare/Nyangati/127	Ciuma Kabira	Restricted	Sub-division 1825-1830
27.	Kabare/Nyangati/38	Warui Gachirigwa	Restricted	Sub-division 691-692
28.	Kabare/Nyangati/46	Muriithi Njuguna	Restricted	Sub-division 804-805
29.	Kabare/Nyangati/92	Josphat Njanjo	Restricted	-
30.	Kabare/Nyangati/91	-	Restricted	Sub-division 953-954
31.	Kabare/Nyangati/298	Thiaka Mutige	Restricted	-
32.	Mwerua/Baricho/292	Kibuga Kaguma	Restricted	-
33.	Kiine/Sagana/161	Wagocho Kabinga	Restricted	Closed on combination with 468
34.	Baragwi/Raimu/38	Mugo Ngare	Restricted	Sub-division 1489-1490
35.	Mwea/Tebere/92	Kimunyi Kishinga	Restricted	Sub-division 476-477
36.	Kabare/Nyangati/5879	James Kinyua Mbogo	Restricted	Restriction CECM Land, Housing & Urban Development 2014
37.	Kiine/Kibingoti/666	CGK	No Restriction	Reserved for Kibingoti Youth Polytechnic
38.	Kabare/Ngiroche/411	CGK	No Restriction	Reserved for Kamiigua Youth Polytechnic

39.	Ngariama/Merichi/419	CGK	No Restriction	Reserved for Kimweas Youth Polytechnic
40.	Gichugu/settlement /scheme/2291	CGK	No Restriction	Reserved for Difathas Health Centre

Committee Observation

The Committee noted that;-

1. The parcels of land had restrictions placed on them with the registrar of land therefore no ownership documents could be provided.
2. the parcels of land were inherited from the Defunct Local Authorities and their final transfers including their determined values was a subject matter of Inter-Governmental Relations technical Committee (IGRTC)

Committee Recommendation

The Committee recommends that the-

1. **the County Executive expedites the process of acquiring the title deeds to the 40 parcels of land;**
2. **County Executive should update and present their Fixed Assets Register in the format prescribed by the Public Sector Accounting Standards Board;**
3. **County Executive should adopt and implement the report of the Inter-Governmental Technical Relations Committee (IGTRC) on assets and liabilities from defunct Local Authorities and provide a status update to the Office of the Auditor General within 90 days of adoption of this Report; and**
4. **Office of the Auditor General should progressively review and report on the matter in the subsequent Financial Years.**

2.2.6 Disputed Land

As previously reported, a parcel of land, measuring approximately 250 acres (KIINE/THINGIRICHI/527) reserved as cattle holding ground was registered on 5 May, 1960 under the Native Trust Land Board and the County Council of Kirinyaga thereafter. However, in the year 2000, a resident of the County filed a suit against the Council seeking to be declared the legal owner of the land. In 2004, the Commissioner of Lands registered the land in the name of the petitioner's widow.

Although the County Government has asserted that the allocation of the land to the petitioner was illegal and that the title deed held by his widow is not valid, the Court is yet to rule on the matter.

In the circumstance, the ownership of the land by the County Executive as at 30 June, 2020 could not be confirmed.

Management Response

The County Government clarified that during the audit review, the parcel of land titled Kiine/Thigirichi/527 was in dispute. However, the dispute had been resolved in favor

of the County and a title issued in the name of the County Government. Copies of the land ownership documents were attached.

Committee Observation
The Committee noted that the matter has since been addressed.

Committee Recommendation
The Committee recommends that the matter be marked as resolved.

3.0 Unconfirmed Pending Bills Balance
Note 7.10.1 of other important disclosures reflects pending accounts payable totaling Kshs.359,010,501 out of which bills totaling Kshs.150,917,677 were incurred during the year under review. However, a recast of the outstanding commitments in the vote book status report for the year under review revealed development and recurrent commitments totaling Kshs.132,818,256 and Kshs.27,300,812 or Kshs.160,119,068 in aggregate, as shown in Appendix V. The variance of Kshs.9,201,391 in the pending bills reflected in the two sets of records has not been explained.

In addition, review of the financial reporting system in the County Executive indicated that contrary to Regulation 54(2) (c) of the Public Finance Management (County Governments) Regulations, 2015, Management did not submit monthly financial and non-financial budgetary reports to the County Treasury.

Further, the pending bills balance has distorted the financial performance and position of the County Executive as at 30 June, 2020. Had the bills been paid during the year, the County Executive would have incurred a deficit of Kshs.8,903,235 instead of the surplus of Kshs.350,107,266 reported in the Financial Statements. In addition, the bills may use up the County's budgetary allocations for the 2020/21 financial year from which they are expected to be paid.

Management Response
The County Government stated that the variance of pending bills cited by the auditor amounting to Kshs.9, 201,391.00 was because of the following:

1. The variance of Kshs 9,201,391.00, was realized due to the auditor relying on the total figure of outstanding commitments from the IFMIS at the end of the financial year in determining pending bills payable.
2. However, the figure of pending bills for the year was not equal to the outstanding commitments in the Vote-Book as at the end of the fiscal year since as part of the end-of financial year procedures, outstanding commitments in IFMIS were reversed prior to the preparation of the Financial Statements and as such no figures of outstanding commitments can be availed to the auditor during audit.
3. In addition, Payments which had been processed up-to Internet-Banking (IB) payment level in the IFMIS were also reversed as part of the end-of-year adjustments due to delayed exchequer or unrealized revenue of Ksh. 364M and

105M these payments also formed part of the pending bills list. This was illustrative of the fact that not only outstanding commitments are pending bills.

4. That, Other projects which were in various phases of implementation e.g., contract award, LPO issue level, or payment certificate preparation level. At all these phases of projection implementation, these projects were considered pending bills at the end of the Financial Year while they were not outstanding commitments in the IFMIS vote-book.
5. According to IPSAS cash basis of accounting, only actual receipts and actual payments are used when calculating deficit or surplus for the year in the statement of receipts and payments. Further pending bills were only disclosed as part of annexures in the Financial Statements.

Committee Observations

The Committee observed that-

1) The County Executive had not settled all its pending bills at the time of the audit;

2) The County Executive did not provide a status report of all its pending bills as prescribed by the Public Sector Accounting Standards Board. This could lead to inadequate disclosures of the pending bills; and

3) There was poor record keeping of pending bills that could lead to ineligible bills and litigations.

Committee Recommendations

The Committee therefore recommends that:

1) **the National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate so as to enable county entities settle their obligations on time; and**
2) **the county executive puts in place measures to enhance own generated revenue in order to meet its revenue target and address revenue shortfalls that contribute to the challenge of pending bills.**
3) **Pending bills deemed ineligible should be forwarded to the Directorate of Criminal Investigation (DCI) for investigation proper legal action taken against those filing false claims.**
4) **County Government to take note of judgement in a Kitale High Court Constitutional Petition E003 of 2023 that declared formation of pending bills verification committees unconstitutional and engage Office of the OAG and strengthen the internal audit functions.; and**
5) **All valid pending bills that have been reviewed by the Office of the Auditor General be paid and a payment plan be submitted to the county assembly for approval and progress report on implementation sent to the Senate and the Office of the Controller of Budget.**

4.0 Unconfirmed Own-Generated Revenue

The statement of receipts and payments reflects county own-generated receipts totaling Kshs. 374,724,257, as further disclosed in Note 9 to the Financial Statements. The

receipts include rental income totaling Kshs. 5,393,300. However, records on the revenue including the inventory of buildings let out, their location expected and actual rental income received and the outstanding balance as at 30 June, 2020, if any, were not presented for audit.

In the circumstance, the completeness and accuracy of the receipts totaling Kshs. 5,393,300 could not be confirmed.

Management Response
The County Government of Kirinyaga noted the observation by the auditor that receipts totaling to Kshs.5,393,300 could not be confirmed due to lack of revenue records including the inventory of buildings let out, their location expected and actual rental income received and the outstanding balance as at 30 June, 2020. At the time of audit, the County Government was undertaking a migration of data exercise from manual to automated Revenue Management System. The County Government later submitted the above-mentioned records to the auditor for verification.

Committee Observation
The committee noted that the County did not submit all the relevant documents and information to the Auditor general at the time of audit as per Section 62 of the Public Audit Act, 2015. However, the documents were subsequently submitted for review and the matter addressed satisfactorily.

Committee Recommendations
The Committee recommends that the matter be marked as resolved.

5.0 Inadequate Presentation and Disclosures in Financial Statements
The Financial Statements reflect the following anomalies:

(i) The statement of appropriation - recurrent and development combined indicates that the total budget for the year under review was reduced by Kshs.207,194,784.00. However, contrary to the requirements of IPSAS 1.9.23, the Notes to the Financial Statements have not disclosed the reasons for the adjustments.

(ii) Annex 6 to the Financial Statements is signed by officers of the County Executive only, namely, the Chief Officer Finance and the Director of Accounts, contrary to the PSASB guidelines that require inter-entity transfers to be certified by the issuing and receiving parties.

(iii) Contrary to the financial reporting requirements set by the Public Sector Accounting Standards Board, the statement of receipts and payments, statement of assets and liabilities, statement of cash flows and statement of appropriation do not indicate the respective accounting period they relate to.

Management Response
The Management stated the following;

(i). The reduction of Kshs.207,194,784 in the budget was an aggregate adjustment of the county receipts which were adjusted by the supplementary

budget of FY2019/2020 as a result of CARA review, the amount of exchequer was reduced by Ksh.256,878,000. Additionally, local revenue budget was reduced by Kshs 20,000,000 when the county noted it could not realize the initial budget of Ksh.500,000,000.

(ii) Annex 6 had been revised and duly signed as per Public Sector Accounting Standards Board (PSASB) guidelines.

(iv) The statement of receipts and payments, statement of assets and liabilities, statement of cash flows and statement of appropriation related to the financial year ended 30th June, 2020 as indicated in the cover page of the financial statements.

Committee Observation

The Committee noted that the matter has since been addressed.

Committee Recommendation

The Committee recommends that the matter be marked as resolved.

Other Matter

1. Budgetary Control and Performance

The summary statement of appropriation: recurrent and development combined for the year ended 30 June, 2020 reflects final receipts budget and actual on comparable basis totaling Kshs.6,131,617,883 and Kshs.5,858,729,022 respectively, resulting to an under-funding of Kshs.272,888,861 or 4% of the budget. Similarly, the County Executive spent Kshs.4,937,177,741 against an approved budget of Kshs.6,131,617,883 resulting to an under-expenditure of Kshs.1,194,440,142 or 19% of the budget. The underfunding and underperformance constrained execution of planned activities and delivery of services to the residents of Kirinyaga County.

Management Response

The County Executive clarified that underfunding in budget and under-expenditure could be accounted for by: -

1. The County accrued a budget deficit brought about by unrealized own source revenue of Kshs. 105,275,743
2. The delayed exchequer releases by the National Treasury of Kshs. 364,734,600

Committee Observations

The Committee observed that;

a) there was under-utilization of appropriated funds by the county executive as a result of delay in exchequer releases by the National Treasury; and

b) the county did not meet its own-source revenue targets.

Committee Recommendation

The Committee therefore recommends that:

1. **The National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by**

the Senate and comply with Article 219 of the Constitution and Section 17(6) of the Public Finance Management Act, 2012; and

2. **The County executive puts in place measures to enhance its own generated revenue in order to meet its revenue target and address revenue shortfalls.**

2. Delayed Exchequer Releases

Note 1A to the Financial Statements indicates that total Exchequer releases due in the year under review totaled Kshs.4, 241,100,000. However, examination of revenue records indicated that, out of this balance, receipts totaling Kshs.1, 191,749,100 or 28% of the budget were received by the County Government from the National Treasury between 15 June, 2020 and 5 August, 2020 as shown below:

Date Funds Received in Bank Account	Amount (Kshs.)
15.06.2020	445,315,500
24.06.2020	381,699,000
05.08.2020	364,734,600
Total	1,191,749,100

As a result of the delayed receipt of funds, the County Executive did not have sufficient time to spend its budget for the year.

Management Response

The County Executive had been engaging with the Council of Governors (CoG), Intergovernmental Budget and Economic Council (IBEC) and the National Treasury itself on the issues of timely disbursement of exchequer releases.

Committee Observation

The Committee noted that the County Executive received delayed exchequer releases by the National Treasury thereby hampering their budget implementation.

Committee Recommendation

The Committee recommends that the National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate.

3.0 Unresolved Prior Year Issues

The report on progress of follow-up of prior year's auditor recommendations in Note 9 of other disclosures highlights only seven (7) of at least eighteen (18) issues raised in the audit report for 2018/2019 financial year. Therefore, the disclosure does not fulfil the reporting requirements set by the Public Sector Accounting Standards Board (PSASB).

Management Response

The Management stated that the Eighteen (18) issues raised in the audit report for FY2018/2019 had been highlighted and duly disclosed to fulfil the requirements of PSASB.

Committee Observation
The Committee observed that the County Executive did not take action on the issues raised in the Report of the Auditor General for the Financial year 2018/2019.

Committee Recommendation
The Committee recommends that the County Executive complies with section 53 of the Public Audit Act, 2015 by taking action on the issues raised by the Auditor General and submits a report to the Office of the Auditor General within sixty (60) days of the adoption of this report.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

1.0 Un-utilized Covid-19 Funds

The statement of receipts and payments reflects transfers from other government entities totalling Kshs.329,731,807 out of which a sum of Kshs.160,096,000 was received from the National Government for use in mitigating the effects of the Covid-19 pandemic. However, records on the payments indicated that the funds had not been utilised as at 30 June, 2020 and therefore the measures needed to protect the County's residents from COVID-19 may not have been executed as planned.

Management Response
The amount of Kshs. 160,096,000 cited by the auditor referred to Kshs. 43,740,000 and 116,356,000 grant from the National Government's Ministry of Health for Frontline Workers allowance and Health Infrastructure improvement in prevention and combating the COVID-19 Pandemic.
The inability to utilize the funds was occasioned by late disbursement of the funds by the relevant National Government Ministry in the period under review FY 2019/2020. The funds were included in the budget for the subsequent financial year FY2020/2021 and utilized.

Committee Observation
The Committee noted that the matter has since been addressed.

Committee Recommendation
The Committee recommends that the matter be marked as resolved.

2.0. Delayed Implementation of Projects

Project implementation records indicate that 96 projects budgeted at Kshs.332, 165,893 in aggregate were completed, whereas 30 (thirty) projects budgeted at Kshs.979, 842,995 were ongoing as at 30 June, 2020. Implementation of 7 (seven) projects

budgeted at Kshs.36, 457,362 had not started. The status of the projects at the time of the audit is summarized in Appendix VI.

In the circumstances, the residents of Kirinyaga County did not enjoy the benefits due from the investments totaling Kshs.1, 016,300,357 made in planned projects that were not started and those started but not completed in the year under review.
The project implementation report further indicated that thirty-three (33) key projects with budgetary allocations totaling Kshs.629, 800,357 were either not completed or not started as at 30 June, 2020, as outlined in the attached Appendix VII
As a result, the residents of Kirinyaga County did not enjoy the services expected from the projects.

Management Response
The County Government of Kirinyaga acknowledged that there were stalled and uncompleted projects during the period under review.
In the period under review, The County Government of Kirinyaga had a budget deficit brought about by unrealized own source revenue.
Also, the County Executive had implemented performance management system to that measure performance, report effectively, & get insights of various projects being implemented by the County Government.
Further, the Counties had been engaging Intergovernmental Budget and Economic Council (IBEC) and the National Treasury itself through the Council of Governors (CoG), on the issues of delay in the disbursement of exchequers affects the implementation of planned Programmes and subsequently affects completion of projects.

Committee Observations
1. The Committee observed there was non-implementation of budgeted projects by the County Executive during the year.
2. The Committee was concerned that delay in projects implementation will deny the county residents the required service delivery accruing from those projects.
3. The Committee further noted that failure to implement the projects by the County Executive is mainly attributed to late exchequer releases by the National Treasury.

Committee Recommendations-
1) **The Committee recommends that the National Treasury should strictly adhere to the cash disbursement schedule on the release of funds to County Governments as approved by the Senate; and**
2) **The Committee further recommends the Auditor General should undertake the verification of those projects within sixty (60) days from the adoption of this report.**

3.0 Stalled Previous Years' Projects
As reported in the previous year, examination of project records and inspection of civil works revealed that construction of seventy-seven (77) projects budgeted at

Kshs.188,085,355 launched in the financial year 2016-2017 had stalled and the works abandoned as outlined in the attached Appendix VIII.
An audit inspection conducted in the month of October, 2020 revealed two more projects contracted at Kshs.23,069,581 in aggregate and expected to be completed during the year under review had also stalled. As a result, no value for money had been obtained from the use of public funds totalling Kshs.211,154,936 invested in stalled projects as at 30 June, 2020.

Management Response
The Management stated that the stalled projects were occasioned by Unrealized Own Source Revenue (OSR) and delayed exchequer from The National Treasury.
The County Government confirmed that these projects had been completed and the phased projects were ongoing and thereby invited the auditor for a verification visit.

Committee Observation
The Committee observed that projects were still incomplete beyond the stipulated contractual period.

Committee Recommendations
The Committee recommends that;

1. **The county government takes immediate action to finish the incomplete projects and provide information on the Project status, and plans to complete them to the Auditor General, within 60 days from the adoption of this report; and**
2. **The Auditor General should audit the projects to ascertain the completion and utilization of the said projects in line with this recommendation.**

4.0 Irregular Payments to Council of Governors
Examination of transfers to other government entities during the year indicated that a total of Kshs.5, 438,993 was paid to the Council of Governors. However, the expenditure was incurred in disregard to Section 37 of the Inter-Governmental Relations Act, 2012 which provides that the budget of the Council should be provided for in the annual estimates of the revenue and expenditure of the National Government. In the circumstance, the payment made to the Council was irregular.
Management Responses
Payments of Ksh.5, 438,992.55 to council of Governor was properly accounted for as evidenced by the supporting documents

Date	Description	Amount
8/28/2019	Rent for Kirinyaga Liaison Office at Delta Towers	923,842.50
10/16/2019	Rent for Kirinyaga Liaison Office at Delta Towers	923,842.50
2/5/2020	Rent for Kirinyaga Liaison Office at Delta Towers	411,307.55
2/13/2020	Annual Devolution Conference Fees	2,000,000.00
3/2/2020	Exhibition Booths	200,000.00
3/4/2020	Delegates Fees	480,000.00
6/24/2020	Legal Fees (Equitable Share and Formula Impasse)	500,000.00

	Total	5,438,992.55

Committee Observation
The Committee noted that payments made to the Council of Governors from County Revenue Funds were irregular and unlawful since the Intergovernmental Relations Act specifies that funding for the COG shall be drawn from the Consolidated Fund.

Committee Recommendation
The Committee recommends that;-

1. **the irregular payments to the Council of Governors (COG) be stopped and further recommends the surcharge of any Governor, in their capacity as Chief Executive Officer, who continues to make the irregular contribution; and**
2. **The EACC should oversee the recovery of all the public funds irregularly transferred to the Council of Governors (COG) by the Governor. This is in line with the Resolution of the Senate.**

5.0 Unsupported Procurement of Fuel
Examination of procurement records indicated that a sum of Kshs.61,092,213 was spent on purchase of fuel, oil and lubricants during the year under review. However, procurement documents such as tender advertisements and evaluation reports and supply contracts were not availed for audit.
In the circumstance, the validity of the procurement of the fuel, oil and lubricants worth Kshs.61,092,213 could not be confirmed.

Management Response
The Management stated that the County Government of Kirinyaga contracted National Oil Corporation for supply of fuel for the period under review pursuant to section 103 (2)(e) which permits Public Entities to acquire goods, works or services provided by a public entity provided that the acquisition price was fair and reasonable and compared well with known prices of goods, works or services in the circumstances.
The procurement was duly done through Direct Procurement and relevant supporting documents were attached for review.

Committee Observations
The Committee noted the failure of the County Assembly entity to submit relevant documents on time to the Auditor General during the audit exercise.

Committee Recommendations
The Committee recommends that the accounting officer undertakes administrative actions against the responsible officer(s) who failed to provide the documents to the auditors in accordance with section 156 of the Public Finance Management Act and provides a status report to the Office of the Auditor General within 60 days from the adoption of this report.

6.0 Excessive Expenditure on Personnel Emoluments.

Examination of revenue and expenditure records indicated that compensation of employees' expenditure for the year under review totaled Kshs.2,320,111,647 equivalent to 44% of the revenue of the County Executive totaling Kshs.5,287,285,007. The expenditure surpassed the threshold of 35% prescribed in Regulation 25(1)(b) of the Public Finance Management (County Governments) Regulations, 2015.

Therefore, Management breached the law on containment of personnel emoluments expenditure. Further, the excessive spending on the item constrained funding for development projects and delivery of services to the residents of the County.

Management Response

The Management stated that the situation was due to the huge wage bill that was inherited from the defunct Local authorities, SRC circulars to increase health workers allowances and Implementation of Job evaluation report for phase 1 Salary review of all civil servants. Despite the above, the County Government undertook not to replace exiting staff who were not critical for service delivery in a bid to lower the wage bill. Further, the County had also embarked on increasing its own source revenue by:

i. Automation of Revenue collection and management system
ii. Increase Own Source Revenue by collection of arrears and penalties
iii. Employment of Additional revenue officers and clerks

Committee Observation

The Committee observed that the County Executive's wage bill during the FY 2019/20 stood at 44% of the Assembly's total receipts.

Committee Recommendations

The Committee recommends that; -

1. **that the County Executive to strictly adhere to the provision of paragraph 25(1)(b) of the PFM Act (county government) regulations, 2015 which stipulate that the county wage bill shall not exceed 35 percent of the county total revenue; and**
2. **County Executive to provide to the Auditor General the measures put in place to contain the county higher wage bill within sixty (60) days from the adoption of this report.**

7.0. Lack of Approved Staff Establishment

Employees of the County Executive as at 30 June, 2020 totaled two thousand five hundred and seventy-one (2,571) out of whom three hundred and sixty-one (361) were recruited in the year under review. As in the previous year, the County Executive did not have an approved staff establishment, contrary to Section B 5(2) and Section B 6(3) of the County Public Service Human Resource Manual, 2013. The provision requires the County Government to ensure optimum staffing levels are based on an authorized establishment and organization structure.

Consequently, Management was in breach of the regulations on efficient and effective use of human resources and further, the staffing levels may not be optimal.

In addition, out of the 361 staff recruited during the year, 278 (77%) were from the dominant community in the county contrary to Section 65 (1) (e) of the County Governments Act, 2012 which requires at least thirty percent of the vacant posts at entry level to be filled by candidates who are not from the dominant ethnic community in the County.

Management Response
The Management stated that at the time of the audit the establishment was under review based on the Capacity Assessment and Rationalization of the Public Service (CARPS) report of 2015. This report was approved for implementation by the Summit bringing together all the 47 Counties and the National Government Executive. The report among some of its recommendations, proposed an establishment for the County and gave a way forward on the phased filling of vacant positions that it had identified subject to budgetary provisions.
The county staff establishment was approved by the County Executive Committee in its meeting held on 8th July, 2021 vide minute No. MIN.CGK/CECM/3/7/2021.

Committee Observation
The Committee noted that the matter was addressed.

Committee Recommendation
The Committee recommends that the matter be marked as resolved.

8.0. Irregular Renewal of Teachers Contract
Examination of compensation of employees' expenditure records indicated that salaries totaling Kshs.29,454,000 were paid to Early Childhood Development Education (ECDE) teachers in May and June, 2020. However, documents presented for audit indicated that the employment contracts signed between the teachers and the County Executive expired on 31 December, 2019 but were extended by Management without approval from the County Public Service Board contrary to Section 59 of the County Governments Act, 2012.
In the circumstance, the extended employment of the ECDE teachers without renewal of contract was irregular.

Management Response
The Management stated that during the period of review, there was no duly constituted County Public Service Board and hence could not approve the extension of the Early Childhood Development Education (ECDE) teachers. However, they had been duly approved as per Section 59 of the County Governments Act, 2012 on 5th February, 2021 and subsequently the Contracts of the ECDE Teachers were renewed.

Committee Observation
The Committee noted that the County Executive was in breach of Section 59 of the County Governments Act, 2012

Committee Recommendation

The Committee recommends that the County Executive strictly adhere to section 59 of the County Government Act, 2012.

9.0 Officers Earning Less Than a Third Basic Pay

Audit review of payroll records revealed that several officers earned less than one third of their basic pay contrary to Section 19(3) of the Employment Act, 2007. The provision requires the total amount of deduction of the wages of an employee not to exceed 2/3 of such wages.

Management therefore breached the law and put the officers at the risk of pecuniary embarrassment.

Management Response

The IPPD System was configured in such a manner that when an employee applies for a bank or SACCO facility, the payroll manager/officer inputs the amount of the facility sought and the system automatically calculates and indicates whether the officer qualifies for the loan/facility based on the amount and period. The system was configured to reject any amount which is beyond two third (2/3) of an officer's basic salary.

However, in certain circumstances an officer who had committed the maximum allowed limit would have basic pay affected due to the following reasons: -

i) Recovery of a government liability
ii) Court imposed obligations e.g., child maintenance
iii) An officer whose rank has been reduced
iv) An officer on interdiction/suspension
v) Other voluntary deductions like to social welfare association

In the above cited circumstances, the IPPD system prioritized the deductions over the allowed basic pay limit.

Committee Observation

The Committee observed that some of the county staff were earning less than a third of their basic pay contrary to Section 19 (3) of the Employment Act 2007.

Committee recommendations

The Committee therefore recommends that -

1. **the County Executive should provide to the Auditor General within sixty (60) Days after the adoption of this report a plan of the measures put in place to mitigate on the issue as well as comply with the requirements of law;**
2. **the county should configure their IPPD system such that it is able to lock out commitments beyond the accepted thresholds; and**
3. **The Auditor General should continue monitoring the issue in subsequent financial years.**

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Lack of Policy on Use of Information, Communication Technology

Audit review of the Information Communication Technology (ICT) system confirmed that Management had no documented policy to guide investment in and use of ICT resources. In addition, there were no continuity and disaster management plans to mitigate the effects of unexpected disruptions of the system.

In the circumstances, effective use of public resources invested in the system, and the appropriateness of risk management policies established thereof, could not be confirmed.

Management Response

The Management stated that the County had since developed an ICT policy.

Committee Observation

The Committee noted that the County Executive had not put in place a policy on use of Information, Communication Technology.

Committee Recommendation

The Committee recommends that the County Executive put in place an Information, Communication Technology policy and submit a status report sixty (60) days from the adoption of this report.

CHAPTER FIVE

REPORT OF THE SENATE COUNTY PUBLIC ACCOUNTS COMMITTEE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF MAKUENI COUNTY EXECUTIVE FOR THE FINANCIAL YEAR 2019/2020

The Governor of Makueni County, Hon. Mutula Kilonzo Jnr, appeared before the Committee on Wednesday, 13th June, 2023 to respond (under oath) to audit queries raised in the Report of the Auditor General on Financial Statements for Makueni County Executive for the Financial Year 2019/2020.

Qualified Opinion

EXECUTIVE SUMMARY OF UN-RESOLVED AUDIT QUERIES				
	Query	**Recommendations**	**Actor**	**Timeline**
1	**Budgetary Control and Performance** Recurrent and development combined for the year ended 30 June, 2020 reflects final receipts budget and actual on comparable basis totalling Kshs.11,186,278,572 and Kshs.9,556,519,636 respectively, resulting to an under-funding of Kshs.1,629,758,936 or 15% of the budget. Similarly, the County Executive spent Kshs.8,591,014,554 against an approved budget of Kshs.11,186,278,572 resulting to an under-expenditure of Kshs.2,595,264,018 or 23% of the	1. The National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate. 2. The County Executive puts in place measures to enhance its own generated revenue in order to meet its revenue target and address revenue shortfalls.	1. The National Treasury 2. The County CEO	Continuous

	budget. The shortfall of revenue was the main cause of the under-expenditure which in turn constrained delivery of planned services.			
2	**2. Unresolved Prior Year Audit Matters** Two issues raised in the report for the previous year were resolved in the year under review. However, does not provide information on the progress attained in resolving several other issues highlighted in the report. Consequently, the disclosures on follow-up of previous years issues are incomplete and do not conform to the reporting requirements set by the Public Sector Accounting Standards Board.	The County Executive complies with the Section 53 of the Public Audit Act, 2015 by taking action on the issues raised by the Auditor General and submits a report to the Auditor General within (60) days of the adoption of this report.	1. County Chief Executive Officer 2. Auditor General	(60) days after the date of the adoption of this report.
	REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES			
3	**Implementation of Projects; - Stalled and Unutilized Projects** The County Government implemented thirty-one (31) projects valued at Kshs.63,073,334 during the year under	The Auditor General to undertake verification of the project to ascertain the completion and utilization of the projects and submit a status report to the Office of the Auditor General	1. The County Chief Executive Officer 2. Auditor General	60days from the date of adoption of this report.

	review. However, twenty-nine (29) projects executed to completion at an aggregate cost of Kshs.55,276,523 were not commissioned for use by residents. Further, two (2) projects on which a total of Kshs.7,796,811 had been spent as at 30 June, 2020, had stalled. No adequate explanation was provided by Management for the delay in commissioning the projects.	within 60 days of the adoption of this report.		
4	**2.2 Delayed Implementation of Early Childhood Education Project** Procurement records indicated that a tender for construction of two (2) classroom blocks, an office, three (3) door pit latrine and installation of a 5,000-litre plastic water tank at Katumini Early Childhood Education (ECDC) Centre was awarded in February, 2020 at a contract sum of Kshs.3,203,433. Although the project was to be implemented in 90	1. The Auditor General to undertake verification of the project to ascertain the completion and utilization of the Early Childhood Development Education (ECDE) project and submit a status report to the Office of the Auditor General within 60 days after the adoption of this report.	1. The County Chief Executive Officer 2. Auditor General	60days from the date of adoption of this report.

	days to 18 May 2020, it had, however, not been completed by the time of the audit inspection in November 2020. Further, only one Interim Certificate valued at Kshs.2,698,959, had been issued by the contractor.			
	3. Compensation of Employees **3.1 Limit on Personnel Emoluments** Expenditure Not Observed The statement of receipts and payments reflects compensation of employee's expenditure totalling Kshs.3,409,529,862 as further disclosed in Note 5 to the financial statements. The expenditure was equivalent to 41.8% of the total receipts for the year, net of returned CRF Issues totaling Kshs.8, 156,213,537. The spending exceeded the threshold of 35% prescribed in Section 25(1) (a) and 25(b) of the Public Finance Management (County Governments) Regulations, 2015.	The Committee recommends that- 1. the management should provide to the Auditor General and the Senate the measures it will put in place to contain the high wage bill within sixty (60) days of the adoption of this report; 2. the management should strictly adhere to the provision of paragraph 25(1)(b) of the PFM Act (county government) regulations, 2015 which stipulate that the county wage bill should not	The County CEO	Within sixty (60) days of the adoption of this report

		exceed 35 per cent of the county total revenue; and 3. the county executive puts in place measures to enhance own source revenue collection in order to address wage bill gap.		
5	**4. Irregular Payment to the Council of Governors** Examination of records on payments made for goods and services indicated that a sum of Kshs.4, 700,000 was paid to the Council of Governors as contribution to offsetting the Council's expenses.	The Committee recommends that the irregular payments to the Council of Governors (COG) be stopped and further recommends the surcharge of any Governor, in their capacity as Chief Executive Officer, who continues to make the irregular contribution. The EACC should oversee the recovery of all the public funds irregularly transferred to the Council of Governors (COG) by the Governor. This is in line with the Resolution of the Senate.	The County Chief Executive Officer EACC	Immediate
REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE				
6	**Lack of Disaster Recovery and**	1. The County CEO ensures that the disaster and risk	1. The County Chief	Within 60 days of

	Business Continuity Plan In previous years, Management did not have an approved Disaster Recovery and Business Continuity Plan for the County Government's operations. As a result, service delivery by the County Executive is likely to be disrupted on occurrence of unfavorable events that may affect the County Government's operational systems.	management policies and plans are finalized and adopted and provide a status update to the Office of the Auditor General within 60 days of adoption of this report. 2. The Auditor General to verify that the County Executive has adopted the relevant disaster and risk management policies and plans.	Executive Officer 2. Auditor General	adoption of this report

Qualified Opinion

1. Unconfirmed Balances

The following balances reflected in the financial statements differ with those reflected in the Integrated Financial Management Information Systems (IFMIS) trial balance as at 30 June, 2020 by a net credit balance of Kshs.19, 861,508,968, as shown in the Appendix to this report. As a result, the accuracy and completeness of the financial statements has not been confirmed.

Management Response

The Management stated that the variances reflected in the financial statements and the Integrated Financial Management Information Systems (IFMIS) trial balances were caused by delayed operationalization of the auto reconciliation module in IFMIS.

Committee Observation

The Committee noted that the matter has since been addressed.

Committee Recommendation

The committee recommends that the matter be marked as resolved.

2. Land without Ownership Documents

The statement of receipts and payments reflects acquisition of assets payments totaling Kshs.1, 501,460,426 as further disclosed in Note 9 to the financial statements. Included in the balance is Kshs.2, 500,000 paid for purchase of two (2) acres of land in June,

2020. However, the need identified for the land was not disclosed and further the valuation report relied upon to make the purchase and the title deed transferred to the County Government were not presented for audit. In the absence of this information, value for money on the price paid for the land and its ownership and intended use by the County Government could not be confirmed.

Management Response
The Management submitted that the expenditure of Kshs 2,500,000 was as a result of a court ruling of 5th May 2020 ordering the county government of Makueni to pay one Mrs. Susan Kavuli Kin'goo Musimba the total sum for 2 acres of land to be curved off Land Parcel Makindu/ Kalii/1556. This cost was to cover purchase price, damages and costs, and valuation fees and fence destruction.

The order compelled the county to pay within 60 days after the ruling was made and therefore in order to comply with the court and out of abundance of caution not put the government in contempt of court, the payment was done. At the same time the department of Lands, Mining, Physical Planning and Urban Development initiated the process of subdivision and transfer of the 2 acres of land from the mother title but the efforts were hampered by the presidential decree to halt all public gatherings in April 2020.Further the Cabinet Secretary, State Ministry of Lands and Physical Planning issued a public notice of indefinite closure of all land offices therefore halting all land transactions within the country that further delayed the process.

This is because the transfer of land and processing of new Title Deed must have gotten a consent from the Land Control Board that were suspended due to the COVID-19 pandemic. However, after the operations of land control boards resumed, the process of subdivision, transfer and processing of the New Title for Mbulutini Uthasyo Dispensary began and the title deed was processed and the land was already in use by the dispensary at the moment and was surveyed and beaconed.

Committee Observation
The Committee noted that the matter has since been addressed.

Committee Recommendation
The committee recommends that the matter be marked as resolved.

Other Matter

1. Budgetary Control and Performance
The summary statement of appropriation: recurrent and development combined for the year ended 30 June, 2020 reflects final receipts budget and actual on comparable basis totalling Kshs.11,186,278,572 and Kshs.9,556,519,636 respectively, resulting to an under-funding of Kshs.1,629,758,936 or 15% of the budget. Similarly, the County Executive spent Kshs.8, 591,014,554 against an approved budget of Kshs.11, 186,278,572 resulting to an under-expenditure of Kshs.2, 595,264,018 or 23% of the

budget. The shortfall of revenue was the main cause of the under-expenditure which in turn constrained delivery of planned services.

Management Response

The Management stated that revenue collection was adversely affected by the restrictions imposed by the COVD-19 protocols. Up until the end of third quarter of the FY 2019/2020, the County was on course to collect more than the amount collected in a similar period in the previous financial year. Revenue performance at the end of the quarter was Kshs. 356,567,484.50 compared to Kshs. 39,285,170 which is equivalent to 12.3% increment.

The County Executive had nearly all the revenue streams recording a slump in actual performance in the FY 2019/ 2020 compared with actual performance in FY 2018/2019 owing to COVID-19 pandemic.

The County undertook the following measures to enhance own source revenue generation;

a) Implementation of a Revenue Administration Policy and Own Source Revenue Mobilization Strategy as shown in Appendix 3a and 3b respectively which encompasses all the revenue administration processes from assessment, invoicing, enforcement for compliance, collection, accounting and reporting. The Policy advocates for an independent enforcement for compliance unit which will be engaged in revenue only as opposed to general enforcement of several government functions.
b) The County had an approved valuation roll as shown in Appendix 3c to aid in the mobilization of property rates. The valuation roll has a database for all ratepayers and reminders are sent occasionally on their property rate paying obligations.
c) The County put in a request to the County Public Service Board for recruitment of extra 50 new officers to replace those who retired since 2013 in order to enhance collection of unstructured revenue streams.
d) The county piloted cashless payments in the 2020/2021 financial year for the parking fees. The cashless payments are being rolled out in 2022/2023 financial year for the other revenue streams. This will reduce revenue leakage as a result of cash handling.

The under- expenditure on the budget was a result of COVID – 19 restrictions which hampered the economic activities that required travel arrangements.

Committee Observation

The Committee noted that delays in receiving exchequer releases from the National Treasury and under-collection of own source revenue hindered optimal program implementation and budget execution.

Committee Recommendations

The Committee recommends that-

1) The National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate; and

2) The County executive puts in place measures to enhance its own generated revenue in order to meet its revenue target and address revenue shortfalls.

2. Unresolved Prior Year Audit Matters

Note 7 to the financial statements indicates that two issues raised in the report for the previous year were resolved in the year under review. The Note, however, does not provide information on the progress attained in resolving several other issues highlighted in the report. Consequently, the disclosures on follow-up of previous years issues are incomplete and do not conform to the reporting requirements set by the Public Sector Accounting Standards Board.

Management Response

The county prepared and submitted progress reports on follow up of prior year audit matters.

Committee Observation

The Committee observed that the County Executive did not take action on the issues raised in the Report of the Auditor General for the Financial Year 2018/2019.

Committee Recommendation

The Committee recommends that the County Executive complies with section 53 of the Public Audit Act, 2015 by taking action on the issues raised by the Auditor General and submits a report to the Office of the Auditor General within sixty (60) days of the adoption of this report.

3. Delayed Exchequer Receipts

Revenue records indicated that the Exchequer receipts totaling Kshs.666, 549,000 were received on 24 June 2020, only one week to the end of the financial year under review on 30 June 2020. In view of the delay, the programmes and activities that the funds were extracted to finance were not implemented in due time.

Management Response

The Management stated that the release of Exchequer funds to counties is within the domain of the National Treasury. The County Government would appreciate interventions geared towards timely and regular disbursement of funds to counties. As at the closure of the year, the disbursement from the exchequer were expected, necessary arrangements made and projects procured.

Upon receipt of the Kshs 666, 549,000 on 24th June 2020, the County Government processed requisition of funds to the controller of Budget and transferred the funds from the County Revenue Fund account to operational accounts in order to pay goods and services offered.

Committee Observation

The Committee noted that delays in receiving exchequer releases from the National Treasury and under-collection of own source revenue hindered optimal program implementation and budget execution.

Committee Recommendations

The Committee recommends that-

1) The National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate; and

2) The County executive puts in place measures to enhance its own generated revenue in order to meet its revenue target and address revenue shortfalls.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

1. Irregularities in Operations of Makueni County Fruit Development and Marketing Authority

Records examined indicated that the County Executive established an agro-processing entity namely, Makueni County Fruit Development and Marketing Authority, in July, 2017 and appointed the Board of Directors and Managing Director in January, and August, 2018 respectively. However, audit review of the operations of the Authority revealed the following unsatisfactory matters:

1.1 Lack of Operational Autonomy

Examination of the Authority's financial records for the year under review indicated that, despite the Authority being established as a separate County entity, it was not granted sufficient autonomy by the County Executive. For example, the Authority's budget totalling Kshs.72, 941,000 in the year under review was spent through the Ministry of Agriculture. As a result, the Management of the Authority did not have sufficient autonomy in implementing the budget and may, therefore, not be solely accountable for the results attained from the Authority's operations.

Management Response

Management submitted that since the gazettement of Makueni County Fruit Development and Marketing authority in July 2017, the department of agriculture, irrigation, livestock and fisheries development supported it by seconding ten staff to the authority. In order to strengthen the capacity of the authority to be able to hire a finance and administration manager as well as other 7 staff. The department availed budgetary support and eight staff members were recruited. Having been satisfied that the capacity of the authority to perform financial functions was enhanced, the department commenced the process of appointing the CEO as an accounting officer on 1st July 2020.

Committee Observation
The Committee noted that the matter has since been addressed.

Committee Recommendation
The committee recommends that the matter be marked as resolved.

1.2 Failure to Submit Financial Statements for Audit
The Authority did not prepare and submit financial statements to the Auditor-General for audit as required by Section 19(1-3) of the Makueni County Fruit Development and Marketing Authority Act, 2017 and Sections 81(4) (a) and 185 of the Public Finance Management Act, 2012. Consequently, the nature and extent of the operations of the Authority during the year under review, and its financial position as at 30 June, 2020, could not be confirmed.

Management Response
Makueni County Fruit Development and Marketing authority prepared and submitted its financial statement for the financial years 2017/2018, 2018/2019, 2019/2020 and 2020/2021.

Committee Observation
The Committee noted that the matter has since been addressed.

Committee Recommendation
The committee recommends that the matter be marked as resolved.

1.3 Misrepresented Bank Accounts
The legal name of the Authority defined in the enabling Act is 'Makueni County Fruit Development and Marketing Authority'. However, the bank account operated by the Authority is registered in the name of 'Makueni Fruit Processing Plant'. Management did not provide an explanation for the anomaly in the bank account name. Consequently, the legal relationship between the two entities on one hand, and between 'Makueni Fruit Processing Plant' and the County Government on the other, has not been confirmed.

Management Response
Makueni fruit processing plant operates under the auspice of the Makueni County Fruit Development and Marketing authority. According to the Makueni County Fruit Development and Marketing Authority (Amendment) Act 2017 section 6, the authority is mandated to oversee the operations of the Makueni Fruit Processing Plant (MFPP) from a policy perspective. The board passed a resolution to open a Makueni County fruit Development and Marketing Authority account.

Committee Observations
The Committee noted that the matter has since been addressed.

Committee Recommendations
The committee recommends that the matter be marked as resolved.

1.4 Non-Official Bank Signatories

In addition, two signatories to the Authority's bank account were not employees or officials of the County Executive despite the Authority's expenditures and revenues being public resources entrusted to the County Government. Further, the minutes of the Board of Directors meeting that authorized the opening of the bank account and nominated its signatories were not provided for audit review. Therefore, Management of the Authority has breached the law on accountable management of public resources.

Management Response

Two signatories to the Authority's bank accounts were employees of the Authority during the period under review. The two signatories could authentically transact on behalf of the authority since their employment contracts were still valid. The contract for one signatory, Mr. Stephen Makanga had lapsed and therefore ceased being an employee of the authority. The minutes of the board of Directors meeting that authorised the opening of the bank accounts and nominated its signatories.

Committee Observation

The Committee noted that the matter has since been addressed.

Committee Recommendation

The Committee recommends that the matter be marked as resolved.

2. Implementation of Projects

2.1 Stalled and Unutilized Projects

Review of records on development vote spending indicated that the County Government implemented thirty-one (31) projects valued at Kshs.63, 073,334 during the year under review. However, twenty-nine (29) projects executed to completion at an aggregate cost of Kshs.55, 276,523 were not commissioned for use by residents. Further, two (2) projects on which a total of Kshs.7, 796,811 had been spent as at 30 June, 2020, had stalled. No adequate explanation was provided by Management for the delay in commissioning the projects. As a result of the delay, the public services that the projects were expected to provide were not realized.

Management Response

An updated projects status report was attached showing the current status of each project.

Committee Observation

The Committee noted that the supporting documents for the management responses on projects were submitted late hence the auditors had not verified the projects

Committee Recommendation

The Committee recommends that the auditors carry out projects verification in the next audit cycle.

2.2 Delayed Implementation of Early Childhood Education Project

Procurement records indicated that a tender for construction of two (2) classroom blocks, an office, three (3) door pit latrine and installation of a 5,000-litre plastic water tank at Katumini Early Childhood Education (ECDC) Centre was awarded in February, 2020 at a contract sum of Kshs.3, 203,433. Although the project was to be implemented in 90 days to 18 May 2020, it had, however, not been completed by the time of the audit inspection in November 2020. Further, only one Interim Certificate valued at Kshs.2, 698,959, had been issued by the contractor.

In view of the delay, the objectives of the project were not attained.

Management Response

The project was affected by heavy rains which made the roads impassable and the site unworkable. The contractor requested for contract extension in order to resume and complete the project once the rains subsided. The project was completed and a completion certificate was attached.

Committee Observations

The Committee noted that the supporting documents for the management responses on projects were submitted late hence the auditors had not verified the projects

Committee Recommendations

The Committee recommends that the auditors carry out projects verification in the next audit cycle.

3. Compensation of Employees

3.1 Limit on Personnel Emoluments

Expenditure Not Observed The statement of receipts and payments reflects compensation of employee's expenditure totalling Kshs.3,409,529,862 as further disclosed in Note 5 to the financial statements. The expenditure was equivalent to 41.8% of the total receipts for the year, net of returned CRF Issues totaling Kshs.8, 156,213,537. The spending exceeded the threshold of 35% prescribed in Section 25(1) (a) and 25(b) of the Public Finance Management (County Governments) Regulations, 2015.

Management Response

Compensation of employees exceeded the threshold of 35% of total revenue due to the following reasons;

a) Implementation of job evaluation results
b) Revision of House allowance and hardship allowance.
c) Implementation of return to work formula occasioned by the health worker's strike
d) staff recruitment

Committee Observation

The Committee observed that; -

1. that the wage Bill for Makueni County Executive was above the set limit of 35% as provided for by the Public Finance Management (County Government) Regulations, 2015.
2. that the county has a bloated workforce which is currently at 41.8% of the total revenue.

Committee Recommendations.
The Committee recommends that-

1. **the management should provide to the Auditor General and the Senate the measures it will put in place to contain the high wage bill within sixty (60) days of the adoption of this report;**
2. **the management should strictly adhere to the provision of paragraph 25(1)(b) of the PFM Act (county government) regulations, 2015 which stipulate that the county wage bill should not exceed 35 per cent of the county total revenue; and**
3. **the county executive puts in place measures to enhance own source revenue collection in order to address wage bill gap.**

3.2 Non-Compliance with Law on Ethnic Diversity in Employment
Review of the staff records indicated that 3,299 employees or 92% of the establishment of 3,589 staff were from the dominant ethnic community in the County. Section 7(2) of the National Cohesion and Integration Act, 2008 prescribes that no public establishment shall have more than one third (1/3) of its employees from the same ethnic community. Consequently, the County Executive is yet to attain the prescribed threshold for ethnic diversity in employment.

Management Response
The Board has continued to face a challenge in attracting applicants from outside the Kamba community which is the dominant ethnic group, despite wide advertising in the main newspaper and indicating the county is an equal opportunity employer. Copies of the adverts, shortlisting and interview score sheet summary were attached.

Committee Observation
The Committee observed that the matter remained unresolved, as the county staff establishment lacked ethnic diversity.

Committee Recommendation
The Committee recommends that the county executive should work progressively towards attaining the requirement of the provisions of Section 65(1)(e) of County Government Act on ethnic inclusivity.

4. Irregular Payment to the Council of Governors
Examination of records on payments made for goods and services indicated that a sum of Kshs.4,700,000 was paid to the Council of Governors as contribution to offsetting the Council's expenses. The payment was made contrary to Section 37 of the

Intergovernmental Relations Act, 2012 which provides that the operational costs of the Council shall be funded from the budget of the National Government.

Management Response
The expenditure item was included in the financial year 2019/2020 budget. The Council of governors in their resolution authorized the counties to transfer funds in order to foot the bills of those expenditure items. Minutes of COG authorizing the expenditure were attached.

Committee Observation
The Committee noted that payments made to the Council of Governors from County Revenue Funds were irregular and unlawful since the Intergovernmental Relations Act specifies that funding for the COG shall be drawn from the Consolidated Fund.

Committee Recommendation
The Committee recommends that;-

1. **the irregular payments to the Council of Governors (COG) be stopped and further recommends the surcharge of any Governor, in their capacity as Chief Executive Officer, who continues to make the irregular contribution.**
2. **The EACC should oversee the recovery of all the public funds irregularly transferred to the Council of Governors (COG) by the Governor. This is in line with the Resolution of the Senate.**

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Lack of Disaster Recovery and Business Continuity Plan
Regulation 158 of the Public Finance Management Act (County Governments) Regulations, 2015 requires every Accounting Officer to develop risk management strategies that support robust business operations. However, as in previous years, Management did not have an approved Disaster Recovery and Business Continuity Plan for the County Government's operations.
As a result, service delivery by the County Executive is likely to be disrupted on occurrence of unfavorable events that may affect the County Government's operational systems.

Management Response
The County embarked on the development of a Disaster Recovery Plan. The county government prepared a COVID19 recovery and reengineering strategy plan to mitigate effects of COVID 19 pandemic. This addressed the impact of pandemic and unfavorable events. Other measures taken by the County Government to mitigate disasters and ensure continuity of business include preparation and implementation of IT Administrative policy and enterprise risk management policy. The county also put in place an additional fire station at Makindu town to alleviate the risk of fire on property.

Committee Observation

The Committee noted that the County executive did not have a disaster recovery and business continuity plan.

Committee Recommendation

The Committee recommends that the County Executive should put in place a disaster recovery and business continuity plan and submit a status report to the auditor general sixty days from the adoption of this report.

CHAPTER SIX

REPORT OF THE SENATE COUNTY PUBLIC ACCOUNTS COMMITTEE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF MERU COUNTY EXECUTIVE FOR THE FINANCIAL YEAR 2019/2020

The Governor of Meru County, H.E Kawira Mwangaza, appeared before the committee on Thursday 15th June 2023, to respond (under oath) to audit queries raised in the Report of the Auditor General on Financial Statements for Meru County Executive for the Financial Year 2019/2020.

Qualified Opinion

EXECUTIVE SUMMARY OF UN-RESOLVED AUDIT QUERIES				
	Query	**Recommendations**	**Actor**	**Timeline**
1.	**1.1 Inaccuracies in Exchequer Releases.** The statement of receipts and payments differed from the actual amount received resulting to an unexplained and unreconciled variance of Kshs.838,562,167.	The Committee recommends that;- a) County Chief Executive Officer undertakes administrative actions against the responsible officer(s) who failed to provide the documents to the auditors in accordance with section 156 of the Public Finance Management Act and provides a status report to the Office of the Auditor General within 60 days from the adoption of this report; b) The County CEO undertakes administrative action against the accounting officer, the Chief Officer Finance, the Head of County Treasury and any other officer(s) responsible for failure to undertake reconciliation of financial statements within the stipulated timelines in accordance with Section 156 of the Public Finance Manageemnt Act, 2012 and	The County Chief Executive Officer ICPAK	60 Days from the date of adoption of this report

		submit a report to the Office of the Auditor General within 60 days of adoption of this report; c) The Institute of Certified Public Accountants (ICPAK) takes action(s) against the responsible officer(s) for misrepresentation of financial statements which constitutes professional misconduct pursuant to Section 8 (a) and 30 of the Accountants Act CAP 531 and reports to the Office of the Auditor General within 60 days of adoption of this report; d) County CEO must ensure strict adherence to the Public Audit Act, 2015 by providing accurate and reliable reconciliations of the financial statements, payment details and the vote books during the audit cycle.		
2.	**1.2 In accuracies in Proceeds from Domestic and Foreign Grants** The statement of receipts and payments showed total payments for the year but there were discrepancies between the balance reflected in the financial statements and those in the payment details.	The Committee recommends that;- a) County Chief Executive Officer undertakes administrative actions against the officers who failed to provide the documents to the auditors in accordance with section 156 of the Public Finance Management Act and provides a status report to the Office of the Auditor General within 60 days from the adoption of this report. b) The County CEO undertakes administrative action against the	The County Chief Executive Officer	60 Days from the date of adoption of this report

		accounting officer, the Chief Officer Finance, the Head of County Treasury and any other officer(s) responsible for failure to undertake reconciliation of financial statements within the stipulated timelines and submit a report to the Office of the Auditor General within 60 days of adoption of this report; c) The Institute of Certified Public Accountants (ICPAK) takes action(s) against the responsible officer(s) for misrepresentation of financial statements which constitutes professional misconduct pursuant to Section 8 (a) and 30 of the Accountants Act CAP 531 and reports to the Office of the Auditor General within 60 days of adoption of this report; and d) County CEO must ensure strict adherence to the Public Audit Act, 2015 by providing accurate and reliable reconciliations of the financial statements, payment details and the vote books during the audit cycle.		
3.	**2.0 Own Generated Revenue – Plot Rent** Management did not provide the register of all the county plots and the approved charges for rent for audit review.	The Committee recommends that Chief Executive Officer undertakes administrative action against the responsible officer(s) who failed to provide the documents (Plot Rent Registers and the Meru County Finance Act for the years 2019 and 2020) to the auditors in accordance with section 156 of the Public Finance	The County Chief Executive Officer	60 days from the date of adoption of this report

		Management Act and provides a status report to the Office of the Auditor General within 60 days from the adoption of this report.		
4.	**3.0 Delay in Banking of Revenue** County's reported own generated revenue is Ksh. 583,884,131. However, audit findings reveal irregularities in revenue collection and deposits, making the accuracy uncertain.	The Committee recommends that; - 1. the Chief Executive Officer takes administrative action against the responsible officer(s) who failed to provide the auditors with the relevant documents in accordance with Section 156 of the Public Fianance Management Act, 2012 and provide a ststus update to the Office of the Auditor General within 60 days of adoption of this report; 2. The EACC should carry out a review of revenue collection systems and processes in the county to establish whether the non-provision of documents was an effort to cover up loss of public funds and recommend prosecution of the culpable officers in line with the Public Audit Act.	The County Chief Executive Officer EACC	60 days from the date of adoption of this report
5.	**4.0 Unsupported Revenue Collection from Issuance of Business Permits** County reported Ksh. 583,884,131 as own generated revenue, including Ksh. 95,366,737 from	The Committee recommends sanctions against the responsible officer(s) who failed to provide the documents to the auditors in accordance with section 62(2) of the Public Audit Act, 2015 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report.	The County Chief Executive Officer	60 days from the date of adoption of this report

	business permits. However, due to lack of business register documentation, the accuracy of this amount cannot be confirmed.			
7.	**5.0 Unsupported Scholarships and Other Educational Benefits** The bursary application letters, admission letters, bursary committee appointments and vetting details, criteria for award and bursary acknowledgement letters for 697 beneficiaries issued with bursaries. totalling to Kshs.1,756,350 were not provided for audit review.	The Committee recommends that: The matter be referred to the Senate County Public Investment and Special Funds Committee for consideration.	CPISFC	60 days from the date of adoption of this report
8.	**6.0 Unsupported Acquisition of Strategic Stocks and Commodities** Acquisition of strategic stocks and commodities relating to purchase of milk for Early Childhood and Development Education (ECDE) children supporting documents including delivery notes and list of recipient's schools were not availed for audit review.	The Committee recommends that Chief Executive Officer undertakes administrative action against the responsible officer(s) who failed to provide the documents to the auditors in accordance with section 156 of the Public Finance Management Act and provides a status report to the Office of the Auditor General within 60 days from the adoption of this report.	The County Chief Executive Officer	60 days from the date of adoption of this report
9.	**7.0 Inaccuracies in the Summary of Fixed Assets Register**	The Committee recommends that the-	The County Chief	Next audit cycle

	The fixed assets register availed for audit review reflected a balance Kshs.5,738,391,806 resulting to an unreconciled and unexplained variance of Kshs.1,372,894,380.	a) County Executive should update and present their Fixed Assets Register in the format prescribed by the Public Sector Accounting Standards Board; b) County Executive should adopt and implement the report of the Inter-Governmental Technical Relations Committee (IGTRC) on assets and liabilities from defunct Local Authorities and provide a status update to the Office of the Auditor General within 90 days of adoption of this Report; and c) Office of the Auditor General should progressively review and report on the matter in the subsequent Financial Years.	Executive Officer	
10.	**8.0 Other Payments – Payables from Previous Financial Period** Management did not provide evidence on how the funds payables from previous financial transferred to seven (7) tea factories in the county were utilized and accounted for.	The Committee recommends that Chief Executive Officer undertakes administrative action against the responsible officer(s) who failed to provide the documents to the auditors in accordance with section 156 of the Public Finance Management Act and provides a status report to the Office of the Auditor General within 60 days from the adoption of this report.	The County Chief Executive Officer	60 days from the date of adoption of this report
	Key Audit Matters			
11.	**Other Matters** **3.0 Project Implementation Status**	The Committee recommends that: 1. the management provides a status report on the delayed completion of projects to the Office of the Auditor General	The County Chief Executive Officer	60 days from the date of adoption of this report

	The residents did not get the planned services equivalent to the two. hundred and sixty-two (262) ongoing projects worth Kshs.574,409,120	within 60 days of adoption of this report. 2. The County executive should undertake proper project conceptualization, planning and execution to ensure timely completion of the projects as well as realization of value for money; and, 3. OAG to follow up on this matter in its subsequent audit cycle.	Office of the Auditor General	
12.	**4.0 Pending Bills** Management did not explain why the bills were not settled during the year when they failed 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.	The Committee therefore recommends that: 1) the National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate so as to enable county entities settle their obligations on time; and 2) the county executive puts in place measures to enhance own generated revenue in order to meet its revenue target and address revenue shortfalls that contribute to the challenge of pending bills. 3) Pending bills deemed ineligible should be forwarded to the Directorate of Criminal Investigation (DCI) for investigation proper legal action taken against those filing false claims. 4) County Government to take note of judgement in a Kitale High Court Constitutional Petition E003 of 2023 that declared formation of pending bills verification committees	a) The National Treasury b) The County Chief Executive Officer c) The DCI	Continous

		unconstitutional and engage Office of the OAG and strengthen the internal audit functions.; and 5) All valid pending bills that have been reviewed by the Office of the Auditor General be paid and a payment plan be submitted to the county assembly for approval and progress report on implementation sent to the Senate and the Office of the Controller of Budget.		
REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES **Basis for Conclusion**				
	1.0 Domestic Travel and Subsistence The County Executive incurred an amount of Kshs.4,189,250 in respect of travel and subsistence expenses paid to County Executive Officers for workshops and retreats held outside the duty stations. Management did not provide justification for holding the workshops and retreats away from the duty station	The Committee recommends that Chief Executive Officer undertakes administrative action against the responsible officer(s) who failed to provide the documents to the auditors in accordance with section 156 of the Public Finance Management Act and provides a status report to the Office of the Auditor General within 60 days from the adoption of this report.	Chief Executive Officer	Within 60 days from the adoption of this report
13.	**Basis for Conclusion** **4.0 Construction of Boundary Wall at Githongo Stadium** Supporting documents including contract agreement were not	The Committee recommends that; - 1. The Committee recommends that the County Chief Executive Officer undertakes administrative actions against the responsible officer(s) who failed to provide documents to the	EACC CECM Finance	Next audit cycle

	provided for audit review. Physical verification conducted on 21st October 2020 revealed that the project was incomplete, the contractor was not on site and the project appeared stalled.	auditors in accordance with section 156 of the Public Finance Management Act and provides a status report to the Office of the Auditor General within 60 days from the adoption of this report; 2. EACC to pursue the contractor with the view of recovering the extra amount that as paid to him/her; 3. the management blacklists the contractor from accessing tenders from the county; and 4. The Auditor General to undertake a project verification and provide a status report in the next audit cycle.		
14.	**7.0 Irregular Recruitment of Legal Officer** The County Executive advertised a legal officer position requiring ten years of experience. However, the selected candidate had only four years of experience, making the recruitment process irregular.	The Committee recommends that: 1. The County Executive should ensure that future recruitment processes adhere strictly to the advertised qualifications and requirements, including the specified minimum years of experience. 2. A thorough review of the recruitment and selection procedures should be conducted to identify any gaps or discrepancies that led to the hiring of a legal officer with insufficient experience and provide a status update to the Office of the Auditor General and the Senate within 60 days of adoption of this report; and 3. The County Executive should take appropriate corrective measures, such as conducting an evaluation of the performance and qualifications of the current legal officer, and considering any necessary actions based on the findings.	The County Chief Executive Officer	60 days from the date of adoption of this report

15.	**10.0 Non-Compliance with Law on Ethnic Composition** In the year under review, the County Executive hired 329 new employees, but 93% of them were from the dominant ethnic group, contrary to the County Government Act (2012) and the National Cohesion and Integration Act (2008). The County Executive's management violated the law by not meeting the required diversity quotas for hiring.	The Committee recommends that- a) The County Executive should work progressively towards attaining the requirements of the provisions of the County Government Act, 2012 and the National Cohesion and Integration Act (2008) on ethnic inclusivity. b) The County Executive and CPSB should provide to the Auditor General a five-year strategy of measures it will put in place to ensure compliance is achieved within sixty (60) days of the adoption of this report.	The County Chief Executive Officer CPSB	60 days from the date of adoption of this report
16.	**11.0 Failure to Publicize and Publish Contracts** During the financial year under review, the County failed to comply with Section 138(1)(2) of the Public Procurement and Assets Disposal Act, 2015. They did not publish and publicize all contract awards or report them to the Public Procurement Regulatory Authority, thus violating the law.	The Committee recommends that: 1. The County should immediately rectify the non-compliance by preparing, publishing, and publicizing all contract awards as required by Section 138(1)(2) of the Public Procurement and Assets Disposal Act, 2015. 2. The County executive should ensure that all future contract awards are prepared, published, publicized, and submitted to the Public Procurement Regulatory Authority in a timely and compliant manner. 3. the County executive establishes internal controls and procedures to ensure ongoing compliance with the relevant procurement regulations and laws. This may include training staff, implementing oversight mechanisms, and maintaining	The County Chief Executive Officer Office of the Auditor General	60 days from the date of adoption of this report

		accurate records of contract awards and their publication. 4. the auditors to verify within 60 days of adoption of this report that the contracts are being advertised on PPRA website.		
17.	**12.0 Format of Revenue Estimates - County Own Generated Receipts** The committee observed that the County Executive's approved budget of Kshs.705,000,000 for County own generated revenue lacked essential information, violating Regulation 58 of the Public Finance Management (County Governments) Regulations, 2015. The budget did not provide details such as the source of revenue, estimated revenues, receiver of revenues, revenue items, and corresponding amounts and receipts.	The Committee recommends that;- a) the County Chief Executive Officer undertakes administrative actions against the responsible officer(s) who failed to provide documents to the auditors in accordance with section 156 of the Public Finance Management Act and provides a status report to the Office of the Auditor General within 60 days from the adoption of this report; and b) The Institute of Certified Public Accountants (ICPAK) takes action(s) against the responsible officer(s) for misrepresentation of financial statements which constitutes professional misconduct pursuant to Section 8 (a) and 30 of the Accountants Act CAP 531 and reports to the Office of the Auditor General within 60 days of adoption of this report.	The County Chief Executive Officer ICPAK	60 days from the date of adoption of this report
	REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE			
18.	**1.0 Facilitation of the County Assembly Benchmarking Tour**	The Committee recommends that: 1. the Executive should focus on ensuring transparency, accountability and compliance with the rules and regulations governing financial disbursements within the County Executive.	The County Chief Executive Officer	60 days from the date of adoption of this report
19.	**2.0 Maintenance of Grounded Vehicles**	The Committee recommends that the county government takes immediate action to service and	The County Chief	60 days

		repair the grounded vehicles or dispose the unserviceable vehicles and provide a status update within 60 days from the adoption of this report.	Executive Officer	
20.	**3.0 Use of a Manual Payroll**	The Committee recommends that; 1. The County Executive should engage the State Department of Public Service to fast-track the issuance of personal numbers to enable them onboard all employees on the Integrated Personnel and Payroll Database (IPPD) System; and 2. the Auditor General to monitor the matter in subsequent audit cycle.	The County Chief Executive Officer	60 days from the date of adoption of this report

Basis for Qualified Opinion.

1.0 Inaccuracies in the Financial Statements

The statement of receipts and payments reflects an amount of Kshs.9,238,117,386. However, the following inaccuracies were noted: -

1.1 Inaccuracies in Exchequer Releases

The statement of receipts and payments reflects an amount of Kshs.8,186,299,567 in respect to Exchequer releases. This differs from the actual amount received of Kshs.7,347,737,400 reflected in the statement of appropriation: recurrent and development combined resulting to an unexplained and unreconciled variance of Kshs.838,562,167.

Management Responses

The management concurred with the audit observation that there were inconsistencies in the exchequer releases reported in the statement of receipts & payment and the amount reported understatement of appropriation. This has been reconciled by including amount of Kshs. 373,872,834 relating to conditional grant to level 5 hospitals and amount of Kshs. 464,689,333 relating to donor funds released through exchequer both totaling to Kshs. 838,562,167 reported under Note 1B and 1C respectively as part of exchequer release in the statement of appropriation- recurrent and development combined. A copy of amended statement of appropriation: recurrent and development combined were attached for the committee review.

Committee Observations

The Committee noted;

3) the failure of the management to submit documents on time to the Auditor General during the audit cycle.
4) That the query was not responded to satisfactorily at the time of appearance.

Committee Recommendations

The Committee recommends that;-

a) **the County Chief Executive Officer undertakes administrative actions against the responsible officer(s) who failed to provide documents to the auditors in accordance with section 156 of the Public Finance Management Act and provides a status report to the Office of the Auditor General within 60 days from the adoption of this report;**
b) **The County CEO undertakes administrative action against the accounting officer, the Chief Officer Finance, the Head of County Treasury and any other officer(s) responsible for failure to undertake reconciliation of financial statements within the stipulated timelines and submit a report to the Office of the Auditor General within 60 days of adoption of this report;**
c) **The Institute of Certified Public Accountants (ICPAK) takes action(s) against the responsible officer(s) for misrepresentation of financial statements which constitutes professional misconduct pursuant to Section 8 (a) and 30 of the Accountants Act CAP 531 and reports to the Office of the Auditor General within 60 days of adoption of this report; and**
d) **County CEO must ensure strict adherence to the Public Audit Act, 2015 by providing accurate and reliable reconciliations of the financial statements, payment details and the vote books during the audit cycle.**

1.2 Inaccuracies in Proceeds from Domestic and Foreign Grants

The statement of receipts and payments reflects an amount of Kshs.467,933,688 in respect to proceeds from domestic and foreign grants. This differs from the actual amount received of Kshs.1,306,495,855 reflected in the statement of appropriation: recurrent and development combined resulting to an unexplained and unreconciled variance of Kshs.838,562,167.

In the circumstances, the accuracy of the receipts for the year ended 30 June, 2020 could not be confirmed.

Management Response

The management concurred with the audit observation that there were inconsistencies in the proceeds from Domestic and foreign Grants reported in the statement of receipts & payment and the amount reported understatement of appropriation. This has been reconciled by Excluding amount of Kshs. 373,872,834 relating to conditional grant to level 5 hospitals and amount of Kshs. 464,689,333 relating to donor funds released through exchequer both totaling to Kshs. 838,562,167 reported under Note 1B and 1C respectively from amount earlier reported as part of proceeds from domestic and foreign grants in the statement of appropriation- recurrent and development combined. A copy of amended statement of appropriation: recurrent and development combined were attached for the committee verification.

Committee Observations

The Committee noted the failure of the management to submit documents on time to the Auditor General during the audit cycle. The Committee also observed that the query was not responded to satisfactorily at the time of appearance.

Committee Recommendations

The Committee recommends that;-

a) **the County Chief Executive Officer undertakes administrative actions against the responsible officer(s) who failed to provide documents to the auditors in accordance with section 156 of the Public Finance Management Act and provides a status report to the Office of the Auditor General within 60 days from the adoption of this report;**
b) **The County CEO undertakes administrative action against the accounting officer, the Chief Officer Finance, the Head of County Treasury and any other officer(s) responsible for failure to undertake reconciliation of financial statements within the stipulated timelines and submit a report to the Office of the Auditor General within 60 days of adoption of this report;**
c) **The Institute of Certified Public Accountants (ICPAK) takes action(s) against the responsible officer(s) for misrepresentation of financial statements which constitutes professional misconduct pursuant to Section 8 (a) and 30 of the Accountants Act CAP 531 and reports to the Office of the Auditor General within 60 days of adoption of this report; and**
d) **County CEO must ensure strict adherence to the Public Audit Act, 2015 by providing accurate and reliable reconciliations of the financial statements, payment details and the vote books during the audit cycle.**

2.0 Own Generated Revenue – Plot Rent

The statement of receipts and payments and as disclosed under Note 3 to the financial statements reflects county own generated revenue amount of Kshs.583,884,131. Included in this is Kshs.4,991,187 in respect to plot rent revenue. Management did not provide the register of all the county plots and the approved charges for rent for audit review.

In the circumstances, the accuracy of Kshs. 4,991,187 in respect to plot rents for the year ended 30 June 2020 could not be confirmed.

Management Response

During the period under review, the county collected Kshs 4,991,187 in respect of plot rent from various plot owners in the county. An approved register of all the county plots charged rent was available for audit review. Further, details of the chargeable rent for plots within all the regions within the county are contained in the finance act. A copy of finance act showing plot rent chargeable per plot across all regions within the county and copies of plot rent registers were attached for the committee verification.

Committee Observation

The Committee noted the failure of the management to submit an authenticated copy of the Plot Rent Registers and the Meru County Finance Act to the auditors during the audit cycle.

Committee Recommendation

The Committee recommends that Chief Executive Officer undertakes administrative action against the responsible officer(s) who failed to provide the documents (Plot Rent Registers and the Meru County Finance Act for the years 2019 and 2020) to the auditors in accordance with section 156 of the Public Finance Management Act and provides a status report to the Office of the Auditor General within 60 days from the adoption of this report.

3.0 Delay in Banking of Revenue

The statement of receipts and payments and as disclosed under Note 3 to the financial statements reflects Kshs.583,884,131 in respect to county own generated revenue. This includes an amount of Kshs.21,332,964 in respect of revenue collected at Kaguru Agricultural Training Centre (ATC) and Mitunguu Agricultural Mechanization Services (AMS). Review of documents presented for audit verification revealed that the revenue of Kshs.21,332,964 collected from the two institutions was not deposited into the County Revenue Fund. This was contrary to Section 81(1) of the Public Finance Management (County Government) Regulations, 2015 which require receivers of revenue to promptly deposit into the county revenue fund account all receipts due to the County. In addition, included in county own generated revenue is an amount of Kshs.178,160,756 in respect to public health facilities operations – Facility Improvement Fund (FIF). Review of documents presented for audit verification revealed that an amount of Kshs.188,641 was collected and spent without banking in the County Revenue Fund. This was contrary to Section 81(1) of the Public Finance Management (County Government) Regulations, 2015 which require receivers of revenue to promptly deposit into the county exchequer account all receipts due to the County Revenue Fund.

In the circumstances, the accuracy of the Kshs.583,884,131 in respect to county own generated revenue could not be confirmed.

Management Response

During the period under review, the ATC Kaguru and AMS Mitunguu collected a total revenue of Kshs. 13,414,431 and Kshs. 7,918,533 respectively giving a total of Kshs.21,332,964 which was not banked to CRF but was utilized based on a cabinet memo of reference MC/CO/OOG/1/15 of 2nd September 2014 that provided a framework where by 70% of the revenue was retained by the institution, 20% was to be paid to the county revenue fund and 10% retained in a revolving fund. During the period under review, Kshs 3,400,000 was transferred from the Meru County agricultural fund to the Meru County revenue fund. As at the moment, The County has since passed legislation through the county assembly to provide a legal framework to the above-mentioned cabinet memo by establishing a fund to administer both Kaguru ATC and Mitunguu AMS centers.

Contrarily to audit observation, amount of Kshs 188,641 collected in respect to respect to public health facilities operations – Facility Improvement Fund (FIF) which remained unbanked at the closure of the financial year relates to the cash in hand at the closure of the financial year. This amount was captured in the board of survey conducted at the closure of the financial year and was disclosed under as part of cash and cash equivalents in the financial statements. Copies of board of survey at the closure of financial year confirming cash in hand of Kshs. 188,641 held at the closure of the financial year by various health facilities, copy of banks statement as evidence of transfer of funds from the two institutions to CRF and a copy of County Assembly Act establishing the fund was attached for the committee verification.

Committee Observations.

The Committee noted that;

1) the management was in breach of Section 109 of the Public Finance Act by using the revenue collected at Kaguru Agricultural Training Centre at source, without transferring it to the County Revenue Fund;
2) the letter to authorize such expenditure and the legal provision for such was not provided to the auditors during the audit cycle. This was contrary to Regulation 81 of the Public Finance Management (County Government) Regulations, 2015 and Section 15 (2) of the Kaguru Agricultural and Training Centre Act, 2019.

Committee Recommendations

The Committee recommends that; -

1. **the Chief Executive Officer takes administrative action against the responsible officer(s) who failed to provide the auditors with the relevant documents in accordance with Section 156 of the Public Fianance Management Act, 2012 and provide a ststus update to the Office of the Auditor General within 60 days of adoption of this report;**
2. **The EACC should carry out a review of revenue collection systems and processes in the county to establish whether the non-provision of documents was an effort to cover up loss of public funds and recommend prosecution of the culpable officers in line with the Public Audit Act.**

4.0 Unsupported Revenue Collection from Issuance of Business Permits

The statement of receipts and payments and as disclosed under Note 3 to the financial statements reflects Kshs.583,884,131 in respect to County own generated revenue. This includes an amount of Kshs.95,366,737 in respect of revenue from business permit. However, Management did not provide for audit verification the business register indicating the business names, registration number, amount paid, and receipt issued. It was, therefore, not possible to establish the actual businesses that applied for the annual business permits and the respective amount of the revenue received. In the circumstances, the accuracy and completeness of Kshs.95,366,737 in respect revenue from business permit for the year ended 30 June, 2020 could not be confirmed.

Management Response

During the period under review, the county collected Kshs 95,366,737 from Single Business permits. This amount is collectable from business within the county. To ensure collection of the monies the county government maintains an updated register of the businesses in the county which is available for audit review.
Further the amount of Kshs. 95,366,737 collected is adequately supported with details relating the collections to the source documents like the name of business, receipt issued and or permit number issued. Copies of supporting schedule for SBP collected including both permit number and receipt issued and a copy of business register were attached for the committee verification.

Committee Observation
The committee observed that the management did not provide the business register indicating the business names, registration numbers, amount paid, and receipts issued for audit verification. As a result, it was not possible to establish the actual businesses that applied for the annual business permits and the respective amount of revenue received. Consequently, the accuracy and completeness of Kshs. 95,366,737 in revenue from business permits for the year ended 30 June 2020 could not be confirmed.

Committee Recommendations.
The Committee recommends sanctions against the responsible officer(s) who failed to provide the documents to the auditors in accordance with section 62(2) of the Public Audit Act, 2015 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report.

5.0 Unsupported Scholarships and Other Educational Benefits
The statement of receipts and payments and as disclosed under Note 7 to the financial statements reflects Kshs.763,902,284 in respect to other grants and transfers. This includes an amount of Kshs.46,438,037 in respect to scholarships and other educational benefits utilized on bursaries to 16,781 beneficiaries. However, the bursary application letters, admission letters, bursary committee appointments and vetting details, criteria for award and bursary acknowledgement letters for 697 beneficiaries issued with bursaries totaling to Kshs.1,756,350 were not provided for audit review. Further, an amount of Kshs.2,766,800 was disbursed to 686 students whose admission numbers were not indicated in the schedules of students availed for audit. In addition, it was observed that bursaries amounting to Kshs.904,800 were issued to 378 beneficiaries who were sharing similar admission numbers in their respective schools/institutions. In the circumstances, the accuracy and validity of the scholarship and other educational benefits amount of Kshs.46,438,037 as at 30 June, 2020 could not be confirmed.

Management Response
During the period under review the county spent Kshs 46,438,037 on bursaries to 16,781 beneficiaries. Bursary application letters, admission letters, bursary committee appointments and vetting details, bursary acknowledgement letters are available for audit review.
Further, Kshs. 2,766,800 was disbursed to 686 students whose admission numbers were not indicated in the schedules. This was due to the fact that the applicants were those

students who were joining form one/first year. Application for the bursary had been undertaken using admission letters/calling letters before the students reported hence, they did have admission numbers

In addition, bursaries amounting to Kshs. 904,800 was issued to 378 beneficiaries who were sharing similar admission numbers, this was due to the fact that majority of schools use numeric while allocating admission numbers. This has led to situation where different students in different institution of learning sharing similar numeric numbers. See annex 5(c), analysis of the 378 beneficiaries demonstrating they belong to different institutions. See annex 5 (b), evidence that the 686 students were either form ones or first years. See annex 5(a), copies of bursary application letters, admission letters, bursary committee appointments and vetting details, bursary acknowledgement letters.

Committee Observation

The Committee noted that the matter was an investment plan by the County.

Committee Recommendation.

The Committee recommends the matter be referred to the Senate County Public Investments and Special funds Committee for consideration.

6.0 Unsupported Acquisition of Strategic Stocks and Commodities

The statement of receipts and payments and as disclosed under Note 9 to the financial statements reflects Kshs.387,423,795 in respect to acquisition of assets. This includes an amount of Kshs.50,693,622 in respect to acquisition of strategic stocks and commodities relating to purchase of milk for Early Childhood and Development Education (ECDE) children. However, supporting documents including delivery notes and list of recipient schools were not availed for audit review.

In the circumstances, the accuracy, completeness and validity for the expenditure of the Kshs.50,693,622 in respect to acquisition of strategic stocks and commodities for the year ended 30 June, 2020 could not be confirmed.

Management response

During the period under review the county spent Kshs 50,693,622 on purchase of Milk for ECDE pupils. Records supporting quantities supplied to each school along with how the milk was distributed in each school are available for audit review. Copies of documents supporting ECDE milk supplied were attached for committee review.

Committee Observation

The committee noted that the schedule of the distribution of the purchased milk was not provided for the committee verification.

Committee Recommendations

The Committee recommends that Chief Executive Officer undertakes administrative action against the responsible officer(s) who failed to provide the documents to the auditors in accordance with section 156 of the Public Finance Management Act and provides a status report to the Office of the Auditor General within 60 days from the adoption of this report.

7.0 Inaccuracies in the Summary of Fixed Assets Register

Annex 5 to the financial statements reflects Kshs.7,111,286,186 in respect to summary of fixed assets. However, the fixed assets register availed for audit review reflected a balance Kshs.5,738,391,806 resulting to an unreconciled and unexplained variance of Kshs.1,372,894,380.

In the circumstances, the accuracy and validity of Kshs.7,111,286,186 in respect to fixed assets as at 30 June, 2020 could not be confirmed.

Management Response

During the year under review, the county maintained a fixed asset register with a total balance of Kshs 7,111,286,186 Which did not agree with a figure of Kshs. 5,738,391,806 in the schedule of fixed assets register in annex 5 of the financial statements. The discrepancies in the figures between the two schedules was due to the fact that Summary of fixed assets in the financial statement included cumulative amounts reported under acquisition of assets in note 10 of the financial statement, which includes both County and community assets. While the fixed assets register solely represents the assets which are solely owned by the county. A disclosure of the variance between the two figures was made in the financial statement.

Further an analysis of the community projects totaling to Kshs 1,372,894,380 is available for audit review. Copies of the schedule of the said community projects and a copy of annex 5 to the financial statement containing the said disclosure was attached for the Committee verification.

Committee Observation.

The committee noted that the management didn't have a complete asset register during the time of audit. That the management was in the process completing the assets register and the evaluation roll for the county assets.

Committee Recommendation

The Committee recommends that the-

a) **County executive should expedite updating of valuation roll in accordance with Section 3 of the Valuation for Rating Act CAP 266 so as to reflect current market values for optimal revenue collection and comply with the guidelines of the Public Sector Accounting Sector Boards of reporting in the FY 2023/2024;**
b) **County Executive should adopt and implement the report of the Inter-Governmental Technical Relations Committee (IGTRC) on assets and liabilities from defunct Local Authorities and provide a status update to the Office of the Auditor General within 90 days of adoption of this Report; and**
c) **Office of the Auditor General should progressively review and report on the matter in the subsequent Financial Years.**

8.0 Other Payments – Payables from Previous Financial Period

The statement of receipts and payments and as disclosed under Note 10 to the financial statements reflects other payments amount of Kshs.1,476,552,008. This includes Kshs.1,000,882,404 in respect of payables from previous financial periods. Included in the payables from previous financial periods is Kshs.25,487,507 transferred to seven (7) tea factories in the county being the distribution of 10% ad valorem levy for tea industry infrastructure development by the Agriculture and Food Authority (AFA) to tea factories through the County Governments. However, Management did not provide evidence on how the funds were utilized and accounted for. Further, Management did not provide records on how the roads for maintenance were identified. In the circumstances, the accuracy and value for money for Kshs.25,487,507 as at 30 June, 2020 could not be confirmed.

Management Response

During the period under review, the county transferred Kshs 25,487,507 transferred to seven (7) tea factories in the county being the distribution of 10% ad valorem levy for tea industry infrastructure development to counties by the Agriculture and Food Authority (AFA).

Ad Valorem levy relates to a per centum of the value of all made tea imposed by the Minister at the point of export or import in accordance with Section 18 of the tea Act. The funds were to be utilized as per section 18 (3) (c) of the Tea Act cap 343 which states that ten percent shall be used for the development of infrastructure for the tea Industry. As per the guidelines issued, the role of the County was to ensure formation of committees at the tea factories and later disburse the funds. Upon disbursement of the funds, the factories identified the roads and shared a list of the identified copies.

Further the factories submitted expenditure returns to the county on utilization of the funds.

Since the tea factories are managed by the Kenya Tea Development Authority which is a parastatal body under the ministry of agriculture, the ultimate duty to account for how the funds were utilized rests with KTDA. Copies of correspondences detailing the County role in the funds received from AFA, details of the roads maintained by each individual factory and copies of expenditure return from each tea factory were attached for the committee review and verification.

Committee Observation

The committee noted that;

1) the management received the fund and later transferred to KTDA, for expenditure;
2) the management failed to provide documents to the Auditor at the time of audit contrary to section 62 of the Public Audit Act, 2015.

Committee Recommendation

The Committee recommends that Chief Executive Officer undertakes administrative action against the responsible officer(s) who failed to provide the documents to the auditors in accordance with section 156 of the Public Finance Management Act and provides a status report to the Office of the Auditor General within 60 days from the adoption of this report.

Key Audit Matters
Other Matter

1.0 Budget Control and Performance
The statement of comparative budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.10,298,432,519 and Kshs.9,238,117,386 respectively resulting to an under-funding of Kshs.1,060,315,133 or 10% of the budget. Similarly, the County Executive expended Kshs.9,193,073,341 against an approved budget of Kshs.10,298,432,519 resulting to an under-expenditure of Kshs.1,105,359,178 comprising an under expenditure of Kshs.1,974,949,524 in four (4) items and over expenditure of Kshs.869,590,346 in two (2) item. The underfunding and underperformance affected the planned activities and may have impacted negatively on service delivery to the public.

Management Response
During the period under review, the county did not realize its revenue budget. This was occasioned by failure by the national government to disburse the final Exchequer tranche of Kshs 949,116,764 along with disruption of revenue collection by Covid 19 pandemic, which lead to closure of businesses along with closure of offices resulting to under collection of Kshs 121,115,869 collectable from local sources. The under expenditure was as a result of failure by the county to meet its budget.

Committee Observation
The committee noted that the matter was satisfactorily addressed.

Committee Recommendation
The committee recommends that the matter be marked as resolved.

2.0 Late Exchequer Release
The County Executive had budgeted for Exchequer releases amount of Kshs.7,347,737,400. However, the County Executive received Kshs.1,567,624,500 as exchequer releases from The National Treasury in the month of June, 2020 resulting to inadequate time to utilize the funds. The late release of the budgeted funds by The National Treasury could have affected implementation of the planned activities and projects by the County Government worth Kshs.1,567,624,500.

Management Response
The management concurred with the audit observation that during the period under review, the National treasury delayed in releasing exchequer to the County with Kshs. 1,567,624,500 equitable share and Kshs. 308,273,373.80 in form of conditional grants totaling to Kshs. 1,875,897,873.80 both receivable through the county Revenue fund been received in the month of June and July (after the closure of the financial year). See annex 9, copy of CRF bank statement. The County has no Control of when the funds are disbursed by the National Treasury. The Said delays usually cause cash flow challenges to the County, and usually lead to a situation where the county does not have

adequate time to utilize the funds in implementation of the planned activities and projects.

Committee Observation
The committee noted that the matter was satisfactorily addressed.

Committee Recommendation
The committee recommends that the matter be marked as resolved.

3.0 Project Implementation Status
During the year under review, the approved development budget reflects Kshs.3,325,998,613. The projects implementation status report availed for audit review indicated that a total of 874 projects with an approved budget of Kshs.3,251,364,329 were to be implemented during the year. Of the 874 projects, 593 projects with a budget of Kshs.2,594,054,769 were complete, 262 projects with a budget of Kshs.574,409,120 were ongoing while 19 projects with a budget of Kshs.82,900,440 had not started. In view of the foregoing, the residents did not get the planned services equivalent to the two hundred and sixty-two (262) ongoing projects worth Kshs.574,409,120 and nineteen (19) projects worth Kshs.82,900,440 not started both totaling Kshs.657,309,560. This is an indication of poor project planning and implementation.

Management Response
The management concurred with the audit observation that at the closure of the financial year under review, 262 projects were ongoing and 19 had not commenced. This was caused by disruption of Key government operation by the Covid 19 which led to suspension of various government operations from the Month of March up to closure of the financial year. As at the moment all the above-mentioned projects have since been completed. The said projects have since been completed. Copies of completion certificate, notice of suspension of various operations due to Covid 19 were attached for the committee verification.

Committee observations
The committee observed that the residents did not receive the planned services equivalent to the two hundred and sixty-two (262) ongoing projects worth Kshs.574,409,120 and nineteen (19) projects worth Kshs.82,900,440, which were not initiated, resulting in a total of Kshs.657,309,560. This indicates poor project planning and implementation.

Committee Recommendation
The Committee recommends that:

1. **the management provides a status report on the delayed completion of projects to the Office of the Auditor General within 60 days of adoption of this report.**
2. **The County executive should undertake proper project conceptualization, planning and execution to ensure timely completion of the projects as well as realization of value for money; and,**

3. **OAG to follow up on this matter in its subsequent audit cycle.**

4.0 Pending Bills

The financial statements under Note 7.9.1 reflects pending accounts payable amounting to Kshs.1,826,051,130 (2019: Kshs.1,914,178,573) as at 30 June, 2020. Management has not explained why the bills were not settled during the year when they. 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.

Management Response

During the period under review, the County reported pending bills of Kshs. 1,826,051,130. This amount contains accumulation pending bills incurred by successive Governments, which arise as result of delayed exchequer releases, existence of work in progress at closure of the financial year, failure to meet revenue collection budget among other factors. The County strives to clear pending bills and provides budget for the same. During the period under review, the county paid Kshs 1,000,882,404 in offsetting the previous year's pending bills and it has continued to provide budget for the same.

Committee Observation

The committee noted that the management didn't have a pending bills committee to verify the pending bills, and thus couldn't authenticate the status of all its pending bills.

Committee recommendations

The Committee therefore recommends that:

1) **the National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate so as to enable county entities settle their obligations on time; and**
2) **the county executive puts in place measures to enhance own generated revenue in order to meet its revenue target and address revenue shortfalls that contribute to the challenge of pending bills.**
3) **Pending bills deemed ineligible should be forwarded to the Directorate of Criminal Investigation (DCI) for investigation proper legal action taken against those filing false claims.**
4) **County Government to take note of judgement in a Kitale High Court Constitutional Petition E003 of 2023 that declared formation of pending bills verification committees unconstitutional and engage Office of the OAG and strengthen the internal audit functions.; and**
5) **All valid pending bills that have been reviewed by the Office of the Auditor General be paid and a payment plan be submitted to the county assembly for approval and progress report on implementation sent to the Senate and the Office of the Controller of Budget.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

2.0 Domestic Travel and Subsistence

The County Executive incurred an amount of Kshs.4,189,250 in respect of travel and subsistence expenses paid to County Executive Officers for workshops and retreats held outside the duty stations. Management did not provide justification for holding the workshops and retreats away from the duty station. This was contrary to Section 7 of the Treasury Circular number 20/2015 of 4 November 2015 which requires accounting officers to ensure that all workshops and retreats with majority of the participants drawn from one duty station are held within the precincts of the duty station. In addition, The County Executive paid claims of Kshs.4,189,250 in respect of the workshops and retreats. This was contrary to Section 93(3) of Public Finance Management (County Government) Regulations, 2015 which provides that temporary imprests shall be issued mainly in respect of official journeys and are intended to provide officers with funds with which they can meet travelling, accommodation and incidental expenses. Consequently, Management was in breach of laws and regulations governing the management of workshops and retreats, and the management of imprests.

Management Response

During the period under review, the County spent Kshs To ensure compliance with Treasury Circular number 20/2015 of 4 November 2015 which requires accounting officers to ensure that all workshops and retreats with majority of the participants drawn from one duty station are held within the precincts of the duty station, the County developed a policy whereby any travel outside the county has to be approved by the County sectary and head of public services to curb unnecessary/ avoidable travel. The Kshs 4,189,250 includes facilitation for officers attending trainings organized by professional bodies, activities organized by other organization and several, other retreats which require to be undertaken outside the office to ensure that the concerned officers are not disrupted by other routine office operations. See annex, copies of approval by County secretary to travel outside the county.

Further imprest is usually issued before officer's travel, during the period under review, there were instances which officers were expected to travel outside the county but the county was experiencing cash flow challenges arising from delay in exchequer disbursement, long requisition process for funds from the controller of budget among other factors. Since imprest is made to facilitate for activities which has not taken place, it makes no sense to issue imprest when the activity has already taken place. In those instances, the county reimbursed expenses incurred by the said officers.

Committee Observation

The committee noted that the training needs assessment and documents to support the travel for the retreat were not provided for audit verification contrary to Section 62 of the Public Audit Act, 2015.

Committee Recommendation

The Committee recommends that Chief Executive Officer undertakes administrative action against the responsible officer(s) who failed to provide the documents to the auditors in accordance with section 156 of the Public Finance Management Act and provides a status report to the Office of the Auditor General within 60 days from the adoption of this report.

2.0 Construction of the Governor's Residence

The County Executive paid Kshs.18,599,807 to a firm for the construction of the Governor's Official Residence in Meru Town. The Kshs.18,599,807 (14.6%) was for the first certificate dated 29 March, 2019 of the contract with a contract price of Kshs.127,124,366. A review of the contract and an addendum to the contract revealed that the contract period was for 24 weeks from 15 October, 2018 to 14 April, 2019. Physical verification carried out on 21 October, 2020, revealed that the project was incomplete, the contractor was not on site and the project had stalled. In the circumstances, the value for money for the expenditure of Kshs.18,599,807 on the construction of the Governor's Official Residence has not been realized.

Management Response

The management concurred with the Audit observation that there were delays in executing Construction works for the Governor's residence and that at the time of audit review the works were not complete and the contractor was not at site. The delays arose following the Capping of the amount that counties could spend towards construction of Governors and Deputy Governor's residence. The capping was done when the County Government of Meru had already awarded the contract for the construction of the official Governor's residence. After the capping was introduced the County experienced challenges with Controller of Budget declining to approve release of funds for the project which ultimately led to the contractor abandoning the site. Following resolution of the Capping stalemate between the Counties, Senate and the Controller of budget, the funds for the projects were availed and construction works resumed. As at the Moment Construction works at the Governor's Residence has since been completed and the house occupied. A Copy of Completion Certificate was attached as evidence of completion of the works.

Committee Observation

The committee noted that the matter was satisfactorily addressed by the Auditors at their level of meeting with the management.

Committee Recommendation

The committee recommends that the matter be marked as resolved.

3.0 Construction of Deputy Governor's Residence

The County Executive paid Kshs.8,768,550 to a firm for the construction of the Deputy Governor's Official Residence in Meru Town. A review of the contract revealed that the contract period as 24 weeks from 15 October, 2018 to 14 April, 2019. Physical verification carried out on 21 October, 2020, revealed that the project was incomplete, the contractor was not on site and the project appeared stalled.

In the circumstances, the value for money for the expenditure of Kshs.8,768,550 on the construction of the Deputy Governor's Official Residence has not been realized.

Management Response
We Concur with the Audit observation that there were delays in executing Construction works for the Deputy Governor's residence and that at the time of audit review the works were not complete. The delays arose following the Capping of the amount that counties could spend towards construction of Governors and Deputy Governor's residence. The capping was done when the County Government of Meru had awarded the contract for the construction of the official Deputy Governor's residence. After the capping was introduced the County experienced challenges with controller of budget approving release of funds for the project which ultimately led to the contractor abandoning the site. Following resolution of the Capping stalemate between the Counties, Senate and the Controller of budget the funds for the projects were availed and construction works resumed. As at the Moment Construction works at the Deputy Governor's Residence has since been completed and the house occupied. A copy of Completion Certificate for Construction of official Deputy Governor's Residence as evidence of completion of the said construction works.

Committee Observation
The committee noted that the matter was satisfactorily addressed by the Auditors at their level of meeting with the management.

Committee Recommendation
The committee recommends that the matter be marked as resolved.

4.0 Construction of Boundary Wall at Githongo Stadium
The County Executive entered into a contract for the construction of a boundary wall at Githongo Stadium at contract price of Kshs.13,845,480. The Management paid Kshs.8,933,640 towards the construction during the year under review. However, supporting documents including contract agreement were not provided for audit review. Physical verification conducted on 21 October, 2020 revealed that that the project was incomplete, the contractor was not on site and the project appeared stalled. In the circumstances, the value for money for the expenditure of Kshs.8,933,640 construction of a boundary wall at Githongo Stadium has not been realized.

Management Response
During the period under review, the county made a payment of Kshs. 8,933,640.00 Enterprises for construction of the proposed boundary wall at Githongo Stadium. Supporting documentation including contract agreement are available for audit review. It is worthy to note that physical verification was undertaken when the country was under partial lock down with most of operation suspended. However, after end Covid the contractor informed the county on his inability to complete the project hence leading to termination of the Project. The county has since commenced procurement process to ensure completion of the project. A copy correspondence with the supplier along with

commencement of procurement process to complete the works and a copy of contract document were attached for the committee verification.

Committee Observation

The Committee noted that;-

1. the project is about 30% complete
2. the contractor had terminated the contract and the county was in the process of procuring another contractor to complete the project.
3. the contractor was paid monies in excess of the tender amount and that the work was poorly done.

Committee Recommendations

The Committee recommends that; -

1. **The Committee recommends that the County Chief Executive Officer undertakes administrative actions against the responsible officer(s) who failed to provide documents to the auditors in accordance with section 156 of the Public Finance Management Act and provides a status report to the Office of the Auditor General within 60 days from the adoption of this report;**
2. **EACC to pursue the contractor with the view of recovering the extra amount that was paid to him/her;**
3. **the management blacklists the contractor from accessing tenders from the county; and**
4. **The Auditor General to undertake a project verification and provide a status report in the next audit cycle.**

5.0 Mwariama Cultural Centre

Note 10 to the financial statements reflects Kshs.1,476,552,008 in respect to other payments which includes Kshs.1,000,882,404 in respect to other expenses - payables from previous financial period which further include Kshs.7,183,330 paid to a firm for the construction of Mwariama Cultural Centre in Muthara. However, though the project is said to be complete, no evidence was availed for audit review that the project has been handed over or put into use. In the circumstances, the value for money for the Kshs.7,183,330 expenditure for the year ended 30 June, 2020 could not be confirmed.

Management Response

During the period under review, the County had completed construction works at Mwariama cultural Centre in Muthara. However, the project had not been handed over and put into use. This was due to the fact ban in physical meetings as part of Covid 19 containment measures that were in place as at the time of audit review. The project has since been handed over. A copy of complete on certificate and evidence of handing over of the project was attached for the committee verification.

Committee Observation

The committee noted that the matter was satisfactorily addressed.

Committee Recommendation
The committee recommends that the matter be marked as resolved.

6.0 Non-Compliance to Fiscal Responsibility Principles – Wage Bill
The statements of receipts and payments reflects an expenditure of Kshs.4,465,745,306 in respect to compensation of employees which was 48% of the total revenue of Kshs.9,23,117,386. This was contrary to Section 25(1)(b) of the Public Finance Management (County Government) Regulations, 2015 which limits the County Executive`s expenditure on wages and benefits to not more than 35% of the total revenue for the year. In the circumstances, the management is in breach of the law.

Management Response
We concur with the audit observation that County wage bill expenditure is above the set limit of 35% of the total revenue. To mitigate the situation, the County has frozen recruitment except for key/critical services. This effort along with anticipated retirement of staff will ensure the County achieves the set limit within the next two years.

Committee Observation
The committee noted that the matter was satisfactorily addressed.

Committee Recommendation
The committee recommends that the matter be marked as resolved.

7.0 Irregular Recruitment of Legal Officer
The County Executive advertised for the position of legal officer advertisement indicating that the applicant should have knowledge, experience and a distinguished career of not less than ten years' experience as a legal practitioner. However, a review of the recruitment file and the personal file of the legal officer attached to the Governor's office revealed that the officer had four (4) years of experience as at the date of employment comprising of two and a half years as a senior associate advocate and one and a half years as legal assistant and researcher.
In the circumstances, the recruitment process of the legal officer was irregular.

Management Response
The County employed Governors legal advisor during F/Y 2017/18. The legal advisor advises the Governor on all legal matters. Since the post is one among various governors' appointees, the governor considers various factors in making those appointments including merit, confidentiality, loyalty, experience, integration of youth in governance among other factors. The appointed officer is an advocate of the high court hence it's unfair to impute that he lacks the requisite qualification to hold the post. During the period that the officer served as governor's advisor, he performed his duties diligently and exhibited high level of professionalism and there no instances reported about him misadvising the governor in any legal issue.

Further the officer has since left the service following change of Government since his term was tied to that of former governor. Copies of documents to prove that the officer has left service following expiry of his contract were attached for the committee review.

Committee Observations

The committee observed that the County Executive had advertised for the position of legal officer, specifying that applicants should possess knowledge, experience, and a distinguished career of not less than ten years as a legal practitioner. However, upon reviewing the recruitment file and the personal file of the legal officer attached to the Governor's office, it was revealed that the officer had only four (4) years of experience at the time of employment, including two and a half years in a senior role.

Committee Recommendations

The Committee recommends that:

1. **The County Executive should ensure that future recruitment processes adheres strictly to the advertised qualifications and requirements, including the specified minimum years of experience.**
2. **A thorough review of the recruitment and selection procedures should be conducted to identify any gaps or discrepancies that led to the hiring of a legal officer with insufficient experience.**
3. **The County Executive should take appropriate corrective measures, such as conducting an evaluation of the performance and qualifications of the current legal officer, and considering any necessary actions based on the findings.**

8.0 Officers Working Beyond the Age of 60

Review of employee biodata revealed that the County Executive had two (2) employees who were above the age of sixty (60). This was contrary to Section D.21 of the Human Resource Policies and Procedures Manual for the Public Service, 2016 which provides officers to retire from the service on attaining the mandatory retirement age of 60 years except for persons with disabilities whose retirement age is set at the age of 65 years or as may be prescribed by government from time to time. In the circumstances, the County Executive is in breach of the law.

Management Response

During the period under review, the county had one officer by the name Mwedia Benard Muguna in its payroll whose age was above 60, this was due to the fact that the officer was employed under contract, Since his employment details were contract, the period of service was as per the employment contract. As at the moment the Officers contract has since lapsed and he subsequently existed service. Further Contrarily to audit observation the remaining officer (Karegi Joanina Mwitari) attained the age of 60 at June 2020 and proceeded on her retirement with effect from 1st July 2020 and hence removed from the payroll. Copies of employment contract of the officer, her National identity card and data capture sheet indicating she was born in 1960, along with evidence she was removed from the payroll in July 2020 when she attained retirement

age, of data sheet as evidence that the officer was removed from payroll following expiry of his employment Contract, were attached for the committee verification.

Committee Observation
Review of employee biodata revealed that the County Executive had two (2) employees who were above the age of sixty (60). This was contrary to Section D.21 of the Human Resource Policies and Procedures Manual for the Public Service, 2016

Committee Recommendation
The Committee directed that the matter be marked as resolved.

9.0 Earnings below the Statutory Minimum
A review of the County Executive's payroll for the year under review revealed that thirty-eight (38) employees' net salary fell below one-third (1/3) of the basic salary. This was contrary to Section 19 (3) of the Employment Act, 2007 which provides that deductions made by an employer from the wages of the employee at any one time shall not exceed two thirds of such wages. In the circumstances, the County Executive was in breach of the law.

Management Response
It is indeed true that at the time of audit review, thirty-six (38) officers net pay was less than one third of their basic pay. This was occasioned by overpayment recovery, Enrolment to provident fund, Helb recoveries and recoveries of salary advance, whose recovery commenced while the officers had already committed their salaries. To remedy the situation, a letter was issued to each individual officer by re county secretary requiring the officers to make arrangements to correct the breach. As at the moment majority of the officers as per the audit observation are no longer earning a net pay of less than one third of their basic salary. Copies of pay slips for the officers as evidence that their net salary is not below one third of their basic salary and copies of individual letters to the officers on the subject matter were attached for the committee verifications.

Committee Observations
The committee observed that during the review of the County Executive's payroll, it was found that the net salary of thirty-eight (38) employees was below one-third (1/3) of their basic salary. This discrepancy was found to be in contravention of Section 19 (3) of the Employment Act, 2007.

Committee Recommendation
The Committee directed that the matter be marked as resolved.

10.0 Non-Compliance with Law on Ethnic Composition
During the year under review, the County Executive recruited three hundred and twenty- nine (329) employees on permanent and contract terms. However, an analysis of the ethnic composition of the newly employed staff revealed that three hundred and seven (307) of them or 93% came from the dominant ethnic group resulting to 7% recruited from other ethnic groups contrary to Section 65(1)(e) of the County

Government Act, 2012 which stipulates that at least thirty percent (30%) of the vacant posts at entry level be filled by candidates who are not from the dominant ethnic community in the County, and Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 which provides 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 circumstance, the management of County Executive was in breach of the law.

Management Response

The County has not met the one third constitutional requirement of recruitment of officers from non- dominant communities. This has been occasioned by the fact that during the recruitment process few applicants from non-dominant community tendered their application, with most of the applicant from the non-dominant community not meeting the minimum qualification criteria.

in future the County Public Service Board will encourage more applicants from non-dominant community by putting a caption on any advertisement "applicants form non-dominant community are encouraged to apply''.

Committee Observations

The committee observed that the County Executive had recruited a total of three hundred and twenty-nine (329) employees on both permanent and contract terms. However, upon analyzing the ethnic composition of the newly employed staff, it was found that three hundred and seven (307) individuals, accounting for 93% of the hires, belonged to the dominant ethnic group. This resulted in only 7% of the recruits being from other ethnic groups, which was found to be in violation of Section 65(1)(e) of the County Government Act, 2012, as well as Section 7(1) and (2) of the National Cohesion and Integration Act, 2008.

Committee Recommendations

The Committee recommends that-

a) **The County Executive should work progressively towards attaining the requirements of the provisions of the County Government Act, 2012 and the National Cohesion and Integration Act (2008) on ethnic inclusivity.**
b) **The County Executive and CPSB should provide to the Auditor General a five-year strategy of measures it will put in place to ensure compliance is achieved within sixty (60) days of the adoption of this report.**

11.0 Failure to Publicize and Publish Contracts

During the financial year under review, the County did not prepare, publish, publicize all contract awards as well as submitting the same to the Public Procurement Regulatory Authority. This was contrary to Section 138(1)(2) of the Public Procurement and Assets 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 and report all contracts awards to the Authority as prescribed.
In the circumstances, the Management is in breach of the law.

Management responses
During the period under review, the county maintained, continuously updated and publicized contracts and tenders awarded during the period using the PPRA portal. This can be confirmed using tenders.go.ke website. Further an extract of tenders and contracts published is hereby provided for audit review.
Arising from the above the county did not deny the stakeholders of Meru County the principles of good governance, integrity, transparency, and accountability in public finance as enshrined by article 201 of the Constitution.
A copy of Tenders and contracts published were attached for the committee verification.

Committee Observations
The committee observed that the County failed to prepare, publish, and publicize all contract awards, as well as submit them to the Public Procurement Regulatory Authority. This non-compliance was found to be in violation of Section 138(1)(2) of the Public Procurement and Assets Disposal Act, 2015.

Committee Recommendations
The Committee recommends that:

1. **The County should immediately rectify the non-compliance by preparing, publishing, and publicizing all contract awards as required by Section 138(1)(2) of the Public Procurement and Assets Disposal Act, 2015.**
2. **The County executive should ensure that all future contract awards are prepared, published, publicized, and submitted to the Public Procurement Regulatory Authority in a timely and compliant manner.**
3. **the County executive establishes internal controls and procedures to ensure ongoing compliance with the relevant procurement regulations and laws. This may include training staff, implementing oversight mechanisms, and maintaining accurate records of contract awards and their publication.**
4. **the auditors to verify within 60 days of adoption of this report that the contracts are being advertised on PPRA website.**

12.0 Format of Revenue Estimates - County Own Generated Receipts
A review of the County Executive's approved budget revealed a budget of Kshs.705,000,000 in respect to County own generated revenue. However, the revenue budget lacked information relating to description of source of revenue in terms of head code, estimated revenues, the receiver of revenues, revenue items and the amounts and nature of receipts. This was contrary to the Regulation 58 of the Public Finance Management (County Governments) Regulations, 2015 which stipulates that the estimates of revenues shall be in the format issued by the Cabinet Secretary and shall include the description of the source of revenue in terms of head code; the estimated revenues; the receiver of revenue; for each revenue head, there shall be shown revenue

items; and the amounts and the nature of receipts. In the circumstances, the County Government is in breach of the law.

Management Responses

During the period under review, the County prepared a budget with local source of revenue of Kshs.705,000,000. information relating to description of source of revenue in terms of head code, estimated revenues, the receiver of revenues is available and was even used by the county in capturing own source revenue in the budget loaded in IFMIS. A copy of evidence that income of Kshs 705,000,00 had breakdown specifying amount collectable for each revenue item code, was attached for the committee verification.

Committee Observations

The committee observed that during the review of the County Executive's approved budget, a budget of Kshs.705,000,000 was allocated for County own generated revenue. However, the revenue budget lacked essential information such as the description of the source of revenue in terms of head code, estimated revenues, the receiver of revenues, revenue items, and the corresponding amounts and nature of receipts. This non-compliance was found to be in violation of Regulation 58 of the Public Finance Management (County Governments) Regulations, 2015.

Committee Recommendation

The Committee recommends that;-

1. **the County Chief Executive Officer undertakes administrative actions against the responsible officer(s) who failed to provide documents to the auditors in accordance with section 156 of the Public Finance Management Act and provides a status report to the Office of the Auditor General within 60 days from the adoption of this report; and**
2. **The Institute of Certified Public Accountants (ICPAK) takes action(s) against the responsible officer(s) for misrepresentation of financial statements which constitutes professional misconduct pursuant to Section 8 (a) and 30 of the Accountants Act CAP 531 and reports to the Office of the Auditor General within 60 days of adoption of this report.**

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1.0 Facilitation of the County Assembly Benchmarking Tour

The County Executive paid Kshs.422,400 to an Officer to facilitate seven (7) County officers and five (5) Members of the County Assembly to travel to Kisii on a benchmarking exercise on the use of mechanical and transport equipment. Included in the Kshs.422,400 is Kshs.200,000 paid as allowances to the five (5) Members of the County Assembly. The County Executive was directly facilitating Members of County Assembly which is the body that provides oversight. The facilitation ought to have been budgeted through the County Assembly budget. The facilitation creates conflict of

interest on Members of the County Assembly and may affect effectiveness of governance and oversight role over the management of the County Executive.

Management Response

During the period under review, the County spent Kshs. 422,400 to facilitate Seven (7) county officers to (5) Members of the County Assembly travel to Kisii on a benchmarking exercise on the use of equipment under the Mechanical and Transport Fund. Included in the Kshs. 422,400 is Kshs. 200,000 paid to the five (5) Members of the County Assembly at Kshs. 40,000 per member. The County Assembly Members facilitated belonged to the County Assembly departmental committee on roads and infrastructure. The Benchmarking was necessary since the county was contemplating using the Mechanical and Transport Fund to implement several road infrastructures within the county. By involving the County assembly, the County was ensuring that both staff under and members of the County assembly's departmental committee gained insight on success and challenges that may arise by opting to use of the Mechanical and Transport Fund in implementing the road infrastructure in the County. Since this was an initiative of the County Executive, facilitation for delegation was done by the county executive. Further the MCAs were not facilitated by the County assembly and thus there was no risk of Double payment.

Committee Observations

The committee observed that the County Executive disbursed a total of Kshs. 422,400 to an officer for the purpose of facilitating seven (7) County officers and five (5) Members of the County Assembly to travel to Kisii for a benchmarking exercise on the use of mechanical and transport equipment. Within the Kshs. 422,400, Kshs. 200,000 was allocated as allowances specifically for the five (5) Members of the County Assembly. It was noted that the County Executive directly facilitated the Members of the County Assembly, even though the oversight body's facilitation should have been budgeted through the County Assembly budget.

Committee Recommendations

The Committee resolved that the matter is a breach of the law and recommends that the Executive should focus on ensuring transparency, accountability and compliance with the rules and regulations governing financial disbursements within the County Executive.

2.0 Maintenance of Grounded Vehicles

Reflected in the fixed assets register were twenty (24) motor vehicles which were grounded between 2012 and 2017 with carrying cost of Kshs.12,153,000. As at the time of the audit, the vehicles were parked in the open air exposing them to vagaries of weather. This subjected the motor vehicles to damages and loss of value which will lower their cost during disposal. This is contrary to Section 132(1)(a) of the Public Finance Management (County Government) Regulations, 2015 which require accounting officer to ensure that proper control systems exist for assets and that preventative mechanisms are in place to eliminate theft, security threats, losses, wastage, and misuse.

Management Response
At the time of Audit review, twenty (24) motor vehicles valued at Kshs. 12,153,000 that were grounded and appeared to have little economic benefit to the Executive were included in the Fixed assets register. The said Motor vehicles were inherited from the defunct local authorities. When the County government came into being, the transitional authority placed a moratorium on sell or disposal of all assets held by the defunct local authorities until the complete handing over of the assets and liabilities to the county government. At the expiry of the term of the transitional authority, the handing over process was not complete. The task was under over to the Inter-Governmental Technical and Relation Committee, which completed the exercise and forwarded the reports to the attorney General who is yet to give a final direction.
Arising from the above, the county has no powers to dispose the grounded vehicle before completion of the handing over exercise.
However, 8 of the 24 motor vehicles stated as grounded are operation and are being used by various County departments to discharge official county duties. Copies of work tickets for the said Motor vehicles as evidence that they are in operation was attached for the committee verification.

Committee Observations
The committee observed that between 2012 and 2017, a total of twenty (24) motor vehicles were rendered inoperable, resulting in a carrying cost of Kshs. 12,153,000. At the time of the audit, these vehicles were found to be parked in the open air, exposing them to various weather conditions. This exposure subjected the motor vehicles to damages and loss of value, which would ultimately reduce their cost upon disposal. This non-compliance was found to be in violation of Section 132(1)(a) of the Public Finance Management (County Government) Regulations, 2015.

Committee Recommendations
The Committee recommends that the county government takes immediate action to service and repair the grounded vehicles or dispose the unserviceable vehicles and provide a status update within 60 days from the adoption of this report.

3.0 Use of a Manual Payroll
The statement of receipts and payments reflects Kshs.4,465,745,306 in respect to compensation of employees which include payments of Kshs.52,115,787 that was made through the manual payroll. The use of manual system requires manual calculation of earnings and deductions. This is open to human error, manipulation and/or delay in payroll processing.

Management Response
During the period under review, the County Executive of Meru had two payroll systems in operation aimed at compensating the County's existing human work force. The County pays its staff via IPPD systems and an Excel worksheet. The IPPD systems are used to process salaries for officers who have personal numbers. The personal numbers

are issued by the Ministry of Public Service Youth and gender on request by the County Government. The County usually puts request for personal numbers for officers as and when appointments are done. On request there are instances where the personal numbers are issued promptly and in other instances delay are experienced.
At the time of audit review, some of the newly staff did not have IPPD numbers as they had not been processed. Since it was not their making, it would have been punitive not to pay them their salaries while awaiting their personal numbers to be processed. As at the moment the county has been able to get Personnel numbers for the employees who had been paid using manual payroll and have since integrated them I n the IPPD system. Copies of personnel numbers processed were attached for the committee verification.

Committee Observations
The committee observed that the statement of receipts and payments reflected a total of Kshs.4,465,745,306 designated for the compensation of employees. Additionally, it was noted that a payment of Kshs.52,115,787 was made through the manual payroll system. The use of a manual system necessitated the manual calculation of earnings and deductions, which introduced the potential for human errors, manipulation, and delays in payroll processing.

Committee Recommendations
The Committee recommends that;

1) **The County Executive should engage the State Department of Public Service to fast-track the issuance of personal numbers to enable them onboard all employees on the Integrated Personnel and Payroll Database (IPPD) System; and**
2) **the Auditor General to monitor the matter in subsequent audit cycle.**

CHAPTER SEVEN

REPORT OF THE SENATE COUNTY PUBLIC ACCOUNTS COMMITTEE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF BOMET COUNTY EXECUTIVE FOR THE FINANCIAL YEAR 2019/2020

The Governor of Bomet County Executive Hon. Hillary Barchok, EGH appeared before the Committee on Monday, 13th March 2023 to respond (under oath) to audit queries raised in the Report of the Auditor General on Financial Statements for Bomet County Executive for the Financial Year 2019/2020.

Qualified Opinion

EXECUTIVE SUMMARY OF UNRESOLVED AUDIT QUERIES				
	Query	**Recommendations**	**Actor**	**Timeline**
1	**2.0.9 Fixed Assets** Assets acquired during the year under review were not tagged and ownership documents for land parcels valued at Kshs.49, 717,599 were not provided for audit.	The Committee recommends that the- a) County Executive should update and present their Fixed Assets Register in the format prescribed by the Public Sector Accounting Standards Board; b) County entities should adopt and implement the report of the Inter-Governmental Technical Relations Committee (IGTRC) on assets and liabilities from defunct Local Authorities and provide a status update to the Office of the Auditor General within 90 days of adoption of this Report; and	The County Executive Officer Auditor General	Within 60 days of the adoption of this report

		c)Office of the Auditor General should progressively review and report on the matter in the subsequent Financial Years.		
2	**2.0.10 Pending Bills.** The accuracy, validity and completeness and valuation of the pending accounts payable balance totaling Kshs.696,052,764 as at 30 June, 2020 could not be confirmed since there were various anomalies	The Committee therefore recommends that: 1) the National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate so as to enable county entities settle their obligations on time; and 2) the county executive puts in place measures to enhance own generated revenue in order to meet its revenue target and address revenue shortfalls that contribute to the challenge of pending bills.	The National Treasury The County CEO The DCI	Immediate and Continous

		3) Pending bills deemed ineligible should be forwarded to the Directorate of Criminal Investigation (DCI) for investigation proper legal action taken against those filing false claims. 4) County Government to take note of judgement in a Kitale High Court Constitutional Petition E003 of 2023 that declared formation of pending bills verification committees unconstitutional and engage Office of the OAG and strengthen the internal audit functions.; and 5) All valid pending bills that have been reviewed by the Office of the Auditor General be paid and a payment plan be submitted to the		

		county assembly for approval and progress report on implementation sent to the Senate and the Office of the Controller of Budget.		
3	**Other Matter** **1.0 Budgetary Control and Performance** Recurrent and development combined reflects budgeted revenue and actual receipts on comparable basis totalling Kshs.7,512,699,158 and Kshs.6,711,538, 419 respectively, resulting in a revenue shortfall of Kshs.801,160,739 or 11% of the budget. The county did not meet its revenue target.	The Committee recommends that: 1. The National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate 2. The County Executive puts in place measures to enhance its own generated revenue in order to meet its revenue target and address revenue shortfalls.	The County Chief Executive Officer The National Treasury	Continuous
4	**2.0 Prior Year Issues** The audit report for the previous year had highlighted several issues on the financial statements for the year and on lawfulness and effectiveness in use of resources. The management report indicates that all of the issues have been	The Committee recommends that: The County Executive complies with Section 53 of the Public Audit Act, 2015 by taking action on the issues raised by the Auditor General and submits a report to the Auditor General for review within sixty (60) days	1. The County Chief Executive Officer 2. Auditor General	Continuous

	resolved but does explain their manner of resolution.	of the adoption of this report.		
REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES				
5	**Unsatisfactory Implementation of Projects** Physical verification of thirty-four (34) sampled projects contracted at an aggregate sum of Kshs.332,580,838 revealed several unsatisfactory issues on their implementation. These issues included irregular procurement of works, low quality and delayed completion of works, unauthorized variations of project scope and materials as well as stalling and abandonment of some projects. As a result of the anomalies, the residents of Bomet County may not receive value for money on the projects worth Kshs.332,580,838.	The Committee recommends that: 1. The County Executive makes adequate budget provisions to complete the stalled projects for public use 2. Proper project conceptualization and project planning should be undertaken to ensure timely completion of projects; 3. The County Executive establishes a projects delivery unit in the county to manage implementation of projects as per Public Procurement and Asset Disposal Act, 2015 4. The Auditor General to undertake verification of the project to ascertain the completion and utilization in line with these recommendations and submit a status report to the Office of the Auditor General within 60 days after the	1. The County Executive Officer 2. Auditor General	60 days from the date of adoption of this report

		adoption of this report.		
6	**2.01 Payments to Council of Governors.** Payments totalling to Kshs.8,864,851 were made to the Council of Governors in the year under review to help the Council meet some of its operational expenses	The Committee recommends that;- 1) the irregular payments to the Council of Governors (COG) be stopped and further recommends the surcharge of any Governor, in their capacity as Chief Executive Officer, who continues to make the irregular contribution; and 2) The EACC should oversee the recovery of all the public funds irregularly transferred to the Council of Governors (COG) by the Governor. This is in line with the Resolution of the Senate.	1. The County Chief Executive Officer & 2. EACC	Immediate
7	**2.0.3 Payments Made Outside IFMIS** Kshs.90,099,635 was reportedly spent on public participation activities funded through imprests issued to various officers.	The Committee recommends: 1. the Ethics and Anti-Corruption Commission (EACC) cause the investigation of the accounting officer and the responsible officers for the expenditure of Kshs.90,099,635 supposedly on public participation activities funded through imprests	EACC County Executive Officer 2. Auditor General	90 days from the date of adoption of this report

		issued to various officers contrary to Regulation 82(1)(b) of the Public Finance Management (County Governments) Regulations, 2015 and Paragraph 6.7.6 (v) of the County Financial Accounting and Reporting Manual with a view to instituting the prosecution of the officer(s) for the offences and provide a status update to the Office of the Auditor General and the Senate within 90 days of adoption of tis report; 2. Sanctions as outlined in Section 62(2) of the Public Audit Act, 2015 against the responsible officer(s) who failed to provide the documents to the auditors and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report; 3. The Committee recommends that the officers who		

		failed to surrender imprest in violation of provisions of Section 93 of the PFM Act (County Governments) Regulations, 2015 be surcharged with an interest at the prevailing Central bank rates 4. The Committee further recommends sanctions and surcharge of Accounting Officers who fail to recover outstanding imprests in line with Regulation 93(7) of the PFM (County Government) Regulations, 2015;and 5. the OAG keeps the matter in view in the subsequent audit cycle to ascertain progress.		
8	**3.0 Lack of Sufficient Disclosure on Managed Medical Equipment Contract** The Managed Medical Equipment was not included in the County Government's assets records and consequently, accounting for their use and custody was inadequate.	The Committee recommends that A special audit be undertaken on the lease of medical equipment in the County governments.	Auditor General	60 days from the date of adoption of this report

	In view of the insufficient disclosures on the managed medical equipment contract, it was not possible to confirm whether value for money was obtained from payment totalling Kshs.95,744,680 made in respect to the contract in the year under review.			
9	**4.0 Non-Compliance with Law on Establishment of Emergency Funds** In establishing the operational structure of Fund, Management may have breached the law.	The Committee recommends that The County Executive establishes an emergency fund in line with the Public Finance Management Act, 2012	1. The County Chief Executive Officer 2. Auditor General	60 Days from the date of adoption of this report
10	**5.01 Inefficient Revenue Collection Software** Expenditure records indicated that the average cost of implementing and operating the software each year was Kshs.19,654,355. However, analysis of financial statements for the years it has been in use revealed that revenues collected through the software averaged Kshs.23,748,742 each year. Therefore, purchase of the software may have been a bad investment given its initial costs	The Committee recommends that: 1. The County Executive to identify training needs of its staff serving in the Revenue Collection Department and initiate capacity building and training in conjunction with the National Treasury within 60 days of adoption of this report 2. The County Executive should have value for money audit in all their acquisitions	The County Chief Executive Officer OAG	60 Days from the date of adoption of this report

	totalling Kshs.45,356,203 and outflow of cash totalling Kshs.19,654,355 it causes every year. The County may not have obtained value for money by procuring the software.	3. That the County Executive should put in place measures to improve their local revenue collection capacity in order to meet their revenue collections target. 4. The Auditor General to carry out a value for money audit of the software at the expiry of the three year contract period and submit a report to the Senate.		
11	**5.02 Un-Updated Land Valuation Roll** Included in county own-generated receipts are land rates receipts totalling Kshs.44,776,748 reported under other property income. However, the valuation roll used to bill the plot owners has not been updated for several years to reflect the appreciating land values. The County property rates and income realized in the year under review were not optimal and may have resulted in under-collection of revenue.	The Committee recommends that the County executive should expedite updating of valuation roll in accordance with Section 3 of the Valuation for Rating Act CAP 266 so as to reflect current market values for optimal revenue collection and comply with the guidelines of the Public Sector Accounting Sector Boards of reporting in the FY 2023/2024	The County CEO	FY 2023/2024
12	**5.03 Long Outstanding Land Rates** Examination of land records disclosed arrears	The Committee recommends that;- 1. the County executive should expedite updating of	1. The County Chief Executive Officer	Next Audit Cycle

	of revenue totalling Kshs.252,260,438 and there was no evidence of any concerted efforts having been made by Management to enforce the collections as provided for under Section 63(1) of Public Finance Management (County Governments) Regulations, 2015).	valuation roll in accordance with Section 3 of the Valuation for Rating Act CAP 266 so as to reflect current market values for optimal revenue collection and comply with the guidelines of the Public Sector Accounting Sector Boards of reporting in the FY 2023/2024; and 2. the Auditor General verifies the status of the query in subsequent audits.	2. Auditor General	
13	**6.0 Failure to Comply with One-Third Basic Salary Rule** Examination of the payroll for July, 2019 revealed that net salaries for forty-eight (48) employees were less than one-third of their basic pay contrary to Section 19(3) of the Employment Act, 2007).	The Committee recommends that: 1. The county should configure their IPPD sytem such that it is able to lock out commitments beyond the accepted thresholds 2. The Auditor General should continue monitoring the issue in subsequent financial years.	1. The County Chief Executive Officer 2. Auditor General	60 days from the date of adoption of this report
14	**1.0 Lack of Risk Management Policy** Management lacks objective means to	The Committee recommends that: 1. The County Chief Executive ensures that the disaster and	1. The County Chief Executive Officer	60 Days from the date of adoption of this report

	manage operational and other risks in an effective way.	risk management policies and plans are finalised and adopted in the shortest time possible. 2. The Auditor General to verify that the County Executive has adopted the relevant disaster and risk management policies and plans.	2. Auditor General	

Qualified Opinion

1.0 Inaccuracies in Financial Statements

The financial statements contain the following inaccuracies:

i. The statement of assets and liabilities as at 30 June, 2020 reflects accounts payable-deposits and retentions totalling Kshs.40,259,597 whereas Note 21A on bank balances reflects County deposits account bank balance totalling Kshs.109,575,065 resulting to an unexplained variance of Kshs.69,315,468.

ii. The summary statement of appropriation: recurrent and development combined reflects actual exchequer releases balance totalling Kshs.5,033,489,400 whereas the statement of receipts and payments reflects Kshs.5,451,814,911 in respect to the account resulting to an unreconciled variance totalling Kshs.418,325,511.

iii. The statement of cash flows reflects other adjustments totalling Kshs.40,259,595 that have not been referenced for explanation in the notes to the financial statements.

In view of these discrepancies the accuracy of the financial statements could not be confirmed.

Management Response

The Management submitted that;

i) the statement of assets and liabilities in the financial statement as at 30 June, 2020 reflected accounts, payable-deposits and retentions totalling Kshs. 109,575,065 which is in line with Note 21A on bank balances. The variance of Ksh 69,315,468 had been corrected in the financial report for financial year 2020/21 under prior year adjustments (Annex 1). The variance arose due to paid retentions on 30th June 2020 and reflected in the subsequent financial year.

ii) the summary of statement of appropriation, recurrent and development combined reflected actual exchequer releases balance totalling Kshs. 5,451,814,911 which was a combination of equitable share of Kshs. 5,033,489,400 (Note 1A) and donor funds through exchequer totalling Kshs.418,325,511(Note 1C), therefore there was no variance in the exchequer releases.

iii) the amount reflected in the statement of cash flows of 40,259,595 was referenced to note 25 of the financial statements.

Committee Observations

The committee noted variances in the statement of assets and liabilities in the financial statements of the county executive. The committee further observed that the matter has since been addressed as remedial measures has been undertaken.

Committee Recommendation

The Committee recommends that the matter be marked as resolved.

2.0 Unsupported Balances

Several balances reflected in the financial statements are not sufficiently supported with records to confirm their occurrence, accuracy, completeness, propriety or validity:

2.0.1 Balances that Differ with their Supporting Schedules

Three accounts reflected in the statement of receipts and payments namely, Income from Profits and Dividends, Business Permit Income and Support to Bomet Water

Company Limited reflect balances that differ from those computed in their respective supporting schedules presented for audit as follows:

Account	Amounts in Statement of Receipts and Payments (Kshs.)	Amount in Supporting Schedule (Kshs.)	Variance (Kshs.)
Income from Profits and Dividends	14,769,212	16,316,212	(1,547,000)
Business Permit Income	23,169,572	18,934,900	4,234,672
Support to Bomet Water Company	91,900,000	93,000,000	(1,100,000)

Management Response
The Management stated that the anomaly in the supporting schedules was noted and had since been reconciled. The variances were mainly due to timing differences at the beginning and at the end of the financial year and had been reconciled accordingly with the figures in the financial statements. The reconciled supporting schedules had been availed for audit verification.

Committee Observations
The committee observed variances between accounts and the respective supporting schedule. The committee further noted that the accounts and the schedule has since been reconciled and verified by the Auditor General.

Committee Recommendation
The Committee recommends that the matter be marked as resolved.

2.0.3 Compensation of Employees
The statement of receipts and payments reflects compensation of employees' costs totalling Kshs.2,335,324,255, as further disclosed in Note 11 to the Financial Statements. Examination of records on the expenditure disclosed two large unconfirmed balances:

2.0.3.1 Salaries for Contract Employees
Included in the expenditure is Kshs.22,329,622 paid to twelve (12) officers denoted as contract employees. However, their respective contracts were not provided for audit review and as a result, the accuracy and propriety of the payments made to them as compensation, and the employees costs totalling Kshs.2,335,324,255, for the year under review, could not be confirmed.

Management Response
The Management submitted that the mentioned officers exited between June 2014 and September 2018 on expiry of their term of service and no payments were made (Evidenced by P9 forms that were attached) to the officers during the year under review

except for one officer whose contract was extended until 2020. Schedule showing their term end date and contracts and P9 forms from IPPD had been availed for audit verification and copies were attached.

Committee Observation

The committee observed that the supporting documents on the terms of service of the contract employees has been provided and verified by the Auditor General.

Committee Recommendation

The Committee recommends that the matter be marked as resolved.

2.0.3.2 Salaries Paid Outside the Prescribed Payroll

The statement of receipts and payments and Note 11 to the financial statements reflect compensation of employees' expenditure totalling Kshs.2,335,324,255 for the year under review. However, one thousand nine hundred and sixty (1960) employees with gross salaries totalling Kshs.642,233,467 were paid through a separate electronic payroll purchased by Management. No proper explanation was provided for the failure to use the Integrated Payroll and Personnel Data base (IPPD) system prescribed by The National Treasury for public entities. Further, audit review of monthly payrolls from the off-shelf software revealed that the payrolls lacked details of dates of appointment, date of birth, paying bank account, work station and date of retirement. As a result, the accuracy, completeness and validity of the compensation of employees payments totalling Kshs.2,335,324,255 could not be confirmed.

Management Response

The Management stated that the main reason why the county maintained two payroll systems was because there were missing designations in the Integrated Payroll & Personnel Database (IPPD) and also the mapping into the IPPD system of newly recruited staff took longer to be approved by the directorate of public service management. However, the one thousand nine hundred and sixty (1960) employees had since been incorporated in the IPPD. The County government had subsequently phased out the off-shelf payroll system after moving all the staff into the IPPD system.

The management had availed the January 2023 payroll summary and correspondences confirming that the county paid staff only in IPPD for audit verification.

Committee Observation

The committee observed that the county executive took corrective measures and that all county employees has since been incorporated into the IPPD payroll.

Committee Recommendation

The Committee recommends that the matter be marked as resolved.

2.0.4 Use of Goods and Services

The statement of receipts and payments reflects use of goods and services payments totalling Kshs.1,012,387,021, as further disclosed in Note 12 to the financial statements. However, the following unsatisfactory matters were noted in relation to items included in the balance:

2.0.4.1 Variances Between Financial Statements and Ledger Balances

Several account balances reflected in the financial statements differ from the Integrated Financial Management Information Systems (IFMIS) trial balance as at 30 June, 2020 as shown in Appendix I to this report.
No explanation was provided by Management for the differences and as a result, the accuracy and completeness of the balances could not be confirmed.

Management Response
The Management stated that the County Executive reported Kshs. 6,664,635,264.00 as the total trial balances which reflected the true state of affairs of the county Government of Bomet. The variances with IFMIS trial balances were due to the balances brought forward since the operationalization of IFMIS and most of it attributed to the phased implementation of IFMIS. IFMIS system had been implemented in phases and not all of the modules were fully operational. An example of accounting for revenue (AR) modules which had not been enabled to transfer funds from county Revenue Fund (CRF) to operational accounts.
The Management further requested the Committee to intervene so that national treasury-IFMIS department captured audited opening balances in a bid to resolve the variances noted going forward.
Committee Observation

The Committee noted that although the management did not submit all the relevant documents and information to the Auditor General at the time of audit as per Section 62 of the Public Audit Act, 2015, the management has since submitted documents and reconciliation verified by the Auditor.

Committee Recommendations

The Committee further recommends that the matter be marked as resolved.

2.0.4.2 Purchase of Specialized Materials
The specialised materials and services expenditure totalling Kshs.250,698,645 includes Kshs.32,147,875 spent on procurement of specialized materials. However, records to confirm receipt and issuance of the materials were not presented for audit.

Management Response
The Management submitted that the county executive incurred Kshs. 32,147,875 in procurement of Specialized Materials. All the materials received under these categories were properly received, stored and issued as per the regulations. During the time of audit, the procurement files were misplaced and were not retrieved on time by the lean staff imposed by the covid 19 restrictions. However, the files had been retrieved and availed for audit verification. These included procurement of Artificial insemination materials, and vaccination materials for the department of agriculture which had a distinct AI service store due to the nature of these items. All the procured materials were recorded in stock cards and counter issue forms were used in dispensing the materials to beneficiaries. Copies of stock cards, counter issue and counter requisition forms and list of beneficiaries had been availed for audit verification and copies were attached.
Committee Observations

The Committee noted that although the management did not submit all the relevant documents and information to the Auditor General at the time of audit as per Section 62 of the Public Audit Act, 2015, the management has since submitted documents and reconciliation verified by the Auditor.

Committee Recommendations

The Committee therefore recommends that the matter be marked as resolved.

2.0.4.3 Misclassified Expenditures

Audit review of expenditure ledgers revealed misclassifications of payments totalling Kshs.182,664,312.

In view of the misclassified expenditures, the use of goods and services expenditure totalling Kshs.1,012,387,021 for the year ended 30 June, 2020 is not fairly stated.

Management Response

The Management stated that the transactions were charged and accounted for in their relevant vote heads and the anomaly observed was corrected by passing of journal entries. The transactions, however, had been properly described in the reconciled use of goods and services ledger that had been availed for audit verification and copies were attached.

Committee Observation

The committee that the county executive has since addressed the anomalies on the misclassified and corrective measures undertaken.

Committee Recommendation

The Committee recommends that the matter be marked as resolved.

2.0.4.4 Repair and Maintenance of Motor Vehicles

Records on use of goods and services indicated that Kshs.24,267,787 was spent on routine maintenances of vehicles and other transport equipment. The payments totalling Kshs.4,728,150 were paid to various garages for the repairs of motor vehicles. However, inspection reports on the vehicles repaired were not provided for audit review. Further, the defects were not recorded in the respective vehicle work tickets and log books as regulations require. In view of the omissions and missing records, the occurrence and propriety of the payments totalling Kshs.4,728,150 could not be confirmed.

Management Response

The Management stated the county incurred Kshs. 4,728,149.55 on routine maintenance of motor vehicles during the financial year under review.

During the time of audit, one pre-inspection file was misplaced and was not retrieved at the time by the lean staff imposed by the covid 19 restrictions. However, the files had been retrieved and availed for audit verification. The Management had taken the corrective measure as per the audit recommendation to record all the defects in the logbooks and work tickets. The work tickets, pre-inspection reports, log books and post inspection certificates had been availed for audit verification.

Committee Observations

The Committee noted that although the management did not submit all the relevant documents and information to the Auditor General at the time of audit as per Section 62 of the Public Audit Act, 2015, the management has since submitted documents and verified by the Auditor.

Committee Recommendations

The Committee therefore recommends that the matter be marked as resolved.

2.0.4.5 Routine Maintenance of Other Assets

Payments for routine maintenance of other assets totalling Kshs.20,811,577 includes Kshs.14,407,624 not supported by pre and post repair inspection reports done by the Maintenance Unit. As a result, the occurrence, accuracy and propriety of the payments could not be confirmed.

Management Response

The Management stated that the county incurred Kshs. 20,811,577 on routine maintenance of other assets during the financial year under review.

During the time of audit one of the pre-inspection report files had been misplaced because of the same reasons of covid restrictions but had since been found. The work tickets, preinspection reports, log books and post inspection certificates had been availed for audit verification.

Committee Observations

The Committee noted that although the management did not submit all the relevant documents and information to the Auditor General at the time of audit as per Section 62 of the Public Audit Act, 2015, the management has since submitted documents and reconciliation verified by the Auditor.

Committee Recommendations

The Committee therefore recommends that the matter be marked as resolved.

2.0.4.6 Hire of Ambulances

Expenditure records indicated that Kshs.38,761,879 was spent on hire of ambulances for emergency medical services. However, procurement documents and schedules of rescue operations undertaken by the ambulances including pick-up and drop-off points and details on patients served, were not provided for audit review.

Consequently, the propriety of the payments totalling Kshs.38,761,879 spent on hire of ambulances and maintenance of vehicles and other assets could not be confirmed.

Management Response

The Management submitted that the County floated through open tender, the purchase of two ambulances and lease of four ambulances in the FY 2017/2018 for provision of pre-hospital emergency services. This was because of the same restrictions on staff

movement; the procurement process documents and evidence of services provided were misplaced but later retrieved and had been availed for audit verification.

Committee Observations

The Committee noted that although the management did not submit all the relevant documents and information to the Auditor General at the time of audit as per Section 62 of the Public Audit Act, 2015, the management has since submitted documents and reconciliation verified by the Auditor.

Committee Recommendations

The Committee therefore recommends that the matter be marked as resolved.

2.0.5 Transfer to Other Government Units

The statement of receipts and payments reflects transfers to other government entities totalling Kshs.1,004,635,448, as detailed in Note 14 to the financial statements. Included in the balance are cash transfers to health facilities totalling Kshs.199,284,563 out of which a sum of Kshs.10,680,195 was not accounted for by way of expenditure returns. Further, Kshs.90,353,894 of the cash transfers to health facilities was spent on procurement of COVID-19 medical equipment whose tender documents and stores ledgers were not provided for audit review.

In the circumstance, the accuracy and propriety of cash transfer payments to health facilities totalling Kshs.199,284,563 reported in the year under review could not be confirmed.

Management Response

The Management stated that the cash transfers made to health facilities were done through AIEs. The department of health received monthly summaries of expenditures before further disbursements were made to account for the AIEs.

Furthermore, following the announcement and confirmation by the Government on COVID-19 cases in the Country, the County in collaboration with its stakeholders scaled up emergency preparedness and response protocols to support the National efforts geared towards minimizing the spread of the disease in the rural areas. The procurement processes were done as per the requirements of the Public procurement and assets disposal act 2015.

Committee Observations

The Auditor informed the Committee that the matter has since been addressed.

The Committee noted that the matter has since been addressed.

Committee Recommendation

The Committee recommends that the matter be marked as resolved.

2.0.6 Grant to Vocational Training

The statement of receipts and payments reflects other grants and payments totalling Kshs.423,061,786, as further disclosed in Note 15 to the financial statements.

Included in the balance are transfers for scholarships and other educational benefits totalling Kshs.86,362,263, out of which Kshs.62,704,156 was transferred to various polytechnics. However, expenditure returns confirming receipt and use of the funds by the polytechnics were not provided for audit. As a result, the accuracy and propriety of other grants and payments totalling Kshs.423,061,786 for the year ended 30 June, 2020 could not be confirmed.

Management Response

The Management stated that, the county received Kshs. 47,388,298 from state department of vocational training and technical directorate for youth Polytechnic support grant during the financial year. This was in addition to the balances brought forward and incurred Kshs. 62,704,156.00 in respect to transfers to polytechnics during the year under review. The expenditure returns had been availed for audit verification and copies were attached.

Committee Observations

The Committee noted that although the management did not submit all the relevant documents and information to the Auditor General at the time of audit as per Section 62 of the Public Audit Act, 2015, the management has since submitted documents and reconciliation verified by the Auditor.

Committee Recommendations

The Committee recommends that the matter be marked as resolved.

2.0.7 Acquisition of Assets

The statement of receipts and payments reflects acquisition of assets costs totalling Kshs.1,521,820,161 incurred in the year under review, and as further disclosed in Note 17 to the financial statements. The following unsatisfactory matters were however, noted in regard to the expenditure:

2.0.7.1 Hire of Tippers

Included in the acquisition of assets costs are construction of road costs totalling Kshs.108,983,327 which in turn include Kshs.59,340,258 reportedly spent on hire of tippers and building of road culverts. However, review of County work plans and road works monitoring and evaluation reports, revealed that all roads maintained during the year under review were done under other contracts that were procured and paid for separately. Further, records on the hired tippers, including work plans and operational schedules, roads-maintained and work inspection reports were not provided for audit. Consequently, the propriety of the expenditure totalling Kshs.59,340,258 on hire of tippers and on building of culverts services reported in the year under review could not be confirmed.

Management Response

Management submitted that, during the year under review, the county incurred Kshs. 108,983,327 in respect to construction of roads. The payments under review were for

pending bills in respect to services rendered through hire of equipment method under the work plan for the financial years before 2018/2019 but were not paid during those financial years. These pending bills were vetted by the special audit and the county pending bills committee and formed part of the eligible pending bills. The payment plan was factored during the first supplementary budget of 2019-2020 financial year.
The first administration adopted hire of equipment for contracts using force account method of procurement whereby tippers were hired for haulage of murram. The inspection certificates and schedule indicating the roads maintained had been availed for audit verification and copies were attached.

Committee Observations

The Committee noted that although the management did not submit all the relevant documents and information to the Auditor General at the time of audit as per Section 62 of the Public Audit Act, 2015, the management has since submitted documents and reconciliation verified by the Auditor.

Committee Recommendations

The Committee further recommends that the matter be marked as resolved.

2.0.7.2 Misclassified Payments
Examination of sampled expenditures on acquisition of assets revealed various misclassified items totalling Kshs.86,402,117 as detailed out below;

Expenditure Description	**Correct Account**	**Acquisition of Assets Account Charged**	**Amount Misclassified (Kshs.)**
Hire of Tippers, Construction of Roads, Supply and Delivery of Pasture, Seedlings and Grow Bags	Various	Purchase of Buildings	10,509,950
Hire of Tippers and Construction of Buildings	Various	Refurbishment of Buildings	17,649,033
Funds Transfer to Imprest Account, AIEs Transfers-No Sub-schedules	Various	Other Current Transfer Grants	58,243,134
Total			

In view of the incorrect classification of these items, acquisition of assets costs totalling Kshs.1,521,820,161 reflected in the statement of receipts and payments are not fairly stated.

Management Response

The Management stated that the mentioned transactions were charged and accounted for in their relevant vote heads and thus were not misclassified. The erroneous descriptions of the transactions arose due to inactive IFMIS journal level. Updating the ledgers was always done to reconcile charge accounts through passing of journal entries. The transactions, however, had been properly described in the reconciled acquisition of assets ledger through journal entries which had been availed for audit verification.

Committee Observations

The Committee noted that although the management did not submit all the relevant documents and information to the Auditor General at the time of audit as per Section 62 of the Public Audit Act, 2015, the management has since submitted documents and reconciliation verified by the Auditor.

Committee Recommendations

The Committee recommends that the matter be marked as resolved.

2.0.8 Bank Balances

The statement of assets and liabilities and Note 21 to the financial statements reflect bank balances totalling Kshs.609,118,026 as at 30 June, 2020, and as further reflected in Note 21 to the financial statements. However, bank balances in fourteen (14) bank accounts operated by the County Executive in commercial banks were not supported by certificates of bank balances, cash books and bank reconciliation statements. Further, the County Executive operated two (2) imprest bank accounts but authority granted by the County Treasury was not provided for audit and as a result it was not possible to confirm whether they were opened and ran in accordance with the law.

In the circumstance, the accuracy and fair statement of the reported bank balances totalling Kshs.609,118,026 as at 30 June, 2020 could not be confirmed.

Management Response

The Management stated that the county government maintained two imprest accounts only for the operations of the county departments; however additional accounts were operated by the county government to fulfil the conditions of donor funds which required that their grants were distinct from equitable share of revenue sources.

The 14 accounts maintained by the county executive were among dormant accounts which were closed as per the directives from the national treasury. These accounts were reported in the financial statements for comparative purposes only since no transactions took place in the year under review.

The certificate of bank balances, cashbooks, bank reconciliations and authority letters for the two imprest accounts had been availed for audit verification and copies were attached.

Committee Observations

The Committee noted that although the management did not submit all the relevant documents and information to the Auditor General at the time of audit as per Section 62 of the Public Audit Act, 2015, the management has since submitted documents and reconciliation verified by the Auditor.

Committee Recommendations

The Committee recommends that the matter be marked as resolved.

2.0.9 Fixed Assets

The summary of fixed assets register at Annex 5 to the financial statements reflects assets with historical costs totalling of Kshs.5,855,848,723 as at 30 June, 2020.
However, verification of the assets acquired during the year under review indicated that these were not tagged, contrary to Section 136 of the Public Finance Management (County Governments) Regulations, 2015. The provision requires each Accounting Officer to maintain a register of all assets under his control. Further, ownership documents for land parcels valued at Kshs.49,717,599 were not provided for audit.
In view of the missing records, ownership by the County Executive of the land valued at Kshs.49,717,599 and the accuracy, fair statement of the assets totalling Kshs.5,855,848,723 as at 30 June, 2020 could not be confirmed.

Management Response

The Management submitted that the county government of Bomet ensured that all the assets acquired were recorded in stores ledgers and tagged. The county government updated inventory once in every quarter and tagging was also done. During the audit review some of the assets acquired in the last quarter of the financial year were not yet tagged due to the shortage of tags. But the assets had been properly recorded and temporary asset numbers were used for labeling. The assets had since been tagged. Pictorial evidence of tagged assets had been availed for audit verification and copies were attached.
Furthermore, the parcels of lands in the asset register were at various stages of transfer. Some parcels of land had ready title deeds while others were in mutation stages. The management had availed transfer documents with regards to land for audit verification and copies were hereby attached.

Committee Observations

The Committee noted that although the management did not submit all the relevant documents and information to the Auditor General at the time of audit as per Section 62 of the Public Audit Act, 2015, the management has since submitted documents and reconciliation verified by the Auditor.

Committee Recommendations

The Committee recommends that the Executive expedites the transfer of the title deeds that were in mutation stage at the time of the audit and provides an update to the Auditor General within 60 days from the adoption of this report.

2.0.10 Pending Bills

Note 18.1 of other important disclosures to the financial statements discloses pending accounts payables balances totalling Kshs.696,052,764 as at 30 June, 2020. However, the following anomalies were noted in relation to the balance:

i. Records provided for audit indicated that the balance was arrived at after an upward adjustment by Kshs.207,670,598 to the previous balance on record totalling Kshs.488,382,166. However, minutes of the Pending Bills Committee meeting that approved the change were not provided for audit review. As a result, the validity and accuracy of the adjustment could not be confirmed.

ii. The bills reflected in Annex 2 amounted to Kshs.622,834,065 and therefore differ by Kshs.73,218,699 from the sum of Kshs.696,052,764 reflected in the summary. Further, the disclosure at Annex 2 does not indicate aggregate payments made to the creditors as at 30 June, 2020.

iii. Included in the pending bills totalling Kshs.125,629,006 paid in the year under review are payments totalling Kshs.105,199,699 for motor vehicle spare parts and hire of road works vehicles, hospitality expenses and software costs. However, these expenditures were not supported with records on user requisitions and receipt and use of the goods and services procured.

iv. The special report of the Auditor-General dated 15 March, 2019 on pending bills referenced KK/AUD/OAG/JCT/000269 reflected pending bills totalling Kshs.1,190,167,877 as at 30 June, 2018 which differed from the pending bills balance brought forward totalling Kshs.366,764,128 in the financial statements for the year under review.

v. Contracts valued at Kshs.23,485,095 described as terminated, and Kshs.120,951,610 with no description of work done, have been included in the pending bills balance.

In view of these issues, the accuracy, validity and completeness and valuation of the pending accounts payable balance totalling Kshs.696,052,764 as at 30 June, 2020 could not be confirmed.

Management Response

The Management stated that the anomalies in the reported pending bills were noted by the management. This was mainly due to the variances in balances in the reported figure as at 30th June 2020 and special audit reports as at 30th June 2019 that included settled bills during that financial year.

The variances highlighted herein were subsequently audited and reconciled during the special audit on pending bills carried out in 2021 which confirmed a figure of Ksh. 575,277,292 as at 30th April 2021. The variance in annex 2 had been reconciled to agree with the special report of the Auditor general.

Further, pending bills paid during the year included bills for financial years from 2014-2018 based on the eligibility determined by the special audit and pending bills committee established to determine the admissibility of supporting documents available for the suppliers. Those paid were processed based on the eligibility thresholds. The

payments made were done with fully supported payment vouchers with requisitions, invoices, lso/lpos and other requisite documents.
Copies of work approval requisitions, measurement sheets and completion certificates for road maintained and pre-inspection reports for requisitions and post inspection reports for maintenance of vehicles showing the receipt and use had been availed. The variances in pending bills were reconciled during the special audit carried out in March 2021.

Committee Observation
The Committee noted that the County currently has pending bills totalling Kshs. 250 million.
The committee further noted that the County Executive did not provide a status report in all its pending bills as prescribed by the Public Sector Accounting Standards Board. This led to inadequate disclosure of pending bills.

Committee Recommendation
The Committee therefore recommends that:

1) **the National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate so as to enable county entities settle their obligations on time; and**
2) **the county executive puts in place measures to enhance own generated revenue in order to meet its revenue target and address revenue shortfalls that contribute to the challenge of pending bills.**
3) **Pending bills deemed ineligible should be forwarded to the Directorate of Criminal Investigation (DCI) for investigation proper legal action taken against those filing false claims.**
4) **County Government to take note of judgement in a Kitale High Court Constitutional Petition E003 of 2023 that declared formation of pending bills verification committees unconstitutional and engage Office of the OAG and strengthen the internal audit functions.; and**
5) **All valid pending bills that have been reviewed by the Office of the Auditor General be paid and a payment plan be submitted to the county assembly for approval and progress report on implementation sent to the Senate and the Office of the Controller of Budget.**

Other Matter

1.0 Budgetary Control and Performance
1.1. Revenue Budget
The summary statement of appropriation: recurrent and development combined reflects budgeted revenue and actual receipts on comparable basis totalling Kshs.7,512,699,158 and Kshs.6,711,538, 419 respectively, resulting in a revenue shortfall of Kshs.801,160,739 or 11% of the budget. The shortfall mainly resulted from undisbursed exchequer releases and proceeds from foreign grants/development partners budgeted for the year.

Management Response
The Management stated that there was a shortfall of Kshs. 801,160,739 or 11% of the budget due to undisbursed exchequer releases and proceeds from foreign grants during the year under review.
The Management appealed to the relevant government institution to disburse all the exchequer releases to enable county governments to deliver on their mandates on time.

Committee Observation

The Committee observed that the county did not meet its own source revenue targets.

Committee Recommendation

The Committee recommends that -

1. **The National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate; and**
2. **the County Executive puts in place measures to enhance its own generated revenue in order to meet its revenue target and address revenue shortfalls**

1.2. Expenditure Budget
The summary statement of appropriation: recurrent and development combined reflects actual expenditure totalling Kshs.6,366,194,972 against the realized budget totalling Kshs.6,711,538,419 resulting to under-expenditure of Kshs.345,343,447.
Management attributed the under-expenditure to the shortfall in revenue and delay in passing of the Division of Revenue Bill at the Senate.
This shortfall in revenue and the under-expenditure constrained implementation of projects and delivery of goods and services planned to benefit the residents of Bomet County.

Management Response
The Management stated that the under-utilization observed during the year under review was as a result of the delays in disbursement of exchequer releases due to the county government from The National Treasury.
The Management requested the CPAC Committee to intervene to deter such occasions in future so as to ensure that no further delays are experienced.
The Management availed a copy of CRF statement indicating the amount received at the close of the financial year.

Committee Observation

The Committee observed that there was under-utilization of appropriated funds by the County Executive as a result of delay in exchequer releases by The National Treasury.

Committee Recommendation

The Committee recommends that-

1. **The National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate; and**
2. **the County Executive puts in place measures to enhance its own generated revenue in order to meet its revenue target and address revenue shortfalls.**

2.0 Prior Year Issues

The audit report for the previous year had highlighted several issues on the financial statements for the year and on lawfulness and effectiveness in use of resources.
Annex 9 of Other Important Disclosures contains Management's report on progress made in following-up on auditor recommendations on the matters. The report indicates that all of the issues have been resolved but does explain their manner of resolution.
The actual status of the issues shall be confirmed after they are deliberated upon by the Legislature.

Management Responses

The Management stated that the issues raised by the Auditor general for prior years had been resolved and recommendations made during the last appearance had been implemented and other areas which required policy formulation were going on as planned. The management was keen on improving controls and ensuring that policy framework was put in place to ensure prudent and effective utilization of public resources.

Committee Observation

The Committee observed that the County Executive did not take action on the issues raised in the Report of the Auditor General for the Financial Year 2018/2019.

Committee Recommendations

The Committee recommends that the County Executive complies with the Section 53 of the Public Audit Act, 2015 by taking action on the issues raised by the Auditor General and submits a report to the Auditor General for review within sixty (60) days of the adoption of this report.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

1.0 Unsatisfactory Implementation of Projects

The Project Implementation Status Report as at 30 June, 2020 disclosed 463 projects with contract sums totalling Kshs.2,252,267,254 at different stages of execution as detailed out below:

Project Status	Count	Contract Sum

		(Kshs.)
Completed Projects	330	1,247,858,731
Incomplete/Ongoing/Stalled	104	930,425,117
Contract Terminated	1	1,562,126
Not Started	28	72,421,281
Total	463	2,252,267,255

The table indicates one hundred and four (104) projects with contracted sums totalling Kshs.930,425,117 or 41% of the portfolio were either incomplete, were ongoing or had stalled. Consequently, the residents were yet to receive the public services that were to be provided through the projects.

Physical verification of thirty-four (34) sampled projects contracted at an aggregate sum of Kshs.332,580,838 revealed several unsatisfactory issues on their implementation, as highlighted in Appendix III to this report.

The issues included irregular procurement of works, low quality and delayed completion of works, unauthorized variations of project scope and materials as well as stalling and abandonment of some projects. As a result of the anomalies, the residents of Bomet County may not receive value for money on the projects worth Kshs.332,580,838.

Management Response

The Management stated that some of the projects implemented over the years were in different levels of completion during the audit review. The contracts relating to construction of ward offices were for financial years 2013-2016. These contracts had lapsed as at the time of audit review. This was majorly because the contracts were done in phases across three financial years. There was a tendency of contractors to not show up in the financial years 2017-2018. The management was reviewing the terms of the contracts and bill of quantities in view of re-evaluating the contracts for budgeting in the subsequent financial year.

The county government had committed through cabinet resolution dated 31st January 2023 to ensure all the stalled projects were completed in the current financial year (2022-23), which informed the first supplementary estimates approved by the County Assembly. Management attached a copy of cabinet minutes and status report.

Committee Observations

The Committee noted the following that;

1. the County had completed only 17 of the 104 projects.
2. the County Executive had formed a task force to review implementation of projects that were either ongoing or stalled.
3. the hydrological survey and feasibility studies were not done before drilling of most of the boreholes and other water projects.

Committee Recommendation

The Committee recommends that:

1. **the County Executive makes adequate budget provisions to complete the project for public use;**
2. **proper project conceptualization and project planning should be undertaken to ensure timely completion;**
3. **the County Executive should establish Projects Delivery Unit in the county to manage implementation of projects; and**
4. **the Auditor General should undertake verification of the project to ascertain the completion and utilization in line with these recommendations and submit a status report to the Office of the Auditor General within 60 days after the adoption of this report.**

2.0 Irregular Expenditure

Examination of expenditure records disclosed several instances that payments for goods and services were made in disregard to laws and regulations, as explained in the following paragraphs:

2.01 Payments to Council of Governors

Examination of expenditure records indicated that payments totalling Kshs.8,864,851 were made to the Council of Governors in the year under review, ostensibly to help the Council meet some of its operational expenses.

However, Section 37 of the Inter-Governmental Relations Act, 2012 provides that all operational expenses of the Council shall be met from the budget of the National Government. Therefore, the payments totalling Kshs.8,864,851 were irregular.

Management Response

The Management stated that section 37 of inter-governmental relation Act 2012 stated clearly that the operational expenses should be met by National Government while section 3(a) of the same Act (IGR) object and purpose Act provide a framework for consultation and cooperation between the National and County Government.

Furthermore, the payments were made on the strength of the minutes by the council of governors to support annual devolution conference.

After the issues were raised on the legality of the payments, no further payments were made from that time to council of governors except for the annual devolution conference.

Committee Observation

The Committee noted that payments made to the council were irregular and unlawful. The Committee also noted that the payment has since been stopped.

Committee Recommendations

The Committee recommends that;-

1. **the irregular payments to the Council of Governors (COG) be stopped and further recommends the surcharge of any Governor, in their capacity as**

Chief Executive Officer, who continues to make the irregular contribution; and

2. **The EACC should oversee the recovery of all the public funds irregularly transferred to the Council of Governors (COG) by the Governor. This is in line with the Resolution of the Senate.**

2.02 Payments for Fuel and Lubricants

Expenditure records further indicated that Kshs.12,327,412 was paid to various fuel suppliers in advance. The payments were made contrary to Section 146 of the Public Procurement and Asset Disposal Act, 2015 which provides that, contracts for works, goods or services may only be paid for after they are executed and approved by the Accounting Officer. In addition, the respective tender documents, supply contracts, fuel registers, detailed orders and work tickets were not provided for audit and as a result, the validity of the procurement process and propriety in supply and use of the fuel valued at Kshs.12,327,412 could not be confirmed.

To the extent, the Management is in breach of the law.

Management Response

The Management submitted that the payments with regard to fuel and lubricants were always paid after the delivery. However, during the Covid19 pandemic a few payments were made that were meant to serve ambulances engaged during this period as part of the emergency response measures. This was because the suppliers were not in a position to supply the large volumes required with the committed LPOs due to economic downturns. During the pandemic most of the suppliers declined to supply fuel before outstanding bills were cleared. The quantities procured and supplied were properly accounted for by use of card system charged at pump price as stipulated in the framework contract. The procurement documents and accounting documents such as fuel register, statements, work tickets and framework contract agreements had been availed.

Committee Observations

The Committee noted that although the management did not submit all the relevant documents and information to the Auditor General at the time of audit as per Section 62 of the Public Audit Act, 2015, the management has since submitted documents and reconciliation verified by the Auditor.

Committee Recommendations

The Committee therefore recommends that the matter be marked as resolved.

2.0.3 Payments Made Outside IFMIS

Examination of imprest records indicated that Kshs.90,099,635 was reportedly spent on public participation activities funded through imprests issued to various officers. This was contrary to Regulation 82(1)(b) of the Public Finance Management (County Governments) Regulations, 2015 and Paragraph 6.7.6 (v) of the County Financial

Accounting and Reporting Manual both of which prohibit payments to be made out of petty cash should not exceed Kshs.10,000 per item in financial year.
To the extent, the Management breached the law on management of cash Expenditures.

Management Response
The Management submitted that during the year under review, the County Executive made all payments through IFMIS. The expenditures in question under use of goods and services were administered through AIEs and incurred mainly for public participations. The expenditures were fully supported and accounted through the cashbook and well supported vouchers. Due to the nature of the activities, it was a convenient way to facilitate the functions through imprests.

Committee Observations
The Committee observed that the County spent ninety (90) million on public participation in one financial year at the expense of development projects. The Committee further observed that this was imprudent.
The Committee further noted that the management did not submit all the relevant documents and information to the Auditor General at the time of audit as per Section 62 of the Public Audit Act, 2015.

Committee Recommendations

The Committee recommends:

6. **the Ethics and Anti-Corruption Commission (EACC) cause the investigation of the accounting officer and the responsible officers for the expenditure of Kshs.90,099,635 supposedly on public participation activities funded through imprests issued to various officers contrary to Regulation 82(1)(b) of the Public Finance Management (County Governments) Regulations, 2015 and Paragraph 6.7.6 (v) of the County Financial Accounting and Reporting Manual with a view to instituting the prosecution of the officer(s) for the offences;**
7. **Sanctions as outlined in Section 62(2) of the Public Audit Act, 2015 against the responsible officer(s) who failed to provide the documents to the auditors and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report;**
8. **The Committee recommends that the officers who failed to surrender imprest in violation of provisions of Section 93 of the PFM Act (County Governments) Regulations, 2015 be surcharged with an interest at the prevailing Central bank rates**
9. **The Committee further recommends sanctions and surcharge of Accounting Officers who fail to recover outstanding imprests in line with Regulation 93(7) of the PFM (County Government) Regulations, 2015;and**
10. **the OAG keeps the matter in view in the subsequent audit cycle to ascertain progress.**

3.0 Lack of Sufficient Disclosure on Managed Medical Equipment Contract

Included in specialized materials and services costs totalling Kshs.250,698,645 is Kshs.95,744,680 being payment towards annual leased medical equipment supplied by the National Government. However, although the equipment was in use, the lease agreement detailing the scope of the programme including equipment types, costs, specifications and quantities were not provided for audit review.
Further, the equipment was not included in the County Government's assets records and consequently, accounting for their use and custody was inadequate.
In view of the insufficient disclosures on the managed medical equipment contract, it was not possible to confirm whether value for money was obtained from payment totalling Kshs.95,744,680 made in respect to the contract in the year under review

Management Response

The Management submitted that the county executive budgeted for lease of medical equipment as provided for by the CARA (County allocation of Revenue Act 2020) though Management didn't receive the budgeted amount through the county revenue fund account since it was checked off from the exchequer releases.
The medical equipment was currently in use, however memorandum of understanding and ownership documents had not been handed over to the county government to be taken in charge in the asset register.

Committee Observation
The Committee observed that Bomet County had not signed for the leased equipment, however the equipment were delivered and deployed to health facilities and currently in use.
The Committee also noted that the equipment were in use although there were no corresponding values in the financial statements.

Committee Recommendation
The Committee recommends that a special audit be undertaken on the lease of medical equipment in the County governments.

4.0 Non-Compliance with Law on Establishment of Emergency Funds

The County Executive established the Bomet County Disaster and Emergency Fund through the Bomet County Disaster and Emergency Management Act, 2014. The Act provides that the Fund should be managed by the County Disaster Council.
However, the provision is contrary to Section 111(1) of the Public Finance Management Act, 2012 which provides that a County Emergency Fund should
be administered by the County Executive Committee Member for Finance in accordance with the framework and criteria approved by the County Assembly.
Therefore, in establishing the operational structure of Fund, Management may have breached the law.

Management Response

The Management submitted that the during the year under review, the County Government did not administer Emergency Fund because of the conflicting provisions of the two Acts. However, the CECM finance with the help of legal services department had made recommendations for consideration by the County Assembly as per the audit review.

Committee Observation

The Committee noted that the County was in breach of Section 112 of the Public Finance Management Act, 2012, on making payments outside established Emergency fund.

Committee Recommendations

The Committee recommends that;

1) **the County Executive establishes an emergency fund in line with the Public Finance Management Act, 2012; and**
2) **the Auditor General to monitor this in the subsequent audit cycle.**

5.0 Weaknesses in Revenue Collection Systems

Audit review of the revenue management system and records disclosed the following weaknesses that may be hampering the County Executive from attaining its revenue collection goals:

5.01 Inefficient Revenue Collection Software

The County Executive in May, 2019 contracted a software provider to supply a revenue collection solution for a period of three (3) years. Installation and implementation fees totalling Kshs.45,356,203 were paid in the first year. Annual maintenance fees totalling Kshs.6,803,430 were to be paid in the second and third years. However, upon installation, the software was not integrated with the Integrated Financial Management Information System (IFMIS) and (LAIFOMS) and Integrated Payroll and Personnel Database (IPPD) as provided for in Paragraph 2.1.11 of the contract agreement.

Further, expenditure records indicated that the average cost of implementing and operating the software each year was Kshs.19,654,355. However, analysis of financial statements for the years it has been in use revealed that revenues collected through the software averaged Kshs.23,748,742 each year. Therefore, purchase of the software may have been a bad investment given its initial costs totalling Kshs.45,356,203 and outflow of cash totalling Kshs.19,654,355 it causes every year.

As a result, the County may not have obtained value for money by procuring the software.

Management Response

The Management stated that the National Treasury had not released IFMIS Application Programming Interface (API) for use by third party software's therefore integration with IFMIS had not been done, however integration with IFMIS would be done as per the contract when the APIs become available with no extra cost to the County. Integration with IPPD would also be done when the APIs were made available. The

solution was a replacement of LAIFORMs so there was no need for integration only migration of existing data.
The county was in the process of widening its own source revenue base and enhance compliance through enforcement of revenue to ensure maximum collection for the unstructured section.

Committee Observation
The Committee observed that automation did not result in increased revenue collection in the County.

Committee Recommendations
The Committee recommends that:

1. **The County Executive to identify training needs of its staff serving in the Revenue Collection Department and initiate capacity building and training in conjunction with the National Treasury within 60 days of adoption of this report;**
2. **The County Executive should have value for money audit in all their acquisitions;**
3. **That the County Executive should put in place measures to improve their local revenue collection capacity in order to meet their revenue collections target; and**
4. **The Auditor General to carry out a value for money audit of the software at the expiry of the three year contract period and submit a report to the Senate.**

5.02 Un-Updated Land Valuation Roll
Included in county own-generated receipts are land rates receipts totalling Kshs.44,776,748 reported under other property income. However, the valuation roll used to bill the plot owners has not been updated for several years to reflect the appreciating land values. Management explained that a new roll had been finalized but had not been prepared for use. Consequently, the County property rates and income realized in the year under review were not optimal and may have resulted in under-collection of revenue.

Management Response
The Management stated that the implementation of the new valuation Roll was underway after the intervention by a select committee to ensure its full utilization upon its approval by the county assembly. The public participation by the key stakeholders was at the tail end as an MOU between multinationals and the county government on specific areas of cooperation had been entered.

Committee Observation
The Committee noted that the County has a draft valuation roll which was yet to be presented to the County Assembly for adoption.

Committee Recommendation

The Committee recommends that the County executive should expedite updating of valuation roll in accordance with Section 3 of the Valuation for Rating Act CAP 266 so as to reflect current market values for optimal revenue collection and comply with the guidelines of the Public Sector Accounting Sector Boards of reporting in the FY 2023/2024.

5.03 Long Outstanding Land Rates

Examination of land records disclosed arrears of revenue totalling Kshs.252,260,438. However, there was no evidence of any concerted efforts having been made by Management to enforce the collections as provided for under Section 63(1) of Public Finance Management (County Governments) Regulations, 2015.

In addition, the collector of revenue did not provide satisfactory reasons for the failure to collect the arrears by making a report to the County Executive Committee Member of Finance and Economic Planning as provided for in Section 63(2) of the Regulations.

Management Response

The Management stated that the County Government was owed huge arrears in Overdue Land Rates. However, demand notices and legal notifications had been made to the owners of the need to clear outstanding rate balances; failure to which legal actions would be taken against them including repossession of the plots with huge land rates arrears.

There was a policy to introduce waiver on such huge accrued penalties that was proposed by the management and was being reviewed to ensure realization of the stated long outstanding land rates.

Committee Observation

The Committee noted that the County had issued demand notices and legal notifications to the owners of the need to clear outstanding rate balances; failure to which legal actions would be taken against them including repossession of the plots with huge land rates arrears.

Committee Recommendation

The Committee recommends that;-

3. **the County executive should expedite updating of valuation roll in accordance with Section 3 of the Valuation for Rating Act CAP 266 so as to reflect current market values for optimal revenue collection and comply with the guidelines of the Public Sector Accounting Sector Boards of reporting in the FY 2023/2024; and**
4. **the Auditor General verifies the status of the query in subsequent audits.**

5.04 Failure to Prepare Statement of Receipts and Arrears of Revenue

According to Section 165(1) and 165 (2)(b) of the Public Finance Management Act, 2012, at the end of each financial year, each Receiver of Revenue is required to prepare a statement in respect of revenue collected, received, recovered and arrears during the year.

However, Management did not prepare the statement for the year under review and are therefore in breach of the law.

Management response
The management informed the Committee that the county prepared annual Statement of Revenue and has been availed for audit verification.

Committee Observations

The Committee noted that although the management did not submit all the relevant documents and information to the Auditor General at the time of audit as per Section 62 of the Public Audit Act, 2015, the management has since submitted documents and reconciliation verified by the Auditor.

Committee Recommendations

The Committee therefore recommends that the matter be marked as resolved.

6.0 Failure to Comply with One-Third Basic Salary Rule
Examination of the payroll for July, 2019 revealed that net salaries for forty-eight (48) employees were less than one-third of their basic pay contrary to Section 19(3) of the Employment Act, 2007. The provision 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 basic pay.
Therefore, Management was in breach of the law and, in addition, exposed the officers to the risk of pecuniary embarrassment.

Management Response
The Management stated that the county executive had endeavoured to comply with the provisions of Section 19(3) of the Employment Act, 2007 while administering the deductions of all the employees. The staff in question were Over committed due to explicit deductions of imprest and HELB loan recoveries. These were occasional scenarios that flout the one third rule. Otherwise for the normal and regular non-explicit deductions ensured adherence to the third basic salary rule.

Committee Observation
The Committee observed that forty-eight (48) county staff were earning less than a third of their basic pay contrary to section 19(3) of the Employment Act 2007.

Committee recommendations

The Committee therefore recommends that -

1. **The county should configure their IPPD sytem such that it is able to lock out commitments beyond the accepted thresholds; and**
2. **The Auditor General should continue monitoring the issue in subsequent financial years.**

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

2.0 Lack of Risk Management Policy

Contrary to Section 158 of the County Governments Regulations, 2015, (1), the County Executive did not have in place a documented risk management policy for identifying, measuring and mitigating operational and other risks that the County Executive may face. The law requires the Accounting Officer to ensure that the County Government develops a system of risk management and internal control that builds robust business operations.

In the circumstance, Management lacks objective means to manage operational and other risks in an effective way.

Management Response

The Management stated that the county government had put in place a risk management policy as per to Section 158 of the County Governments Regulations, 2015, (1). The management had availed risk management policy for audit verification.

Committee Observation

The Committee noted that the matter has since been addressed and verified by the Auditor General.

Committee Recommendation

The Committee recommends that the matter be marked as resolved.

2.0 Lack of Asset Management Policy

Review of the internal controls system indicated that Management had not established an asset management policy to guide acquisition, maintenance and replacement of fixed assets. As a result, the risk of ineffective investment in, and use of the assets, was high.

Management Response

The Management stated that the county government had developed a county asset policy. The policy was currently in use and had improved efficiency in asset management. The Management had availed the asset management policy for audit verification.

Committee Observation

The Committee noted that the matter has since been addressed and verified by the Auditor General.

Committee Recommendation

The Committee recommends that the matter be marked as resolved.

CHAPTER EIGHT

REPORT OF THE SENATE COUNTY PUBLIC ACCOUNTS COMMITTEE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF MURANGA COUNTY EXECUTIVE FOR THE FINANCIAL YEAR 2019/2020

The Governor of Murang'a County Executive H.E Irungu Kang'ata appeared before the Committee on Wednesday, 17th May 2023, to respond (under oath) to audit queries raised in the Report of the Auditor General on Financial Statements for Kakamega County Executive for the Financial Year 2019/2020.

Qualified Opinion

EXECUTIVE SUMMURY OF UN-RESOLVED AUDIT QUERIES				
S/NO	**QUERY**	**RECOMMENDATION**	**ACTOR**	**TIMELINE**
1.0	**Differences Between the Financial Statements and Ledger Balances** Several balances reflected in the financial statements differ with identical account balances reflected in the Integrated Financial Management Information Systems (IFMIS) ledger.	The Committee recommends that the County CEO undertakes administrative action against the responsible officer(s) who failed to provide the documents/evidence of reconciliation to the auditors in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Auditor General within sixty (60) days from the adoption of this report.	The County Chief Executive Officer	Within 60 days from the date of adoption of this report.
2.0	**Unreported Balances** Audit review of the IFMIS trial balance revealed the following credit balances totaling Kshs.50,366,420,967.40, which however, were not reported in the financial statements for the year under review.	The Committee recommends that the County CEO undertakes administrative action against the responsible officer(s) who failed to provide the documents/evidence of reconciliation to the auditors in accordance with section 156 of the Public	The County Executive Officer	Within 60 days from the date of adoption of this report.

		Finance Management Act, 2012 and provides a status report to the Auditor General within sixty (60) days from the adoption of this report.		
4.2	**Unconfirmed Revenue Collection through Mpesa Paybill** Records on the collections totaling Ksh 126,185,813 generated from hospitals and health centres, and Ksh. 19,469,831 collected by the Public Health Department indicated that the revenues were collected through Mpesa and deposited into designated bank accounts. However, the Mpesa statements for the period under review were not made available for review.	The Committee recommends that the County CEO undertakes administrative action against the responsible officer(s) for failure to provide documents (signed and stamped Mpesa statements from Safaricom) to the auditors in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Auditor General within sixty (60) days from the adoption of this report.	The County Chief Executive Officer	Within 60 days from the date of adoption of this report.
5.0	**Payments Charged to Un-Budgeted Expenditure Item** The payments for printing and advertising (Ksh 6,958,625); rentals of produced assets (Ksh 6,183,321); other grants and payments (Ksh 8,398,380) and other payments (Ksh 42,463,782) were charged to an incorrect account code described as 'Cash' which was not in the Chart of Accounts or in the approved budget for the year. No	The County Executive to identify training needs of its staff serving in the Finance Department and initiate capacity building and training in conjunction with the National Treasury within 60 days of adoption of this report.	The County Chief Executive Officer	Continuous

	documentary evidence was presented to explain the anomalies			
6.1	**Acquisition of Goods and Services** The approved budget for acquisition of strategic stocks and commodities during the year was Kshs.93,148,384 denoted as provision for purchase of school milk. However, payment records indicated that expenditures totaling Kshs.65,067,850 for civil works, supply of uji flour, communication expenses, supply of relief rations and supply of sugar were charged to the expenditure item.	The Committee recommends that the management adheres to provisions of the Public Finance Management (County Government) Regulations, 2015 and PFM, Act, 2012 on budgetary allocations and reallocations.	The County Chief Executive Officer	Continuous
6.2	**Specialized Materials and Services** A review of payments charged under use of goods and services revealed unrelated expenditure items totaling Ksh 150,336,925 incurred on payment of retention fee, insurance covers, purchase of vehicles, construction and renovation of roads, market stalls and classrooms, supply of medicine, and consultancy services.	The Committee recommends that the management adheres to provisions of the Public Finance Management (County Government) Regulations, 2015 and PFM, Act, 2012 on budgetary allocations and reallocations.	The County Chief Executive Officer	Continuous
7.1	**Unconfirmed Bank Balances** The statement of assets and liabilities reflects	The Committee recommends that the County CEO undertakes administrative action	The County Executive Officer	Within 60 days from the date of

	cash and cash equivalents balances totalling Ksh 389,216,290, whereas the bank statements reflect balances totalling Ksh. 801,676,123 resulting in unexplained variances totalling Ksh.412,459,832.55. Bank reconciliation statements for the sixteen bank accounts were not provided for audit review	against the responsible officer(s) who failed to provide the other ten (10) bank reconciliation statements to the auditors in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Auditor General within sixty (60) days from the adoption of this report.		adoption of this report.
7.2	**Undisclosed Deposits and Retentions Money** The statement of assets and liabilities reflects a nil balance in relation to accounts payables - deposits and retentions as at 30 June, 2020. Records at the County Treasury indicated that the County operated a centralized retentions account at the Central Bank of Kenya (CBK) and had deducted retention fees totaling KES 4,426,658 from contractors, as reflected in the IFMIS general ledger for the year. However, the deductions were not deposited in the retentions account. Further, no cash book was maintained in respect to the account.	The Committee recommends that the County CEO undertakes administrative action against the responsible officers for illegal transfer of retention money in contravention of Section 47(1)(e) and 63 (4) of the Public Finance Management (County Government) Regulations, 2015 and provides a status report to the Auditor General within 60 days of adoption of this report.	The County Executive Officer	Within 60 days from the date of adoption of this report.
8.0	**Undisclosed Outstanding Imprests** Examination of the IFMIS ledger revealed	The Committee recommends that the Accounting Officer recovers the outstanding imprests with interest at the	The CECM Finance	Within 60 days from the date of

	that imprests totaling Kshs.7,971,842 issued to various officers were outstanding as at 30 June, 2020. Further, the imprests were not recorded in the imprests register	prevailing Central bank rates from the officers who failed to surrender the safari imprest within 7 days of returning to duty station, pursuant to Regulation 93(6) of the PFM Act (County Governments) Regulations, 2015. The Committee further recommends sanctions and surcharge of Accounting Officers who fail to recover outstanding imprests in line with Regulation 93(7) of the PFM (County Government) Regulations, 2015.		adoption of this report.
9.1	**Inadequate Disclosures on Pending Bills** Disclosure of the pending accounts payables does not indicate the bills incurred, and paid, during the year. The financial statements depicts all the bills as if they were for the financial year 2018/2019.A detailed analysis of the bills is not provided as the Annexures only shows a summarized list of types of pending bills instead of the respective supplier's name, original amount of the respective bill and the dates they were incurred, payments, if any, made and outstanding balances as at 30, 2020.	The Committee therefore recommends that: 1) the National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate so as to enable county entities settle their obligations on time; and 2) the county executive puts in place measures to enhance own generated revenue in order to meet its revenue target and address revenue shortfalls that contribute to the challenge of pending bills.	The County Executive Officer The National Treasury The DCI	Continous

		3) Pending bills deemed ineligible should be forwarded to the Directorate of Criminal Investigation (DCI) for investigation proper legal action taken against those filing false claims. 4) County Government to take note of judgement in a Kitale High Court Constitutional Petition E003 of 2023 that declared formation of pending bills verification committees unconstitutional and engage Office of the OAG and strengthen the internal audit functions.; and 5) All valid pending bills that have been reviewed by the Office of the Auditor General be paid and a payment plan be submitted to the county assembly for approval and progress report on implementation sent to the Senate and the Office of the Controller of Budget.		
9.2	**Inaccurate Pending Accounts Payable** 478 suppliers that were owed Ksh 1,297,091,867	The Committee therefore recommends that: 1) the National Treasury should	The County Executive Officer	Continous

	by the management, were not included in the list of pending bills totalling. The exclusion of the suppliers understated the pending payables totalling KES 1,258,944,867 as at 30 June, 2020 by Ksh 1,297,091,867. Pending bills claims totaling to Ksh 34,895,034 included therein were not supported with local purchase orders and contracts.	ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate so as to enable county entities settle their obligations on time; and 2) the county executive puts in place measures to enhance own generated revenue in order to meet its revenue target and address revenue shortfalls that contribute to the challenge of pending bills. 3) Pending bills deemed ineligible should be forwarded to the Directorate of Criminal Investigation (DCI) for investigation proper legal action taken against those filing false claims. 4) County Government to take note of judgement in a Kitale High Court Constitutional Petition E003 of 2023 that declared formation of pending bills verification committees unconstitutional and engage Office of the OAG and strengthen	The National Treasury The DCI	

		the internal audit functions.; and 5) All valid pending bills that have been reviewed by the Office of the Auditor General be paid and a payment plan be submitted to the county assembly for approval and progress report on implementation sent to the Senate and the Office of the Controller of Budget.		
9.3	**Undisclosed Pending Bills** i) Murang'a County owed Kenya Power and Lighting Company KES 23,768,852 in relation to power bills. However, the debt was not included in the list of pending bills as at 30 June 2020. **ii)** Records maintained at the Ministry of Health indicated that salaries totaling KES 286,763,132.55 were paid by the Ministry to Health workers employed by the County Government during the 2013/14 financial year. Although the salaries were to be recovered in the same financial year, the County did	On Issues (i) The Committee recommends that; 1) the County Executive should disclose all pending bills in the format prescribed by the Public Sector Accounting Standards Board as stipulated under Section 104(1)(h) of Public Finance Management Act, 2012; 2) the County Executive should make adequate efforts to pay pending bills as a first in the subsequent financial year. On Issues (ii), the Committee recommends that-	The County Executive Officer	To be reported in the next audit cycle.

	not clear the debt. However, the outstanding amount has not been included in the list of pending bills as at 30 June, 2020. No explanation was provided for the omissions and as a result, the pending bills balance totaling KES 1,258,944,867 as at 30 June, 2020 could not be confirmed.	1. the County Government should not pay the Ministry of Health any money for provision of medical services that were undertaken before the full transfer of the health function to Counties; and 2. the National Treasury refunds the County Government any and all funds irregularly received ostensibly for provision of medical services that were undertaken before the full transfer of the health function to Counties.	The National Treasury	
9.4	**Pending Staff Payables** audit review of records on statutory deductions indicated that the County Executive deducted statutory dues in respect of National Health Insurance Fund (NHIF), National Social Security Fund (NSSF), pension contribution and Co-operative Savings and Credit and Co-operative Societies (Saccos) totalling KES 892,571,422.30.	The Committee recommends that the County CEO undertakes administrative action against the responsible officer(s) for non-provision of documents and non-remittance of various statutory deductions and Sacco dues totalling Kshs.892,571,422.30 in accordance with section 156 of the Public Finance Managemnt Act, 2012 and provides a status report to the Auditor General for verification within sixty (60) days from the adoption of this report.	The County Executive Officer Auditor General	Within 60 days from the date of adoption of this report.
10.0	**Unexplained Transactions** Review of the general ledger revealed transactions totaling KES 47,721,424 described as	The Committee recommends that the County CEO undertakes administrative action against the responsible officer(s) for failure to	The County Executive Officer.	Within 60 days from the date of adoption of this report.

	'deductions' and denoted as having been made in 2016 and 2017. However, the transactions were not in IFMIS and may therefore have been paid outside the system and thereafter recorded in the books of account by use of journal entries.	provide documents (stamped or signed IFMIS extract of the payments) to the auditors in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Auditor General within sixty (60) days from the adoption of this report.		
12.0	**Summary of Fixed Assets Register** The summary of the register relates to 2018/2019 and comparative balances for 2017/2018, instead of those for the year under review. Further, Management did not provide an updated fixed asset register. The assets were not tagged and properly recorded in both manual and automated registers and were therefore prone to misplacement and loss. Biological assets at its Mariira Farm were not valued and included in the assets register	The Committee recommends that the- a) County Executive should update and present their Fixed Assets Register in the format prescribed by the Public Sector Accounting Standards Board; b) County Executive should adopt and implement the report of the Inter-Governmental Technical Relations Committee (IGTRC) on assets and liabilities from defunct Local Authorities and provide a status update to the Office of the Auditor General within 90 days of adoption of this Report; and c) Office of the Auditor General should progressively review and report on the matter in the	The County Executive Officer	Within 60 days from the date of adoption of this report.

		subsequent Financial Years.		
	Other Matter **1.0 Unresolved Prior Year Issues** The audit report for 2018/19 financial year highlighted several unsatisfactory issues on financial statement balances, lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance. However, the report on the progress made in resolving the issues, as prescribed in the reporting requirements set by the Public Sector Accounting Standards Board, has not been included in the financial statements. As a result, the matters are considered unresolved.	The Committee recommends that the County executive complies with section 53 of the Public Audit Act, 2015 by taking action on the issues raises by the Auditor General and submits a report to the Auditor General within 60 days of the adoption of this report.	1. The County Chief Executive Officer. 2. The Auditor – General.	60 days from the date of adoption of this report.
14.0	**Failure to Meet Revenue Targets on County Own-Generated Receipts** The actual amount collected was KES 551,677,223 out of the budgeted target of Ksh 960,000,000 representing 57% of the projected own- generated receipts, resulting in a revenue short fall of Ksh 408,322,777 of 43% of the targeted collections.	The Committee recommends that; 1) The County Executive should put in place measures to improve their local revenue collection capacity in order to meet their revenue collections target; 2) the County Executive should automate revenue collection across all revenue streams to reduce leakages;	The County Executive Officer The Auditor – General.	To be reported in the next audit cycle.

		3) the county executive submits to the Office of the Auditor General the Murang'a County Health Act, 2022 that guides spending at source of health related revenues; 4) the Auditor General keeps the matter in view in the subsequent audit cycle.		
14.2	**Budgetary Control Over Expenditure** The final approved expenditure budget for the year under review totaled Ksh 8,823,421,331 comprised of Ksh 5,549,938,072 for the recurrent vote and Ksh 3,273,483,259 for the development vote. The management incurred expenditures totaling Ksh 5,000,545,248 and Ksh 2,362,593,362 on recurrent and development votes respectively resulting in an aggregate under-expenditure of Ksh 1,460,282,221 equivalent to 16.5 % of the budget.	The Committee recommends that 1) the county executive adheres to the approved budget by the county assembly, and ensure effective budget implementation; and 2) the Auditor General to review this matter in the subsequent audit cycle.	The County Executive Officer The Auditor – General.	To be reported in the next audit cycle.
14.3	**Late Exchequer Release** Financial Statements reflects exchequer releases receipts from the National Treasury totaling Ksh 6,254,948,060, out of	The Committee recommends that the National Treasury should ensure timely release of funds to county governments in line with the cash disbursement	The National Treasury	Continuous

	which receipts totalling Ksh 790,027,209 or 12.6% were received during the month of June, 2020	schedules approved by the Senate.		
REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES				
1.1	**High Wage Bill** Examination of expenditure and revenue records indicated that the compensation of employees' expenditure totaling KES 2,984,713,835 incurred in the year under review was equivalent to 41.5% of the total revenue for the year amounting to KES 7,191,014,611	The Committee recommends that- 1. the management should provide to the Auditor General and the Senate the measures it will put in place to contain the high wage bill within sixty (60) days of the adoption of this report; 2. the management should strictly adhere to the provision of paragraph 25(1)(b) of the PFM Act (county government) regulations, 2015 which stipulate that the county wage bill should not exceed 35 per cent of the county total revenue; and 3. the county executive puts in place measures to enhance own source revenue collection in order to address wage bill gap.	The County Chief Executive Officer. County Public Service Board The Auditor – General.	60 days from the date of adoption of this report.

1.2	**Lack of Ethnic Diversity in Staff Establishment** Out of 3,853 staff on permanent and pensionable terms, 3,383 or 87.8% were drawn from the dominant ethnic community in the County The dominance was contrary to Section 7(2) of the National Cohesion and Integration Act, 2008 which requires public entities to ensure that their staff establishments reflect the diversity of the people of Kenya.	The Committee recommends that; a) the County Executive should work progressively towards attaining the requirement of the provisions of Section 65(1)(e) of County Government Act 2012 on ethnic inclusivity. b) the County Executive and CPSB should provide to the Auditor General a five-year strategy of measures it will put in place to ensure compliance with Section 65 (1) (e) of County Government Act 2012 within sixty (60) days of the adoption of this report.	County CEO CPSB Auditor General	Within 60 days of adoption of this report
3.0	**Irregular Procurement of Goods under COVID-19 Grant** Supplies of maize flour purchased at KES 1,823,438 on 19 June, 2020 were not supported with delivery notes, invoices and an inspection and acceptance reports from the users or the Goods Inspection Committee	The Committee recommends that the responsible accounting officer undertakes administrative action against the officer(s) who failed to provide the documents (contract document and a register of the recipients of the maize floor) to the auditors in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Office of the Auditor General within 60 days of adoption of this report.	The County Executive Officer	Within 60 days of adoption of this report
4.0	**Failure to Prepare and Publish Contract Awards**	The Committee recommends that the County CEO undertakes administrative action against the responsible	The County Executive Officer	Within 60 days of adoption of this report

	The County Executive did not prepare, publish, and publicize all contract awards and submit the information to the Public Procurement Regulatory Authority as required by Section 138(1) and 138(2) of the Public Procurement and Assets Disposal Act, 2015.	officer(s) for failure to provide documents (signed monthly progress reports on all procurement contracts from the Public Procurement Regulatory Authority (PPRA) to the auditors in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Auditor General within sixty (60) days from the adoption of this report.		
5.0	**Failure to Comply with Financial Reporting Requirements** Executive Order No.6 of 7 May, 2015 directed all public entities in National and County Governments to fully implement end-to-end e-procurement processes within two weeks from the date of the circular. Further, Executive order No.2 of 2018 directed that by 1 January, 2019, all procuring entities were to undertake all their procurements through the Government e-procurement module Review of the procurement activities of the County Executive indicated that some open tender advertisements, and all payments were done through the IFMIS system while other procurement processes	The Committee recommends that the County CEO undertakes administrative action against the responsible officer(s) for failure to provide documents (quarterly financial reports and monthly bank reconciliation statements) to the auditors in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Auditor General within sixty (60) days from the adoption of this report.	The County CEO	Within 60 days of adoption of this report

	were done manually outside the system.			
7.1	**Direct Procurement of Fuel** The expenditure includes Ksh 9,058,813 paid to two service stations in the county for supply of motor vehicle fuel. However, there was no evidence indicating that the two suppliers were subjected to a competitive procurement process as required by law.	The County CEO undertakes administrative action against the Head of Procurement for breaching procurement laws in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report.	The County Executive Officer	Within 60 days of adoption of this report
7.2	**Direct Procurement of Air Tickets for Senior** **Management in the County** Ksh 7,463,916 paid to a firm for bookings and air tickets for senior management who travelled to foreign countries during the year under review. However, the supplier was identified through direct procurement (single sourcing) contrary to Section 104 of the Public Procurement and Assets Disposal Act, 2015. As a result, the expenditure was irregular and value for money on the spending could not be confirmed.	The Committee recommends that the County CEO undertakes administrative action against the responsible officer(s) who failed to provide relevant documents (list of prequalified air ticket service providers, tender committee minutes and evaluation report and an explanation on the balance of Kshs.5.2 million) to the auditors in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Auditor General within sixty (60) days from the adoption of this report.	The County Executive Officer	Within 60 days of adoption of this report
8.0	**Unconfirmed Citizen Participation in Budget-Making Process**	The Committee recommends that the County CEO undertakes administrative action	The County Executive Officer	Within 60 days of

	No document on public participation including notices of meetings, signed attendance lists of participants and feedback or reports of the outcome of an effective public participation during development of their annual budget estimates were presented for audit review.	against the responsible officer(s) who failed to provide relevant documents (notice of meetings for public participation, the signed list of attendance, feedback or reports of outcome of public participation and list of projects discussed during the public participation) to the auditors in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Auditor General within sixty (60) days from the adoption of this report.		adoption of this report
9.0	**Irregular Implementation of Programmes under the National Government** The County Executive implemented several projects costing KES.6,061,603 in respect of functions which fall under the National Government	The Committee recommends that the county executive should adhere to the Public Finance Management (County Government) Regulations by ensuring that any collaboration between it and the National Government is supported by communications and agreements between the two governments, before incurring expenditure on projects and programmes under the National Government.	The County Head of Treasury.	Continuous

Basis for Qualified Opinion

1. Differences Between the Financial Statements and Ledger Balances

Several balances reflected in the financial statements differ with identical account balances reflected in the Integrated Financial Management Information Systems (IFMIS) ledger. The differences were not explained and as a result, the accuracy of the financial statements could not be confirmed.

Management Responses
The variances which were there were cleared and the clearing process is ongoing to ensure the problem does not recur.

Committee Observation.
The Committee observed that the matter was unresolved since no evidence/documents of reconciliation or clearing of variances were provided at the time of audit contrary to Section 62 of the Public Audit Act, 2015.

Committee Recommendations
The Committee recommends that the County CEO undertakes administrative action against the responsible officer(s) who failed to provide the documents/evidence of reconciliation to the auditors in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Auditor General within sixty (60) days from the adoption of this report.

2. Unreported Balances

Audit review of the IFMIS trial balance revealed the following credit balances totaling Kshs.50,366,420,967.40, which however, were not reported in the financial statements for the year under review:

Balance Code	Description	Amount (Ksh)
6530101	Ministry Headquarters Recurrent Bank Account	444,574,355
7380101	General Withholding Tax	97,523
7390103	AP Liabilities	1,710,589,554
7399999	Cash Clearing Account	30,394,156,148
9910101	Provision for Encumbrance	1,908,459
9910201	Exchequer Releases Provisioning Account	17,815,094,930
9919200	Exchequer Provision	17,815,094,930
	Total	**50,366,420,967**

No explanation was provided on the nature and reasons for exclusion of the balances from the financial statements. As a result, the accuracy and completeness of the financial statements could not be confirmed.

Management Response
These were errors that appeared in the system. The clearance of erroneously accumulated balances is ongoing.

Committee Observation.
The Committee observed that the matter was unresolved since no evidence/documents of reconciliation or clearing of variances were provided at the time of audit contrary to Section 62 of the Public Audit Act, 2015.

Committee Recommendations

The Committee recommends that the County CEO undertakes administrative action against the responsible officer(s) who failed to provide the documents/evidence of reconciliation to the auditors in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Auditor General within sixty (60) days from the adoption of this report.

3. Transfers from Other Government Entities

The statement of receipts and payments reflects transfers from other government entities totaling Kshs.291,723,844, as further disclosed in Note 3 to the financial statements. The amount includes Covid-19 mitigation grants from the Ministry of Health totalling Kshs.112,941,000. However, records published by the Ministry indicated that the County received grants totalling Kshs.176,451,000 through Authority-to-Incur-Expenditure (AIE) No. A685724, comprising Kshs.112,941,000 of Covid-19 conditional grants and Kshs.63,510,000 emergency allowances for health-care workers.

The difference totalling Kshs.63,510,000 between the two sets of records has not been explained. In addition, the Management did not provide records on payment of the emergency allowances to the health-care workers.

As a result of these issues, the accuracy, propriety and regularity in use of the grants totalling Kshs.112,941,000 could not be confirmed.

Management Response

The amount of Ksh 63,510,000 for emergency allowances for health care workers was deposited in the County Revenue Fund on 06-07-2020. The management noted that when the money was deposited, it had already moved into the 2020-21 Financial Year. As a result, the amount was not captured in that financial year 2019-2020, instead, it was captured in the year ended 30 June. An extract of CRF was attached for verification.

Committee Observations

The Committee noted that the matter was partially resolved as the county had submitted the payment details/schedule but was yet to be verified by the Auditors for verification.

Committee Recommendation

The committee recommends that the matter be marked as resolved.

4. **County Own-Generated Receipts**

The statement of receipts and payments reflects county own-generated receipts totaling KES 551,677,223 received in the year under review, as further disclosed in Note 9 to the financial statements. However, examination of revenue records revealed the following anomalies:

4.1 Understatement of Revenue from Mariira Farm

Note 9 to the financial statements reflects receipts totaling KES 216,773 collected at the County Executive's Mariira Farm in the year under review. However, examination of records on various sources of revenue at the Farm indicated that receipts in the year

totaled KES 1,477,178. The resultant revenue shortfall totaling KES 1,260,405 was not explained.

Management Response
Mariira Farm delivered tea leaves worth KES 1,260,405 to Nduti Tea Factory. Instead of Nduti Tea Factory paying Mariira Farm directly, it remitted the money to the County Revenue Account. The KES 216,773 captured in the Financial Statements was realized from the sale of milk and was paid directly to Mariira Farm. Note 9 to the Financial Statements and the Statement of Confirmation of Payment from Nduti Tea Factory to County Revenue Account were attached for the Committee review and verification.

Committee Observation.
The Committee observed that the matter was satisfactorily addressed.

Committee Recommendation
The Committee recommends that the matter be marked as resolved.

4.2 Unconfirmed Revenue Collection through Mpesa Paybill
Disclosed in Note 9 to the financial statements under County own-generated receipts are revenues totaling Ksh 126,185,813 generated from hospitals and health centres, and Ksh. 19,469,831 collected by the Public Health Department. Records on the collections indicated that the revenues were collected through Mpesa and deposited into designated bank accounts. However, the Mpesa statements for the period under review were not made available for review.
Consequently, the accuracy and completeness of the KES 126,185,813 revenue reported to have been generated from hospitals and health centres and KES 19,469,831 collected by the Public Health Department could not be confirmed.
In view of these discrepancies, the accuracy and completeness of the aggregate own generated balance totaling KES 126,185,813 reflected in the statement of receipts and payments could not be confirmed.

Management Response
Though the Paybill statements relating to the hospitals were not available during the conduct of the audit, the same were provided later by Safaricom and provided for audit. Attached is Annex 3.2 on Mpesa Statements.

Committee Observations
The Committee observed that; -

1. the matter was partially resolved since the Mpesa Statements provided were not signed or stamped by Safaricom.
2. the county executive stopped using the Mpesa Paybill for revenue collection

Committee Recommendations
The Committee recommends that the County CEO undertakes administrative action against the responsible officer(s) for failure to provide documents (signed and stamped Mpesa statements from Safaricom) to the auditors in accordance

with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Auditor General within sixty (60) days from the adoption of this report.

5. Payments Charged to Un-Budgeted Expenditure Item

Review of the IFMIS ledger revealed transactions totaling KES 269,956,223 charged to four expenditure categories comprising of printing and advertising (Ksh 6,958,625); rentals of produced assets (Ksh 6,183,321); other grants and payments (Ksh 8,398,380) and other payments (Ksh 42,463,782). However, the payments were charged to an incorrect account code described as 'Cash' which was not in the Chart of Accounts or in the approved budget for the year. Further, the payments were drawn from code 6530101-Ministry HQ Recurrent Bank Account, resulting in overdrawing of the account.

No documentary evidence was presented to explain the anomalies and as a result, the presentation and validity of the balances could not be confirmed. Further, the use of goods and services, other grants and payments, and other payments balances reflected in the financial statements may not be fairly stated.

Management Response

The charging to incorrect account code was as a result of lack of capacity in the use of IFMIS system. This is being mitigated through continuous training.

Committee Observation

The Committee observed that the county was experiencing capacity issues in use of IFMIS and is currently undertaking continuous training for its officers on IFMIS.

Committee Recommendation

The County Executive to identify training needs of its staff serving in the Finance Department and initiate capacity building and training in conjunction with the National Treasury within 60 days of adoption of this report.

6.1 Acquisition of Goods and Services

Note 17 to the financial statements on acquisition of assets reflects expenditure on acquisition of strategic stocks and commodities totaling Ksh. 79,444,384. The approved budget for the item during the year was Ksh 93,148,384 denoted as provision for purchase of school milk. However, payment records indicated that expenditures totaling Ksh 65,067,850 for civil works, supply of uji flour, communication expenses, supply of relief rations and supply of sugar were charged to the expenditure item.

Management Response

The School Milk Programme entailed building of storage to guard against insecurity as well as the supply of uji flour, communication, supply of relief rations and sugar.

All these items were in the same category and were charged from the same budget line. Note 17 to the Financial Statements were attached for the Committee review and verification.

Committee Observation
The Committee noted that the matter was unresolved since the item on this line was charged wrongly, as other expenditure and thus the county executive irregularly reallocated the expenditure.

Committee Recommendation
The Committee recommends that the management adheres to provisions of the Public Finance Management (County Government) Regulations, 2015 and PFM, Act, 2012 on budgetary allocations and reallocations.

6.2 Specialized Materials and Services
Note 12 to the financial statements under use of goods and services reflects expenditure totaling KES 1,139,835,313 on specialized materials and services. However, a review of payments charged to the expenditure item revealed unrelated expenditure items totaling Ksh 150,336,925 incurred on payment of retention fee, insurance covers, purchase of vehicles, construction and renovation of roads, market stalls and classrooms, supply of medicine, and consultancy services.
In view of the misappropriations, acquisition of assets and use of goods and services expenditures balances totaling Ksh 200,785,510 and Ksh 2,786,208,055 respectively reported in the financial statements are misstated.

Management Response
The county classified the above items as specialized materials and services, which included the supply of specialized medical drugs, pest control (Vervet monkeys) and herbicides. Note 12 to the Financial Statements was attached for the Committee review and verification.

Committee Observation
The committee observed that the issue stands unresolved as: -

1. the management ought to have engaged the Kenya Wildlife Services (KWS) in a bid to conserve and protect the ecosystem in pest control of vervet monkeys;
2. the county executive irregularly reallocated the expenditure in violation of provisions of the PFM (County Governments) Regulations, 2015 and the PFM, Act, 2012.

Committee Recommendation.
The Committee recommends that the management adheres to provisions of the Public Finance Management (County Government) Regulations, 2015 and PFM, Act, 2012 on budgetary allocations and reallocations.

7.1 Unconfirmed Bank Balances
The statement of assets and liabilities reflects cash and cash equivalents balances totalling KES 389,216,290 as at 30 June 2020, whereas the bank statements reflect balances totalling Ksh. 801,676,123 resulting in unexplained variances totalling Ksh.412,459,832.55 as shown in the attached final statements.

In addition, bank reconciliation statements for the sixteen (16) bank accounts were not provided for audit review. As a result, the accuracy and completeness of the balances could not be confirmed.

Management Response
The bank reconciliation statements were provided during the audit and we have availed them for further audit and confirmation.
The cash and cash equivalent should be as per amount in the cash book and bank reconciliation statements prepared for each account held in the financial statement as per notes to the financial statements.

Committee Observations
The Committee noted that the Committee that the matter was unresolved since the county only provided six (6) banks accounts for audit and failed to provide bank reconciliation statements in contravention of Section 90 of the PFM (County Government) Regulations.

Committee Recommendations.
The Committee recommends that the County CEO undertakes administrative action against the responsible officer(s) who failed to provide the other ten (10) bank reconciliation statements to the auditors in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Auditor General within sixty (60) days from the adoption of this report.

7.2 Undisclosed Deposits and Retentions Money
The statement of assets and liabilities reflects a nil balance in relation to accounts payables - deposits and retentions as at 30 June, 2020. Records at the County Treasury indicated that the County operated a centralized retentions account at the Central Bank of Kenya (CBK) and had deducted retention fees totaling KES 4,426,658 from contractors, as reflected in the IFMIS general ledger for the year. However, the deductions were not deposited in the retentions account. Further, no cash book was maintained in respect to the account.
In the circumstance, the nil account receivables – deposits and retentions reflected in the financial statements may not be fairly stated.

Management Response
The retentions remained in the CRF account and the same were paid to the respective contractors upon the completion of their defect liability period. In future, the County will operationalize the Retentions Account.

Committee Observation
The Committee observed that the management did not submit the documents to support its response, as it did not have the retentions account neither any plan in operationalizing it.

Committee Recommendations.

The Committee recommends that the County CEO undertakes administrative action against the responsible officers for illegal transfer of retention money in contravention of Section 47(1)(e) and 63 (4) of the Public Finance Management (County Government) Regulations, 2015 in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Auditor General within 60 days of adoption of this report.

8. Undisclosed Outstanding Imprests

Note 22 to the financial statement reflects a nil balance in respect of outstanding imprest as at 30 June, 2020. However, examination of the IFMIS ledger revealed that imprests totaling KES 7,971,842 issued to various officers were outstanding as at 30 June, 2020. Further, the imprests were not recorded in the imprests register.

Consequently, the nil imprests balance reflected in the financial statements is not fairly stated.

Management Response

The figure of KES 7,971,842 relates to the financial year that ended on 30 June 2016. This is the reason for them not appearing in the register of the year that ended on 30 June 2020. However, the imprests were surrendered manually in year ended 30 June 2016. The Note 22 to the Financial Statement was attached for the committee verification.

Committee Observations

The Committee observed that;

1) the imprest surrenders were not done through IFMIS; and
2) the imprests totalling Kshs.7,971,842 were not recorded in the imprests register

Committee Recommendations

The Committee recommends that the Accounting Officer recovers the outstanding imprests with interest at the prevailing Central bank rates from the officers who failed to surrender the safari imprest within 7 days of returning to duty station, pursuant to Regulation 93(6) of the PFM Act (County Governments) Regulations, 2015.

The Committee further recommends sanctions and surcharge of Accounting Officers who fail to recover outstanding imprests in line with Regulation 93(7) of the PFM (County Government) Regulations, 2015.

9. Pending Bills

9.1 Inadequate Disclosures on Pending Bills

Note 7.9 to the financial statements on other important disclosures reflects pending accounts payables totaling Ksh1,258,944,867 as at 30 June, 2020 (2019: Ksh 1,525,661,683).

However, the disclosure does not indicate the bills incurred, and paid, during the year. In addition, Annexure 2 to the financial statements depicts all the bills as if they were for the financial year 2018/2019. Further, a detailed analysis of the bills is not provided

as the Annexure only shows a summarized list of types of pending bills instead of the respective supplier's name, original amount of the respective bill and the dates they were incurred, payments , if any, made and outstanding balances as at 30, 2020.
In view of the omissions, the disclosures made on the pending bills balance are insufficient and do not comply with the reporting requirements prescribed by the Public Sector Accounting Standards Board.

Management Response
The details on the pending bills are available and were provided for review. Note 7.9 to the Financial Statements, an Extract of Amended Financial Statements and an extract of the OAG Report on Pending Bills 2019-2020 was attached for the committee verification.

Committee Observations
The Committee observed that; -

1) the legible pending bills for Murang'a County currently stands at Kshs.640 million.
2) the County had put in place a pending bills verification committee.

Committee Recommendations
The Committee therefore recommends that:

1) **the National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate so as to enable county entities settle their obligations on time;**

2) **the County Executive should disclose all pending bills in the format prescribed by the Public Sector Accounting Standards Board as stipulated under Section 104(1)(h) of Public Finance Management Act, 2012;**

3) **the county executive puts in place measures to enhance own generated revenue in order to meet its revenue target and address revenue shortfalls that contribute to the challenge of pending bills.**
4) **Pending bills deemed ineligible should be forwarded to the Directorate of Criminal Investigation (DCI) for investigation proper legal action taken against those filing false claims.**
5) **County Government to take note of judgement in a Kitale High Court Constitutional Petition E003 of 2023 that declared formation of pending bills verification committees unconstitutional and engage Office of the OAG and strengthen the internal audit functions.; and**
6) **All valid pending bills that have been reviewed by the Office of the Auditor General be paid and a payment plan be submitted to the county assembly for approval and progress report on implementation sent to the Senate and the Office of the Controller of Budget.**

9.2 Inaccurate Pending Accounts Payable

(i) Examination of pending bills records indicated that 478 suppliers that were owed Kshs.1,297,091,867 were not included in the list of pending bills totalling as at 30 June 2020 even though there were no records of their having been paid. The exclusion of the suppliers understated the pending payables totalling Kshs.1,258,944,867 as at 30 June, 2020 by Kshs.1,297,091,867.

(ii) Bills totalling Kshs.189,003,499 are reflected in Annex II as payable in respect to supply of goods and services. However, examination of records on the bills indicated that claims totalling Kshs.34,895,034 included therein were not supported with local purchase orders and contracts and as a result, the validity and accuracy of the bills could not be confirmed.

Management Response

1) The 478 suppliers were either paid or declared ineligible in the year that ended on 30 June 2020. They are, therefore, not part of pending accounts payable. The Schedule of the 478 suppliers was attached for Committee review and verification.
2) Bills totaling KES 189,003,499 are reflected in Annex II as payable in respect to supply of goods and services. However, examination of records on the bills indicated that claims totaling KES 34,895,034 included therein were not supported with local purchase orders and contracts and as a result, the validity and accuracy of the bills could not be confirmed.

A special audit was done by the Auditor General on pending bills which was at variance with general audit and indicated as in the attached statements.

Committee Observation

The Committee noted that the County had put in place a committee to verify pending Bills.

Committee Recommendations

The Committee therefore recommends that:

1) **the National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate so as to enable county entities settle their obligations on time;**

2) **the County Executive should disclose all pending bills in the format prescribed by the Public Sector Accounting Standards Board as stipulated under Section 104(1)(h) of Public Finance Management Act, 2012;**

3) **the county executive puts in place measures to enhance own generated revenue in order to meet its revenue target and address revenue shortfalls that contribute to the challenge of pending bills.**
4) **Pending bills deemed ineligible should be forwarded to the Directorate of Criminal Investigation (DCI) for investigation proper legal action taken against those filing false claims.**
5) **County Government to take note of judgement in a Kitale High Court Constitutional Petition E003 of 2023 that declared formation of pending**

bills verification committees unconstitutional and engage Office of the OAG and strengthen the internal audit functions.; and

6) **All valid pending bills that have been reviewed by the Office of the Auditor General be paid and a payment plan be submitted to the county assembly for approval and progress report on implementation sent to the Senate and the Office of the Controller of Budget.**

9.3 Undisclosed Pending Bills

(i) National Treasury Letter Ref. IGRF/COD/01/E (51) dated 23 December, 2020 addressed to all Governors indicated that Murang'a County owed Kenya Power and Lighting Company KES 23,768,852 in relation to power bills. However, the debt was not included in the list of pending bills as at 30 June 2020.

Management Response

The bills stated relate to the subsequent financial year. However, the bills have since been paid.

Committee Observation

The Committee observed that the county Executive did not disclose all its pending bills.

Committee Recommendations

The Committee therefore recommends that:

1) **the National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate so as to enable county entities settle their obligations on time;**

2) **the County Executive should disclose all pending bills in the format prescribed by the Public Sector Accounting Standards Board as stipulated under Section 104(1)(h) of Public Finance Management Act, 2012;**

3) **the county executive puts in place measures to enhance own generated revenue in order to meet its revenue target and address revenue shortfalls that contribute to the challenge of pending bills.**
4) **Pending bills deemed ineligible should be forwarded to the Directorate of Criminal Investigation (DCI) for investigation proper legal action taken against those filing false claims.**
5) **County Government to take note of judgement in a Kitale High Court Constitutional Petition E003 of 2023 that declared formation of pending bills verification committees unconstitutional and engage Office of the OAG and strengthen the internal audit functions.; and**
6) **All valid pending bills that have been reviewed by the Office of the Auditor General be paid and a payment plan be submitted to the county assembly for approval and progress report on implementation sent to the Senate and the Office of the Controller of Budget.**

(ii) Records maintained at the Ministry of Health indicated that salaries totaling KES 286,763,132.55 were paid by the Ministry to health workers employed by the County Government during the 2013/14 financial year. Although the salaries were to be recovered in the same financial year, the County did not clear the debt. However, the outstanding amount has not been included in the list of pending bills as at 30 June, 2020. No explanation was provided for the omissions and as a result, the pending bills balance totaling KES 1,258,944,867 as at 30 June, 2020 could not be confirmed.

Management Response

The amount of KES 286,763,132.55 indicated as being owed to Ministry of Health was recovered by the National Treasury in the financial year that ended on 30 June 2014. The Schedule of payments were attached for the committee verification.

Committee Observations

The Committee observed that the National Government demanded payments from County governments in relation to provision of medical services that were undertaken before the full transfer of the health function to Counties. This demand was irregular as funds for the Health function had not been fully devolved and therefore budgeted in the National Government.

Committee Recommendations

The Committee recommends that-

1. **the County Government should not pay the Ministry of Health any money for provision of medical services that were undertaken before the full transfer of the health function to Counties; and**
2. **the National Treasury refunds the County Government any and all funds irregularly received ostensibly for provision of medical services that were undertaken before the full transfer of the health function to Counties.**

9.4 Pending Staff Payables

Note 7.9 on other important disclosures reflects nil balance in respect of pending staff payables.

However, audit review of records on statutory deductions indicated that the County Executive deducted statutory dues in respect of National Health Insurance Fund (NHIF), National Social Security Fund (NSSF), pension contribution and Co-operative Savings and Credit and Co-operative Societies (Saccos) totalling KES 892,571,422.30 as follows:

However, no records were provided for audit to confirm remittance of the deductions to the statutory and other bodies.

As a result of these issues, the accuracy and completeness of nil balance reported under pending staff payables as at 30 June, 2020 could not be confirmed.

No.	Name	Details	Amount (KES)
1.	National Hospital Insurance Fund (NHIF)	Premiums and Deductions	51,036,450.00
2.	National Social Security Fund (NSSF)	Deductions	1,841,800.00
3.	Pension Scheme	Lap fund and Lap trust	57,920,190.80
4.	Savings and Credit Cooperative Societies (SACCOs)	Various	216,412,949.50
5.	Pay As You Earn (PAYE) Tax	Permanent and Temporary	565,360,032.00
		Total	**892,571,422.30**

Management Response
The county cleared all staff payables and is current in remittances.
Note 7.9 to the Financial Statements on other Important Disclosures, alongside details of the above payments were provided for Committee review and verifications.

Committee Observation
The Committee noted that the County Executive did not submit any document to support remittance of various statutory dues.

Committee Recommendations
The Committee recommends that the County CEO undertakes administrative action against the responsible officer(s) for non-provision of documents and non-remittance of various statutory deductions and Sacco dues totalling Kshs.892,571,422.30 in accordance with Section 156 of the Public Finance Management Act, 2012 and provides a status report to the Auditor General for verification within sixty (60) days from the adoption of this report.

10. Unexplained Transactions
Audit review of the general ledger revealed transactions totaling KES 47,721,424 described as 'deductions' and denoted as having been made in 2016 and 2017. However, the transactions, which are listed in Appendix III to this report, were not in IFMIS and may therefore have been paid outside the system and thereafter recorded in the books of account by use of journal entries.

Management Response
The transaction listed in appendix 3 were not recorded through journal entries nor paid outside the system. Attached in Annex 8(II) evidence of the transactions captured in IFMIS using invoice entry. The payees are pension funds as tabulated below. The list of Unremitted deductions, Appendix III of the Audit report IFMIS extracts of the above payments was attached for the Committee verification.

Date	PV. No.	Payee	Purpose	Amount (Kshs)
29/6/2020	14523	LAP Fund	Deduction November, 2017	5,738,750
29/6/2020	14524	LAP Trust	Deduction November, 2017	3,389,142
27/3/2020	45845	LAP Fund	Deduction June, 2017	4,985,937.15
27/3/2020	45899	LAP Trust	Deduction June, 2017	3,347,606.40
27/3/2020	32679	LAP Trust	Deduction June, 2016	3,435,362.55
27/3/2020	46182	LAP Trust	Deduction August, 2017	3,347,965.50
27/3/2020	46181	LAP Trust	Deduction August, 2017	5,274,625.50
27/3/2020	46898	LAP Trust	Deduction December, 2017	3,369,272.30
27/3/2020	46897	LAP Fund	Deduction December, 2017	5,321,674.30
27/3/2020	46899	NSSF	Deduction December, 2017	1,246,300.00
27/3/2020	46960	Ukulima Sacco	Deduction October, 2017	3,819,507.85
30/3/2020	132670	NSSF	Deduction November, 2016	1,105,300.00
30/3/2020	13669	LAP Trust	Deduction May, 2017	3,339,982.00
Total				47,721,424.25

Committee Observation

The Committee that the matter was not resolved as the documents to support the payments were not provided for audit.

Committee Recommendation

The County CEO undertakes administrative action against the responsible officer(s) who failed to provide the documents (stamped or signed IFMIS extract of the payments) to the auditors in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report.

11. Unaccounted for Transfers to Murang'a Municipal Board

Note 14 to the financial statements reflects transfers totalling KES.45,200,000 made to Murang'a Municipal Board in the year under review. In the previous year, transfers to the Board totalled KES 62,437,600. Available records indicated that the Municipal Board was established in January, 2019 through Gazette Notice No.459 in accordance with the Urban areas and Cities Act, 2011. However, the Board has never submitted its financial statements for audit since it was established. Further, the Board's membership may not be lawfully constituted since the registered informal sector associations in the County are not represented as required under Section 14 of the Urban Areas and Cities Act, 2011.

In view of these issues, the validity and accountability of the transfers to Murang'a County Municipal Board totaling KES 107,637,600 made in the two financial years ended 30 June, 2020 could not be confirmed.

Management Response
The Murang'a Municipal Board financial statements for the year that ended on 30th June 2020 were provided for audit review on 7th December 2020 as evidenced by evidence tracking sheet PF11 as annexed. Copies of the financial statements for the eighteen months are however available for review and were attached for the committee verification.
Note 14 to the Financial Statements, Evidence Tracking Sheet PF11, Copies of the Financial Statements of Murang'a Municipality for year 2019/2020, and copies of the Financial Statements of Murang'a Municipality for year 2018/2019 were availed for the committee verification.

Committee Observation.
The Committee observed that the matter was satisfactorily addressed.

Committee Recommendations
The Committee recommends that the matter be marked as resolved.

12. Summary of Fixed Assets Register
Disclosed under Annex 5 to the financial statements (Attached in Annex 12(I)) was a summary of fixed assets register that reflected assets with a historical cost of Ksh 4,469,952,508. However, the summary of the register relates to 2018/2019 and comparative balances for 2017/2018, instead of those for the year under review. Further, Management did not provide an updated fixed asset register.
In addition, the assets were not tagged and properly recorded in both manual and automated registers and were therefore prone to misplacement and loss.
Additionally, the audit revealed that the County Executive owns biological assets at its Mariira Farm which, however, have not been valued and included in the assets register.
As a result of these discrepancies, the accuracy and completeness of the fixed assets register balance as at 30 June, 2020 could not be confirmed.

Management Response
The biological assets at Mariira Farm were not included in the register because the animals had not been valued by the time of preparing the financial statements. Also, the country-wide process of preparing fixed asset register, including registers of assets from the defunct local authorities and devolved units of the National Government, had not been concluded and adopted by the Inter-Governmental Relations & Technical Committee,
The County is working on automating the register and revaluing assets. The heading of the summary is a typographical error which was resolved in the amended Financial Statements.

Committee Observation

The Committee noted that the county does not have an updated assets register and a valuation roll.

Committee Recommendation
The Committee recommends that –

a) **County Executive should update and present their Fixed Assets Register in the format prescribed by the Public Sector Accounting Standards Board;**
b) **County entities should adopt and implement the report of the Inter-Governmental Technical Relations Committee (IGTRC) on assets and liabilities from defunct Local Authorities and provide a status update to the Office of the Auditor General within 90 days of adoption of this Report; and**
c) **Office of the Auditor General should progressively review and report on the matter in the subsequent Financial Years.**

Other Matter
1.0 Unresolved Prior Year Issues
The audit report for 2018/19 financial year highlighted several unsatisfactory issues on financial statement balances, lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance. However, the report on the progress made in resolving the issues, as prescribed in the reporting requirements set by the Public Sector Accounting Standards Board, has not been included in the financial statements. As a result, the matters are considered unresolved.

Management Response
As at the time of preparing the financial statements, the Audit Report for the financial year that ended on 30th June 2019 was received in January 2021. Therefore, it was not possible to capture issues that were unresolved.

Committee Observation
The Committee noted that the CPAIC Committee tabled a report of the Auditor General for Murang'a County Executive for 2018/2019 and was adopted by the Senate.

Committee Recommendations

The Committee recommends that the County executive complies with section 53 of the Public Audit Act, 2015 by taking action on the issues raises by the Auditor General and submits a report to the Auditor General within 60 days of the adoption of this report.

2.0 Budget Performance

2.1 Failure to Meet Revenue Targets on County Own-Generated Receipts

The County Government had budgeted to raise KES 960,000,000 in own-generated receipts from local sources in the financial year ended 30 June, 2020. However, the

actual amount collected was KES 551,677,223 representing 57% of the projected own-generated receipts, resulting in a revenue short fall of KES 408,322,777.
Further a trend analysis on revenue collection data for the four (4) financial years to 30 June, 2020 showed an unsatisfactory performance by the County Executive and incessant failure to meet revenue targets as follows:

Year	Revenue Budget (KES)	Actual Receipts (KES)	Revenue Shortfall (KES)	Ration (%) of Actual to Budget
2016/2017	880,000,000	535,583,977	351,118,925	60.8
2017/2018	850,000,000	423,996,982	426,003,018	49.9
2018/2019	1,000,000,000	699,007,969	300,992,031	69.9
2019/2020	960,000,000	551,677,223	408,322,777	56.5

The persistent shortfall in revenue collection suggests that the system established by Management to collect and account for revenue is not effective.

Management Response
The county had budgeted to collect KES 960,000,000 in 2019/2020, however due to Covid 19 pandemic, global national and county economies were negatively affected hence the shortfall in own source revenue.
Currently, the county has automated revenue collection and the revenues are on an upward trajectory.

Committee Observation
The Committee observed that; -

1. the county executive fell short in their revenue collection by 43%.
2. the county has an in-house revenue collection system but questioned its effectiveness
3. the county was spending some of its revenue at source and has an existing legislation-Murang'a County Health Act, 2022- that allows spending at source for health-related revenues.

Committee Recommendations

The Committee recommends that;

1) **The County Executive should put in place measures to improve their local revenue collection capacity in order to meet their revenue collections target;**
2) **the County Executive should automate revenue collection across all revenue streams to reduce leakages;**
3) **the county executive submits to the Office of the Auditor General the Murang'a County Health Act, 2022 that guides spending at source of health related revenues;**

4) **the Auditor General keeps the matter in view in the subsequent audit cycle.**

2.2 Budgetary Control Over Expenditure

The summary statement of appropriation – recurrent and development combined indicates that, the final approved expenditure budget for the year under review totaled Ksh 8,823,421,331 comprised of Kshs.5,549,938,072 for the recurrent vote and Ksh 3,273,483,259 for the development vote. However, the County Executive incurred expenditures totaling Ksh 5,000,545,248 and Ksh 2,362,593,362 on recurrent and development votes respectively resulting in an aggregate under-expenditure of Ksh 1,460,282,221 equivalent to 16.5 % of the budget.

Management did not provide an explanation for the failure to utilize the whole of the approved budget. The significant level of under-expenditure adversely affected service delivery and execution of development programmes intended to benefit the residents of Murang'a County.

Management Response

As per note 7.4 of the summary statement of appropriation: Recurrent and Development budgets underperformed by Ksh 1,632,406,720.

The main factor that contributed to this was mainly the ravages of Covid-19 which affected negatively the ability of the county to implement the projects due to restricted movement.

Committee Observation

The Committee noted that the county budget implementation was greatly affected by the Covid-19 pandemic.

Committee Recommendations

The Committee recommends that

1) **the management adheres to the approved budget by the county assembly, and ensure effective budget implementation; and**
2) **the Auditor General to review this matter in the subsequent audit cycle.**

2.3 Late Exchequer Release

Note 1 to the Financial Statements reflects exchequer releases receipts from the National Treasury totaling Ksh 6,254,948,060, out of which receipts totalling Ksh 790,027,209 or 12.6% were received during the month of June, 2020, as tabulated below:

Date	Details	Amount Received (KES)
3 June, 2020	Exchequer Release	60,300,000
3 June, 2020		207,335,100
16 June, 2020		14,627,905
16 June, 2020		15,000,000

16 June, 2020		25,986,545
30 June, 2020		10,000,000
30 June, 2020		50,000,000
30 June, 2020		263,647,270
30 June, 2020		17,489,959
30 June, 2020		27,580,103
30 June, 2020		74,191,785
30 June, 2020		10,200,000
30June, 2020		13,668,542
Total		**790,027,209**

In view of the delay, Management did not have sufficient time to execute programmes and activities that the funds were expected to finance.

Management Response
The late release of exchequer, which is a factor beyond the control of the county, affected negatively the implementation of programmes.

Committee Observation
The Committee noted that the Assembly experienced delay in exchequer releases from the National Treasury thereby hampering program implementation and budget execution.

Committee Recommendation
The Committee recommends that the National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate.

Basis for Conclusion
1.0 Employee Compensation and Staffing Irregularities
1.1 High Wage Bill

Examination of expenditure and revenue records indicated that the compensation of employees' expenditure totaling KES 2,984,713,835 incurred in the year under review was equivalent to 41.5% of the total revenue for the year amounting to KES 7,191,014,611. Therefore, the spending was above the threshold of 35% set for the item in Regulation 25(1)(b) of the Public Finance Management (County Governments) Regulations, 2015.
As a result, limited funds available to the County Executive were overused in funding staff salaries and other emoluments instead of development projects and delivery of services to the residents of the County.

Management Response
The wage bill of 41.5% was as a result of inheriting workers from the defunct local authorities and devolved units of the national government. Although Murang'a county government aspired to reduce the wage bill, this could only be done gradually. Apart from not replacing those who exit through natural attrition, recruitment and replacement are only done for critical positions.
With the ongoing revenue automation, the management anticipated to increase their own source revenue with a view to reducing the wage bill percentage.

Committee Observation
The Committee observed that; -

1. that the wage Bill for Murang'a County Executive was above the set limit of 35% as provided for by the Public Finance Management (County Government) Regulations, 2015.
2. that the county has a bloated workforce which is currently at 41% of the total revenue.
3. the county has initiated a staff audit process and directed

Committee Recommendations.
The Committee recommends that-

1. **the management should provide to the Auditor General and the Senate the measures it will put in place to contain the high wage bill within sixty (60) days of the adoption of this report;**
2. **the management should strictly adhere to the provision of paragraph 25(1)(b) of the PFM Act (county government) regulations, 2015 which stipulate that the county wage bill should not exceed 35 per cent of the county total revenue; and**
3. **the county executive puts in place measures to enhance own source revenue collection in order to address wage bill gap.**

1.2 Lack of Ethnic Diversity in Staff Establishment
Analysis of the ethnic composition of employees of the County Executive of Murang'a in the year under review revealed that out of 3,853 staff on permanent and pensionable terms, 3,383 or 87.8% were drawn from the dominant ethnic community in the County The dominance was contrary to Section 7(2) of the National Cohesion and Integration Act, 2008 which requires public entities to ensure that their staff establishments reflect the diversity of the people of Kenya.

Management Response
The management stated that its current recruitment strategies entailed encouraging diverse people to apply for positions and hiring equitably.

Committee Observation
The Committee observed that the matter remained unresolved, as the county staff establishment lacked ethnic diversity.

Committee Recommendation

The Committee advised the county to circulate job advertisements in national newspapers and other platforms to attract all Kenyans in its subsequent recruitment exercises.

3.0 Irregular Procurement of Goods under COVID-19 Grant

During the year under review, the County Executive received a conditional grant amounting to KES 112,941,000 from the Ministry of Health for use in mitigating the effects of the Covid-19 pandemic. However, a review of expenditure records for the grants revealed the following anomalies:

(i) The County Executive did not have an approved budget for Covid-19 related expenditure. Further, the procurement plan for the year was not updated to include the new expenditure the emergency response. Records provided for audit indicted that the County procured various Covid-19 mitigation commodities and goods. totaling KES 35,742,568 through the Framework Agreement Procurement Method instead of Open Tender or alternative methods.

In the circumstance, the validity and value for money on the expenditure incurred on Covid-19 could not be confirmed.

Management Response

The County Government did a supplementary budget and included the allocation in its estimates (See Annex 12(I) 1 Extracts of Supplementary Budget 2019/2020). The procurement plan was updated to include the new expenditure associated with the pandemic and emergency response (See Annex 12(I) 2– Updated Procurement Plan 2019/2020).

The County used various procurement methods as per Section 92 of PPDA 2015. The framework agreements used were as a result of open tendering done on 17th December 2019 to cover three financial years up to the financial year 2020-2021. An extract of Supplementary Budget 2019/2020 on COVID Grant, the updated Procurement Plan 2019/2020 and Section 92 of Public Procurement and Asset Disposal Act 2015 were attached for committee consideration, review and verification.

(ii) Supplies of maize flour purchased at KES 1,823,438 on 19 June, 2020 were not supported with delivery notes, invoices and an inspection and acceptance reports from the users or the Goods Inspection Committee.

As a result of these anomalies, propriety and validity of the payments totaling KES 37,566,006 spent on Covid-19 mitigation activities could not be confirmed.

Management Response

The maize flour supported of households whose businesses were disrupted by the pandemic. The deliveries were done to sub-county offices and all documentation, including registers of recipients, were provided. Delivery Notes and Inspection and Acceptance report for supplies of Maize Flour were also provided for the Committee review and verification.

Committee Observation

The Committee observed that; -

1. the matter was partially addressed since the county did not provide contract documents and a register of the recipients/beneficiaries of the maize floor.
2. the county failed to provide the contract documents at the time of audit

Committee recommendation

The Committee recommends that the responsible accounting officer undertakes administrative action against the officer(s) who failed to provide the documents (contract document and a register of the recipients of the maize floor) to the auditors in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Office of the Auditor General within 60 days of adoption of this report.

4.0 Failure to Prepare and Publish Contract Awards

During the financial year under review, the County Executive did not prepare, publish, and publicize all contract awards and submit the information to the Public Procurement Regulatory Authority as required by Section 138(1) and 138(2) of the Public Procurement and Assets Disposal Act, 2015. Further, monthly progress reports on all procurement contracts prepared and submitted to the Accounting Officer, as prescribed in Section 152 of the Public Procurement and Assets Disposal Act, 2015, were not provided for audit.

In addition, there was no report made to the Public Procurement Regulatory Authority on procurement preferences and reservations to show the County Executive's compliance with Section 157(4) of the Public Procurement and Assets Disposal Act, 2015. The provision requires reporting by each public entity on the number of youth , women and persons with disabilities whose goods and services the entity procured in the reporting period.

Management Response

The County Executive ensures compliance with all legal provisions and has been submitting all contract awards to Public Procurement Regulatory Authority. Evidence of this can be accessed through the Public Procurement Internet Portal. Extract from Public Procurement Internet Portal (PPIP). Monthly progress reports on all Procurement Contracts. All contracts awarded to AGPO groups were reported to the National Treasury. Report to PPRA on Procurement Preferences and Reservations were attached for the Committee review and verification.

Committee Observations

The Committee noted that the matter was partially resolved because the monthly progress reports on all procurement contracts from the Public Procurement Regulatory Authority (PPRA) internet portal is not signed.

Committee Recommendations

The Committee recommends that the County CEO undertakes administrative action against the responsible officer(s) for failure to provide documents (signed monthly progress reports on all procurement contracts from the Public Procurement Regulatory Authority (PPRA) to the auditors in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Auditor General within sixty (60) days from the adoption of this report.

5.0 Failure to Comply with Financial Reporting Requirements

During the financial year 2019/2020, County Executive of Murang'a did not submit to the Auditor-General quarterly financial reports and monthly bank reconciliation statements for each account held by the County as required by Regulation 90 of the Public Finance Management (County Governments) Regulations, 2015. The Accounting Officer was therefore in breach of the law.

Management Response

The County Government has been adhering to Sec. 166 (4) on submission of Quarterly Reports to the County Assembly, Controller of Budget and Commission on Revenue Allocation.

Committee Observation

The Committee that the matter was unresolved as they did not provide copies of quarterly financial reports and monthly bank reconciliation statements.

Committee Recommendations

The Committee recommends that the County CEO undertakes administrative action against the responsible officer(s) for failure to provide documents (quarterly financial reports and monthly bank reconciliation statements) to the auditors in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Auditor General within sixty (60) days from the adoption of this report.

6.0 Failure to implement E-procurement Processes

Executive Order No.6 of 7 May, 2015 directed all public entities in National and County Governments to fully implement end-to-end e-procurement processes within two weeks from the date of the circular. Further, Executive order No.2 of 2018 directed that by 1 January, 2019, all procuring entities were to undertake all their procurements through the Government e-procurement module.

However, review of the procurement activities of the County Executive indicated that some open tender advertisements, and all payments were done through the IFMIS system while other procurement processes were done manually outside the system.

In addition, procurement through restricted tender and direct procurement, opening of bids, tender evaluation and award of tenders were all done manually.

The County is therefore in breach of the Executive Order on implementation of e-procurement. As a result, transparency, fairness, equity, and value for money in its procurement activities could not be confirmed.

Management Response
The County Government carries out all its procurement processes through the IFMIS system. However, some procurement methods, such as framework agreement, restricted tenders and direct procurement, could not be conducted through the system because at that time IFMIS had not been programmed to accommodate the said procurement methods.

Committee Observation
The Committee noted that the matter was satisfactorily addressed.

Committee Observation
The Committee recommends that the matter be marked as resolved.

7.0 Direct Procurement of Goods and Services
7.1 Direct Procurement of Fuel
Disclosed under Note 12 to the financial statements on use of goods and services is expenditure totaling KES 35,555,932 incurred on purchase of fuel. The expenditure includes KES 9,058,813 paid to two service stations in the county for supply of motor vehicle fuel. However, there was no evidence indicating that the two suppliers were subjected to a competitive procurement process as required by law.
As a result, the regularity of the expenditure totaling KES 9.058,813 could not be confirmed.

Management Response
The County Government endeavors to source competently for least cost suppliers. National Oil Corporation is one of the cost-effective fuel suppliers. The other two, Awali Tumaini Investment Mwihoto (Trading as Total Petrol Station-Murang'a) and Kenol Kobil, are only contracted when it is not practical to fuel at National Oil Corporation due to lack of fuel.

Committee Observations
The Committee observed that; -

1. the county purchased fuel from two companies that were not prequalified and had not been subjected to a competitive procurement process.
2. the county was in violation of provisions of the Public Procurement and Asset Disposal Act, 2015.

Committee Recommendations
The County CEO undertakes administrative action against the Head of Procurement for breaching procurement laws in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report.

7.2 Direct Procurement of Air Tickets for Senior Management in the County

Included in foreign travel and subsistence expenditure totaling KES 21,215,037 disclosed in Note 12 to the financial statements is KES 7,463,916 paid to a firm for bookings and air tickets for senior management who travelled to foreign countries during the year under review. However, the supplier was identified through direct procurement (single sourcing) contrary to Section 104 of the Public Procurement and Assets Disposal Act, 2015. As a result, the expenditure was irregular and value for money on the spending could not be confirmed.

Management Response
Air tickets are procured competitively.

Committee Observations
The Committee noted that; -

1. the Committee that the matter was partially resolved since the county only provided evidence for expenditure of Kshs.1.2 million on procurement of air tickets.
2. the procurement of air tickets was done through direct procurement (single sourcing) contrary to Section 104 of the Public Procurement and Assets Disposal Act, 2015.

Committee Recommendations
The Committee recommends that the County CEO undertakes administrative action against the responsible officer(s) who failed to provide relevant documents (list of prequalified air ticket service providers, tender committee minutes and evaluation report and an explanation on the balance of Kshs.5.2 million) to the auditors in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Auditor General within sixty (60) days from the adoption of this report.

8.0 Unconfirmed Citizen Participation in Budget-Making Process
During the year under review, the County Executive of Murang'a final approved budget of KES 5,549,938,072 and KES 3, 273, 483, 259 for recurrent and development votes, respectively. Regulation 6(2) of the Public Finance Management (County Governments) Regulations, 2015 requires County Treasuries to arrange for effective public participation during development of their annual budget estimates including in the publication of citizens' budgets which shall explain and summarize the budget proposals.

However, no document on public participation including notices of meetings, signed attendance lists of participants and feedback or reports of the outcome of such activities were presented for audit review. Further, a review of the approved budget revealed that the County Treasury prepared a Programme-based budget that contained aggregated amounts for various activities or projects without specific details or line items of the projects. As a result, interrogation of the budget by Murang'a County residents may have been curtailed and as a result they could not effectively participate in its formulation.

Consequently, County Executive may have flouted law on public participation in the budget making process.

Management Response
The budget making process is a collaborative effort between the County Executive and County Assembly and citizens are usually invited to propose, comment and prioritize the projects in the county. They are usually invited via radio announcements and newspaper adverts. The Newspaper advert on Public Participation, List of Attendance and Feedback or Reports of Public Participation List of Projects was attached for the committee review.

Committee Observations
The Committee observed that the County Executive did not initiate public participation and relied on an advertisement done by the County Assembly for public participation in budget making process.

Committee Recommendations
The Committee recommends that the County CEO undertakes administrative action against the responsible officer(s) who failed to provide relevant documents (notice of meetings for public participation, the signed list of attendance, feedback or reports of outcome of public participation and list of projects discussed during the public participation) to the auditors in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Auditor General within sixty (60) days from the adoption of this report.

9.0 Irregular Implementation of Programmes under the National Government
In the year under review, the County Executive implemented several projects costing KES.6,061,603 in respect of functions which fall under the National Government as follows:

(i) Laying of pavement blocks (cabro) at Mugoiri Girls High School at a cost of KES3,895,860.
(ii) Purchase of construction materials for Kiamatara Secondary Schools at a cost of KES 1,075,900.
(iii) Completion of a dormitory block for Kaharo Girls School at a cost of KES 1,089,843.

Records on the contracts entered into between the County Executive and the Ministry of Education in relation to these expenditures were not provided for audit.

Management Response
Whilst these are national government projects, the county, through its primary and secondary school intervention Programme, stepped in to assist with a view to alleviating suffering of students.

Committee Observations
The Committee noted that; -

1. the matter was unresolved since there was no records to show communication with the line Ministry of Education on implementation of functions that fall under national government.
2. The Committee observed that the County undertook a project which falls under the National Government without an arrangement with the line Ministry, which is irregular.

Committee Recommendations.

The Committee recommends that the county executive should adhere to the Public Finance Management (County Government) Regulations by ensuring that any collaboration between it and the National Government is supported by communications and agreements between the two governments, before incurring expenditure on projects and programmes under the National Government.

CHAPTER NINE

REPORT OF THE COUNTY PUBLIC ACCOUNTS COMMITTEE ON AUDITED FINANCIAL STATEMENTS OF NANDI COUNTY EXECUTIVE FOR THE FINANCIAL YEAR 2019/2020

The Governor of Nandi County Hon. Stephen Sang, EGH, appeared before the Committee on Monday, 13th February 2023 to respond (under oath) to audit queries raised in the Report of the Auditor General on Financial Statements for Nandi County Executive for the Financial Year 2019/2020.

Qualified Opinion

EXECUTIVE SUMMARY OF THE UNRESOLVED ISSUES				
S/NO	**AUDIT QUERY**	**COMMITTEE RECOMMENDATION**	**ACTORS**	**TIME LINE**
1.	**1.0 Inaccuracies in the Financial Statements** The financial statements reflect receipts and payments figures for various account items which are at variance with Integrated Financial Management Information System, (IFMIS) Reports. In absence of any reconciliation, the accuracy and completeness of the figures for the items as reflected in the financial statements for the year ended 30 June, 2020 could not be confirmed. In the circumstance, the presentation, accuracy and completeness of exchequer releases totalling to Kshs.5,489,278,988 for	The Committee recommends that- 1. The County CEO undertakes administrative action against the responsible officer(s) responsible for failure to undertake reconciliation of financial statements within the stipulated timelines in accordance with section 156 of the Public Finance Management Act, 2012. 2. The County Executive to identify training needs of its staff serving in the Finance Department and initiate capacity building and training in conjunction with the National Treasury within 60 days of adoption of this report.	The County Chief Executive Officer & National Treasury	Within 60 days from the date of adoption of this report.

	the year ended 30 June, 2020 could not be confirmed.			
2.	**2.0 Unsupported Payment to Kenya Revenue Authority (KRA)** As disclosed in Note 12 to the financial statements, the statements of receipts and payments reflects an expenditure of Kshs. 846,152,271 in respect of use of goods and services which include other operating expenses amounting to Kshs. 209,535,311. The amount constitutes a balance of Kshs. 202,895,083 which was paid to KRA. Although, bank statements showing deductions and communication between the County Executive and KRA on payment plan were seen, related payment vouchers were not provided for audit review.	The Committee recommends that- 1. The County CEO should engage the KRA with a view to resolving the matter. 2. The National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate and comply with Article 219 of the Constitution and Section 17(6) of the Public Finance Management Act, 2012.	1. The County Chief Executive Officer. 2. The National Treasury	Within 60 days from the date of adoption of this report.
EMPHASIS OF MATTER				
3.	**Emphasis of Matter** **1. Pending Bills** **i) Accumulation of Pending Bills** Annex 2 to the financial statements shows pending accounts payables totaling to Kshs.331,085,588 as at 30 June, 2020.	The Committee recommends that- a) The County executive should submit to the OAG a report of pending bills in the format prescribed by the Public Sector Accounting Standards Board within	1. The County Chief Executive Officer. 2. The Auditor General.	Within 60 days from the date of adoption of this report.

	However, the annexure does not indicate the movement of the pending bills during the financial year 2018/2019 as required under the reporting template prescribed by the Public Sector Accounting Standards Board. Accumulation of unpaid bills contravened National Treasury Circular Ref. AG 3/101/75 which requires Accounting Officers, to ensure prudent use of resources and avoid accumulation of pending bills.	sixty (60) days of adoption of this report; b) The Management should ensure that the Finance, Accounting and Procurement units are staffed with qualified personnel who are members of the respective professional bodies as outlined by the Public Sector Accounting Standards Board (PSASB); c) The Office of the Auditor-General continues to monitor the status of the county pending bills.		
4.	**ii) Outstanding electricity bills owed to the Kenya Power and Lighting Company (KPLC)** Further, according to The National Treasury Circular No. 17/2020 Ref. IGRF/COD/01/E/45 dated 24 August 2020, the county Executive of Nandi owed the Kenya power and Lighting Company, a total of Kshs. 2,691,929 comprising of June, 2020 bill of Kshs. 1.092,067 and arrears of Kshs. 1,599,862 as at 30 June,2020.	The Committee therefore recommends that: 1) the National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate so as to enable county entities settle their obligations on time; 2) the County Executive should disclose all pending bills in the format prescribed by the	The County Chief Executive Officer.	Immediately

	The amount owed to KPLC therefore, constitutes part of accounts payables but not disclosed in the financial statements for the year under audit. Management has not given any explanation for the omission or registered any dispute on the Report.	Public Sector Accounting Standards Board as stipulated under Section 104(1)(h) of Public Finance Management Act, 2012; 3) the county executive puts in place measures to enhance own generated revenue in order to meet its revenue target and address revenue shortfalls that contribute to the challenge of pending bills. 4) Pending bills deemed ineligible should be forwarded to the Directorate of Criminal Investigation (DCI) for investigation proper legal action taken against those filing false claims. 5) County Government to take note of judgement in a Kitale High Court Constitutional Petition E003 of 2023 that declared formation of pending bills verification committees unconstitutional and engage Office		

		of the OAG and strengthen the internal audit functions.; and 6) All valid pending bills that have been reviewed by the Office of the Auditor General be paid and a payment plan be submitted to the county assembly for approval and progress report on implementation sent to the Senate and the Office of the Controller of Budget.		
5.	**Long Outstanding Debts-Ministry of Health-** In addition, during 2013/2014 financial year, the ministry of Health paid on behalf of the Nandi Government salaries totaling to Kshs. 316,123,713 which were to be recovered in the same financial year. Documents and information available indicate that the County Government of Nandi did not make payment to the Ministry of Health. The amount has remained outstanding to date but was not included as part of the	The Committee recommends that- 1. the County Government should not pay the Ministry of Health any money for provision of medical services that were undertaken before the full transfer of the health function to Counties; and 2. the National Treasury refunds the County Government any and all funds irregularly received ostensibly for provision of medical services that were undertaken before the full transfer of the health function to Counties.	1. The County Chief Executive Officer. 2. The National Treasury.	To be reported in the next audit cycle.

	pending bills as at 30 June, 2020 in the financial statements for the year then ended. Management has not given any explanation for the omission and has not disputed the liability.			
OTHER MATTER				
6.	**1.0 Budgetary Control and Performance** The summary statement of appropriation: recurrent and development combined reflects final receipts budget and actual on comparable basis of Kshs.8,720,452,281 and Kshs.6,671,704,84 respectively resulting to an under-funding of Kshs.2,048,747,386 or 23% of the budget. Similarly, the statement reflects final expenditure budget and actual on comparable basis of Kshs.8,720,452,281 and Kshs.6,234,604,409 respectively resulting to an under-funding of Kshs.2,485,847,872 or 29% of the budget. The expenditure was limited to the amount realized. Management explained that the variances mainly occurred as a result of failure to collect Own generated receipts, low	The Committee therefore recommends that: a) The National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate and comply with Article 219 of the Constitution and Section 17(6) of the Public Finance Management Act, 2012. b) The County executive puts in place measures to enhance its own generated revenue in order to meet its revenue target and address revenue shortfalls.	1. The County Chief Executive Officer. 2. The National Treasury.	To be reported in the next audit cycle.

	transfers from other Government entities and delays in the disbursement of funds from the National Government. The delay has the effect of denying the residents of Nandi County the benefits accruing from the planned projects.			
7.	**2.0 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 nor given any explanation for failure to adhere to the provisions of the Public Sector Accounting Standards Board templates and The National Treasury's Circular No. AG.4/16/3 Vol. 1(9) dated 24 June, 2020.	The Committee recommends that the County executive complies with section 53 of the Public Audit Act, 2015 by taking action on the issues raises by the Auditor General and submits a report to the Auditor General within 60 days of the adoption of this report.	1. The County Chief Executive Officer. 2. The Auditor – General.	Within 60 days from the date of adoption of this report.
REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES				
8.	**1. Unconfirmed County Own Generated Receipts** –	The Committee recommends that: 1. The County CEO undertakes	1. The County Chief	Within 60 days from the date of

	Kiborgok Tea Proceeds As disclosed in Note 9 to the financial statements, the statement of receipts and payments reflects a balance of Kshs.282,051,152 under county own generated receipts which constitutes an amount of Ksths.15,352,946 received from Kiborgok tea proceeds. The proceeds arise from contract agreement between the County Government of Nandi and Chebut Tea Factory signed on 2 February, 2018. Review of the contract revealed the following anomalies; I. The County Government has another tea estate measuring approximately 3 hectares which is managed under the factory but no contract was provided for the same. II. The tea factory had leased 2 tractors from the County Government but no lease agreement was provided for audit verification.	administrative action against the responsible officer(s) who failed to provide the documents (management service agreements and leases relating to the tea farms and equipment) to the auditors in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Auditor – General within sixty (60) days from the adoption of this report; and 2. The Management should prepare a policy guideline to enhance effectiveness in the management of the tea estates. 3. The Auditor General should conduct a value for money audit to establish whether the proceeds from the tea estates optimised compared to other commercial establishments.	Executive Officer. 2. The Auditor – General.	adoption of this report.
9.	**2. Non-Compliance with the Law on Fiscal Responsibility - Wage Bill**	The Committee recommends that- 1. the management should provide to	The County Chief	60 days from the date of adoption

	The statements of receipts and payments reflects an expenditure of Kshs.3,191,219,469 on compensation of employees representing 53% of the total receipts of Kshs.6,041,486,796. This is contrary to the provisions of Regulation 25(1) (a) and (b) of the Public Finance Management (County Governments) Regulations, 2015 which limits the County Executive's expenditure on wages and benefits to not more than 35% of the total revenue for the year. Consequently, Management is in breach of the law.	the Auditor General and the Senate the measures it will put in place to contain the high wage bill within sixty (60) days of the adoption of this report; 2. the management should strictly adhere to the provision of paragraph 25(1)(b) of the PFM Act (county government) regulations, 2015 which stipulate that the county wage bill should not exceed 35 per cent of the county total revenue; and 3. the county executive puts in place measures to enhance own source revenue collection in order to address wage bill gap.	Executive Officer. County Public Service Board The Auditor – General.	of this report.
10.	**3. Non-Compliance with Law on Ethnic Composition** During the year under review, the total number of employees of County Assembly was four thousand nine hundred and five (4,905) employees out of which four thousand six hundred and sixty-	The Committee recommends that- a) The county executive should work progressively towards attaining the requirement of the provisions of Section 65(1)(e) of County Government Act on ethnic inclusivity.	The County Chief Executive Officer. County Public Service Board (CPSB)	60 days from the date of adoption of this report.

	nine (4,669) or 95% were members of the dominant ethnic community in the county.	b) The County Executive and CPSB should provide to the Auditor General a five-year strategy of measures it will put in place to ensure compliance is achieved within sixty (60) days of the adoption of this report.	The Auditor – General.	
11.	**4. Non-Compliance with the One Third of Basic Salary Rule** During the year ended 30 June, 2019, review of the payroll for the months of January to June 2020 revealed that 100 employees earned a net salary of less than a third (1/3) of the basic salary. This is contrary to Section C.1(3) of the Public Service Commission (PSC) Human Resource Policies, 2016 and Section 19 (3) of the Employment Act, 17 of 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.	The Committee therefore recommends that – a) The County Executive should provide to the Auditor General within sixty (60) days after the adoption of this report a plan of the measures put in place to mitigate on the issue as well as comply with the requirements of law. b) The county should configure their Integrated Payroll and Personnel Database (IPPD) system such that it is able to lock out commitments beyond the accepted thresholds. c) The Auditor General should continue monitoring the issue in subsequent financial years.	1. The County Chief Executive Officer. 2. The Auditor – General.	60 days from the date of adoption of this report.
12.	**5. Delayed Construction of Urban Economic and Infrastructure Project**	The Committee recommends that the responsible accounting officer undertakes administrative action	1. The County Chief Executive Officer.	For (a), 60 days from the date of adoption

	As disclosed in Note 15 to the financial statements, the statement of receipts and payments reflects a balance of Kshs.619,565,832 under Other grants and transfers which includes an amount of Kshs.Kshs.101,143,935 in respect of the Kenya Urban Support Project (KUSP). The expenditure includes an amount of Kshs.52,808,618 paid to a construction company for proposed construction of urban economic and infrastructure project. However, the following unsatisfactory matters were noted; i. Review of the project bills of quantities revealed that a sum of Kshs.5,500,000 was provided for and paid under Certificate No. 03. However, documents were not provided to support or account for the payment made. ii. According to the agreement signed between the construction firm and the County Government on 14 May, 2020, the	against the officers who failed to provide the documents to the auditors in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Office of the Auditor General within 60 days of adoption of this report.	2. The Auditor – General.	of this report. For (b), 60 days from the date of adoption of this report.

	contract period was extended for 8 weeks effective 2 April, 2020 until 30 June, 2020. However, physical verification on the site revealed that the project was about 90% complete. No explanation was provided for the delayed completion of the project by the contractor despite the extension. iii. The Kenya Power and Lighting Company's approval for the street lighting under the project was not provided for audit while publicity boards/signage for Jua Kali shades and the street lighting projects were not erected.			
13.	**6. Acquisition of Assets** **6.1 Delayed Installation and Commissioning of a Project** As disclosed in Note 17 to the financial statements, the statement of receipts and payments reflects acquisition of assets expenditure amounting to Kshs.823,841,480 which includes an amount of	The Committee recommends that- 1. The County Chief Executive Officer takes administrative actions against the responsible accounting officer and responsible officer(s) who failed to provide the documents to the auditors in accordance with section 156 of the Public Finance Management Act and provides a status report	1. The County Chief Executive Officer. 2. The Auditor – General. EACC	60 days from the date of adoption of this report.

	Kshs.102,190,154 paid in respect of a contract for the design, supply, delivery, installation and commissioning of Nandi Co-operative Creameries Milk Processing Plant and civil works that was signed on 14 June, 2019. Included in the latter are payments totalling Kshs.65,000,000 made to Co-operative Bank of Kenya against a letter of credit for payment to the construction company.	to the Office of the Auditor General within 60 days from the adoption of this report. 2. The OAG keeps the matter in view in the subsequent audit cycle to monitor the implementation; especially compliance with the PFM Act, 2012 and the PPADA, 2015, in subsequent financial audits; and 3. The Auditor General undertakes a special audit of the National Agricultural and Rural Inclusive Growth Project (NARIGP). 4. The EACC to carry out an investigation on the propriety of the project.		
14.	**6.2 Incomplete Utilization of an Enterprise Resource Planning System** As disclosed in Note 17 to the financial statements, the statement of receipts and payments reflects an amount of Kshs.823,841,480 under acquisition of assets which constitutes a balance of Kshs.19,520,560 in respect of purchase of ICT equipment and Kshs.9,494,994 in respect of acquisition of intangible assets all amounting to	The Committee recommends that the County executive provides an implementation status report to the Auditor General on Health Management Information Systems (HMIS) within 60 days of adoption of this report.	1. The County Chief Executive Officer. 2. The Auditor – General.	60 days from the date of adoption of this report.

	Kshs.29,015,554. Verification of documents revealed that forty-nine (49) features under the ten (10) modules could not be captured and were not functioning. It was not clear whether all the features were required by the institution. In the circumstances, the County Executive may not have received value for money from the payment for modules that were not developed and applied.			
15.	**7. Stalled Project on Construction of Nandi County Governor's Office** Review of the progress on the project revealed that payments totalling Kshs.97,685,287 had been made to the contractor. However, the contractor was not on site and the project had stalled. In addition, the County budget for the year 2019/2020 provided for an allocation of Kshs.20,780,655 to the project towards its completion but the funds were not utilized. In view of the delay, no value has been obtained on payments totalling to Kshs.97,685,287 made to the contractor.	The Committee recommends that 1. The Ethics and Anti-Corruption Commission (EACC) expedites the ongoing investigation on the project and provide a status update to the Senate within 60 days of adoption of report; 2. OAG to monitor the issue in the subsequent audit cycles. 3. The Controller of Budgets should not authorise further payments to this project until the county obtains the approval of the Senate Finance Committee to vary the ceilings on	Ethics and Anti-Corruption Commission (EACC) Office of the Auditor General	Within 90 days of adoption of this report

		construction of Governors residences.		
16.	**8. Leased Medical Equipment** As reported in the previous year, the County Executive signed a Memorandum of Understanding with the National Government for provision of medical equipment and related services. The equipment was to be procured by the National Government and thereafter supplied to the County in several lots as follows: Lot 1 - Theatre Equipment, Lot 2 Theatre Sterilization Equipment, Lot 5- Renal Dialysis Equipment, Lot 6 Intensive Care Unit Equipment and Lot 7- Radiology Imaging Equipment. Records presented for audit indicated that an amount of Kshs.131,914,894 was directly deducted by the National Treasury from the equitable share of revenue or payment for the leased equipment during the year under review, thereby bringing the total lease rental payments made by the County Executive to Ksths.522	The Committee recommends that 1) The County CEO undertakes administrative action against the responsible officer(s) who failed to provide the requisite documentation on the contract, equipment supplied and carrying values to the auditors in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report; 2) County Executive should ensure that all assets are presented in the format prescribed by the National Treasury; and 3) the County executive provides a status report on the implementation of this project within 60 days of the adoption of this report.	1. The County Chief Executive Officer. 2. The Auditor – General.	60 days from the date of adoption of this report.

	million as at 30 June, 2020. Further, Lot 6 - Intensive Care Unit Equipment has not delivered. As a result, Nandi County did not establish an Intensive Care Unit as expected. However, the values of the equipment supplied were not reflected in the County's asset records and the criteria used to charge the lease rentals could not be confirmed. In view of these anomalies, the valuation of the assets obtained through the Scheme and validity of the lease payments amounting to Kshs.131,914,894 for the year could not be confirmed.			
17.	**9. Non-Compliance with the Public Finance Management (County Governments) Regulations, 2015** During the year under review, the Nandi County Assembly had an approved budget of Kshs.674,665,357, equivalent to 10% of the total revenues of the county government of Kshs.6,671,704,894. The former exceeded the lower of seven per	The Committee recommends that;- 1. the Senate Standing Committee on Finance and Budget to review ceilings allocated to County Assemblies in CARA to ensure county compliance with the thresholds in the Public Finance Management (County Governments)	The Auditor General.	To be reported in the next audit cycle.

	cent of the total revenues of the county government of Kshs.6,671,704,894 or twice the personnel emoluments of the County Assembly of Kshs.743,754,274, (which is lower). This is contrary to Regulation 25 (1) (f) of the Public Finance Management (County Governments) Regulations, 2015.	Regulations, 2015; and 2. the Office of the Auditor General follows up on this issue in the subsequent audit cycle.		
18.	**10. Delayed Completion of Projects** Physical verification of projects was conducted in the December, 2020 and January, 2021. A total of forty-six (46) projects with a total budget of Kshs.733,244,090 and total payments of Kshs.411,189,931 were verified. Out of the forty six (46) projects verified, thirty-four (34) projects were complete. However, the twelve (12) projects with total payments of Kshs.311,578,818 were found either not complete and put into use or works were ongoing or the contractors were not on site.	The Committee therefore recommends that: 1. the County Government takes immediate action to complete and/or operationalise the projects and provides a status report to Auditor-General on project status within 60 days from the date of adoption of this report; 2. The County executive should undertake proper project conceptualization, planning and execution to ensure timely completion of the projects as well as realization of value for money; and 3. Auditor General to follow up on this matter in its	1. The County Chief Executive Officer. 2. The Auditor – General.	60 days from the date of adoption of this report.

		subsequent audit cycle.		
REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, GOVERNANCE RISK MANAGEMENT				
19.	**Basis for Conclusion** **1. Fixed Assets Register** Annex 5 - summary of fixed assets register to the financial statements discloses the total value of the County Executive's fixed assets as at 30 June, 2020 amounted to Kshs.6,733,309,506. The balance excludes assets which had been taken over from defunct local authorities which includes land, buildings, motor vehicles, computers and other office equipment. The fixed assets register was not provided for audit review. In the circumstances, it has not been possible to ascertain the value of the assets owned by the County Government of Nandi	The Committee recommends that the- a) County entities should update and present their Fixed Assets Register in the format prescribed by the Public Sector Accounting Standards Board; b) County entities should adopt and implement the report of the Inter-Governmental Technical Relations Committee (IGTRC) on assets and liabilities from defunct Local Authorities and provide a status update to the Office of the Auditor General within 90 days of adoption of this Report; and c) Office of the Auditor General should progressively review and report on the matter in the subsequent Financial Years.	1. The County Chief Executive Officer. 2. The Auditor – General. 3. Ethics and Anti-Corruption Commission	Within 90 days of adoption of this Report

20.	**2. Internal Audit Function and Audit Committee** During the year under review, the Internal Audit Unit was reporting both functionally and administratively to the Accounting Officer while the Audit committee members had also resigned after citing lack of goodwill from the management in discharging their duties. Whereas the Internal Audit Department is well staffed with twelve (12) officers, who are duly qualified to discharge their mandate, the function had no budgetary provision to support its activities. Consequently, internal audit function lacks operational independence and may not adequately discharge its mandate.	The Committee recommends that- The Cabinet Secretary for National Treasury and Economic Planning to propose amendments to the Public Finance Management (County Government) Regulations, 2015 to mandate county governments to provide sufficient budgetary allocations to the Audit Committee and the Internal Audit Unit.	1. The County Chief Executive Officer. 2. The Auditor – General. 3. The Cabinet Secretary, National Treasury and Economic Planning.	To be reported in the next audit cycle.
21.	**3. Information and Communication Technology** Review of the Information Technology internal controls revealed that the County Executive did not have an approved ICT Policy, IT security policy,	The Committee recommends that – The County Executive expedites the establishment of a working IT Steering Committee and formulation of an ICT policy and submit evidence to the OAG	1. The County Chief Executive Officer. 2. The Auditor – General.	60 days from the date of adoption of this report.

	policy on physical access to IT environment and IT continuity and disaster recovery plan to guide 1CT operations. The County did not have an approved IT Steering Committee which is important in performing the oversight function and formulation of policies to ensure that IT department functions properly.	within 60 days of the adoption of this report.		

BASIS FOR QUALIFIED OPINION

1. Inaccuracies in the Financial Statements

The financial statements reflect receipts and payments figures for various account items which are at variance with Integrated Financial Management Information System, IFMIS Reports as detailed below.

Details	Financial Statements (Ksh)	IFMIS Reports (Ksh)	Variance(Ksh)
Exchequer releases	5,489,278,988	429,552,000	5,059,726,988
Transfer from other Governments	270,156,656	82,400,000	187,756,656
County own generated Receipts	282,051,152	62,562,202	219,488,950
Returned CRF Issues	630,218,098	-	630,218,098
Compensation of Employees.	3,191,219,469	3,655,472,893	(464,253,423)
Use of Goods and Services.	846,152,271	1,060,392,540	(214,240,269)
Transfer to other Government units	753,825,357	0	753,825,357
Other Grants and Transfers	619,565,832	106,105,940	499,266,040
Acquisition of Assets	823,841,480	838,594,960	(14,753,479)
Other Payments	0	471,445,408	471,445,408

In absence of any reconciliation, the accuracy and completeness of the figures for the above account items as reflected in the financial statements for the year ended 30 June, 2020 could not be confirmed.

In the circumstance, the presentation, accuracy and completeness of exchequer releases totalling to Kshs.5,489,278,988 for the year ended 30 June, 2020 could not be confirmed.

Management Responses

The variance between IFMIS figures and financial statement figures arose because not all payments initiated in IFMIS make up to the final level of payment due to a number of reasons like insufficient funds, invalid bank accounts or an erroneous entry. IFMIS system captures any figure keyed in as part of payments. On the other hand, in preparing the financial statements, the actual bank statement from Internet Banking portal is used to ensure accuracy of the financial statements. This is in line with the Cash Basis form of reporting.

Ideally, all the pending transactions which do not make for payment should be voided immediately to avoid erroneous figures piling up in the system. However, the system

voiding rights is a reserve of the National Treasury. Going forward, the management recommended that these rights be granted to Counties to enable continuous voiding on need basis. Meanwhile, the management had written to The IFMIS Directorate to issue the management with temporary voiding rights to enable it start system clean-up exercise immediately. The Request letter to the Director IFMIS was attached for the committee perusal.

Committee Observations

The Committee observed that;

1. the unreconciled amounts of Kshs. 5,059,726,988 was quite significant and that the County Executive ought to have undertaken reconciliations every 15th of the succeeding month as required in law
2. The accuracy of financial statements is the responsibility of the Accounting Officer of the entity in accordance with Paragraph 42 (1) (a) of the Public Finance Management (County Governments) Regulations.
3. There was lack of capacity on the part of the county staff to adequately perform in the accounting and finance units. The Committee further noted that employees who were not registered members of ICPAK were signing off financial statements contrary to Public Sector Accounting Standards Board (PSASB).

Committee Recommendations

The Committee recommends that-

1) **The County CEO undertakes administrative action against the responsible officer(s) responsible for failure to undertake reconciliation of financial statements within the stipulated timelines.**
2) **The County Executive in liaison with the National Treasury undertakes capacity building for the responsible officer(s).**

2.0 Unsupported Payment to Kenya Revenue Authority (KRA)

As disclosed in Note 12 to the financial statements, the statements of receipts and payments reflects an expenditure of Kshs. 846,152,271 in respect of use of goods and services which include other operating expenses amounting to Kshs. 209,535,311.The amount constitutes a balance of Kshs. 202,895,083 which was paid to KRA. Although, bank statements showing deductions and communication between the County Executive and KRA on payment plan were seen, related payment vouchers were not provided for audit review.

In the circumstances, the accuracy, completeness and propriety of the payment

amounting to Kshs. 202,895,083 for the year ended 30 June, 2020 could not be confirmed.

Management Responses

The amount of Kshs.202, 895,082.95 paid to KRA were arrears comprising of withholding tax, PAYE and VAT dating back to the FY 2014/2015/2016.After a thorough reconciliation and verification, the County Government entered into an agreement with KRA on the payment plan.

However, due to delayed disbursement of funds by the National Treasury, the County could not honor its obligations as and when it fell due. This prompted KRA to place demand notices with CBK so as to deduct funds directly from the source once the recurrent account in CBK got funded. The evidence of communication, and subsequent agreement with CBK was submitted for verification.

Committee Observations

The Committee observed that;

1. the County was penalized by KRA and charged interest as a result of delay in remitting statutory payments such as PAYE, VAT and withholding tax.
2. the delay in remitting the statutory payments was occasioned by delay in release of funds by the National Treasury.

Committee Recommendations

The Committee recommends that;

1. **the County Executive should engage the KRA with a view to resolving the matter within sixty (60) days from the adoption of this report.**
2. **the National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate and comply with Article 219 of the Constitution and Section 17(6) of the Public Finance Management Act, 2012.**

3. Unsupported Scholarships and Other Educational Benefits

As disclosed in Note 15 to the financial statements, the statement of receipts and payments reflects a balance of Kshs.619, 565,832 in respect of other grants and transfers which includes payments for scholarships and other educational benefits amounting to Kshs. 21,251,649.

However, transfer vouchers, cash book and expenditure returns to account for the transfers made were not provided for audit verification. Consequently, the accuracy and validity of the transfers made for scholarships and other educational benefits of Kshs. 21,251,649 for the year ended 30 June, 2020 could not be confirmed.

Management Responses:

The transfer of Kshs. 21,251,649 to Village Polytechnics comprised of balance brought forward from FY 2018/19 and part of the balance received in the FY 2019/20.Additional transfers were made to Vocational training centers as attached leaving the Special purpose account with a closing balance of Kshs 875,000.

All the transfer vouchers, cash book and expenditure return are herein attached. The remaining balance Kshs 16,396,649 could not be transferred before the close of the financial year since there was no budgetary allocation. However, a provision for the same was done in the FY 2019/20 and the money was transferred immediately the budget was approved. The Bank statement showing the transfer was attached for the committee perusal.

Committee Observation

The Committee observed that;

1. the management did not submit all the relevant documents and information to the Auditor -General at the time of audit contrary to the Section 62 of the Public Audit Act, 2015
2. the matter has since been addressed as the County Executive has since availed the relevant records and documents supporting the incurred expenditure.

Committee Recommendations

The Committee recommends that the matter be marked as resolved.

Emphasis of Matter
1. Pending Bills
i) Accumulation of Pending Bills

Annex 2 to the financial statements shows pending accounts payables totaling to Kshs.331,085,588 as at 30 June, 2020. However, the annexure does not indicate the movement of the pending bills during the financial year 2018/2019 as required under the reporting template prescribed by the Public Sector Accounting Standards Board. Accumulation of unpaid bills contravened National Treasury Circular Ref. AG 3/101/75 which requires Accounting Officers, to ensure prudent use of resources and avoid accumulation of pending bills.

Management Responses

The reduction in pending bills figure is attributed to the payment of historical pending bills as filed with COB/the National Treasury at the beginning of the financial year

under review. The outstanding balance of Kshs 331,085,588 has since been cleared and Nandi has no more historical pending bills.

Committee Observations

The Committee observed that-

1. The County government had not reported its pending bills as prescribed by the Public Sector Accounting Standards Board.
2. The pending bills relate to previous years and they have not been paid. The Committee observed that the County had challenges with Capacity building.
3. The Management ought to have declared all pending bills at the close of every financial year including the movement of such bills per financial year.

Committee Recommendations

The Committee therefore recommends that:

1) **the National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate so as to enable county entities settle their obligations on time;**

2) **the County Executive should disclose all pending bills in the format prescribed by the Public Sector Accounting Standards Board as stipulated under Section 104(1)(h) of Public Finance Management Act, 2012;**

3) **the county executive puts in place measures to enhance own generated revenue in order to meet its revenue target and address revenue shortfalls that contribute to the challenge of pending bills.**
4) **Pending bills deemed ineligible should be forwarded to the Directorate of Criminal Investigation (DCI) for investigation proper legal action taken against those filing false claims.**
5) **County Government to take note of judgement in a Kitale High Court Constitutional Petition E003 of 2023 that declared formation of pending bills verification committees unconstitutional and engage Office of the OAG and strengthen the internal audit functions.; and**
6) **All valid pending bills that have been reviewed by the Office of the Auditor General be paid and a payment plan be submitted to the county assembly for approval and progress report on implementation sent to the Senate and the Office of the Controller of Budget.**

ii) Outstanding electricity bills owed to the Kenya Power and Lighting Company (KPLC)

Further, according to The National Treasury Circular No. 17/2020 Ref. IGRF/COD/01/E/45 dated 24 August 2020, the county Executive of Nandi owed the Kenya power and Lighting Company, a total of Kshs. 2,691,929 comprising of June, 2020 bill of Kshs. 1.092,067 and arrears of Kshs. 1,599,862 as at 30 June,2020.

The amount owed to KPLC therefore, constitutes part of accounts payables but not disclosed in the financial statements for the year under audit.

Management has not given any explanation for the omission or registered any dispute on the Report.

Management Responses

The payment of electricity bills is continuous. However, failure to disclose the above outstanding bills as part of accounts payable was an omission on the Executive's end and the said bills had since been cleared.

Committee Observation

The Committee noted that the county did not disclose pending electricity bill as required leading to understatement of the pending bills situation.

Committee Recommendations

The Committee therefore recommends that:

1) **the National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate so as to enable county entities settle their obligations on time;**

2) **the County Executive should disclose all pending bills in the format prescribed by the Public Sector Accounting Standards Board as stipulated under Section 104(1)(h) of Public Finance Management Act, 2012;**

3) **the county executive puts in place measures to enhance own generated revenue in order to meet its revenue target and address revenue shortfalls that contribute to the challenge of pending bills.**
4) **Pending bills deemed ineligible should be forwarded to the Directorate of Criminal Investigation (DCI) for investigation proper legal action taken against those filing false claims.**
5) **County Government to take note of judgement in a Kitale High Court Constitutional Petition E003 of 2023 that declared formation of pending bills verification committees unconstitutional and engage Office of the OAG and strengthen the internal audit functions.; and**
6) **All valid pending bills that have been reviewed by the Office of the Auditor General be paid and a payment plan be submitted to the county assembly for approval and progress report on implementation sent to the Senate and the Office of the Controller of Budget.**

3)Long Outstanding Debts-Ministry of Health

In addition, during 2013/2014 financial year, the ministry of Health paid on behalf of the Nandi Government salaries totaling to Kshs. 316,123,713 which were to be

recovered in the same financial year. Documents and information available indicate that the County Government of Nandi did not make payment to the Ministry of Health. The amount has remained outstanding to date but was not included as part of the pending bills as at 30 June, 2020 in the financial statements for the year then ended. Management has not given any explanation for the omission and has not disputed the liability.

Management Response

These are payments which were done before the resources related to the devolved function were transferred. At that time, all the salaries for Health workers were paid centrally by the National Government. Hence, the County Government of Nandi does not owe the Ministry of Health any debt.

Committee Observations

The Committee observed that the National Government demanded payments from County governments in relation to provision of medical services that were undertaken before the full transfer of the health function to Counties. This demand was irregular as funds for the Health function had not been fully devolved and therefore budgeted in the National Government.

Committee Recommendations

The Committee recommends that-

1. **the County Government should not pay the Ministry of Health any money for provision of medical services that were undertaken before the full transfer of the health function to Counties; and**
2. **the National Treasury refunds the County Government any and all funds irregularly received ostensibly for provision of medical services that were undertaken before the full transfer of the health function to Counties.**

Other Matter
1.0 Budgetary Control and Performance

The summary statement of appropriation: recurrent and development combined reflects final receipts budget and actual on comparable basis of Kshs.8,720,452,281 and Kshs.6,671,704,84 respectively resulting to an under-funding of Kshs.2,048,747,386 or 23% of the budget. Similarly, the statement reflects final expenditure budget and actual on comparable basis of Kshs.8,720,452,281 and Kshs.6,234,604,409 respectively resulting to an under-funding of Kshs.2,485,847,872 or 29% of the budget. The expenditure was limited to the amount realized. Management explained that the variances mainly occurred as a result of failure to collect Own generated receipts, low transfers from other Government entities and delays in the disbursement of funds from the National Government. The delay has the effect of denying the residents of Nandi County the benefits accruing from the planned projects.

The underfunding and under-expenditure affected the planned activities and impacted adversely on service delivery to the residents of Nandi County.

Management Responses

The under-absorption of development funds in the year under review is attributed to delays in procurement processes of works as occasioned by the covid-19 pandemic which adversely affected government operations across the board.

Apart from procurement processes, the contractors were also adversely affected by the effects of covid-19 which led to a number of them not being able to move to site within the stipulated time, this forced the County processing entity to re-tender some works due to lack of capacity by some of the initial contractors who had been awarded the tenders. This resulted to a huge amount of W.I.P of which most of them will complete in 2020/2021 F/Y.

Committee Observations

The Committee observed that;

1. there was under-utilization of appropriated funds by the county executive as a result of delay in exchequer releases by the National Treasury; and
2. the county did not meet its own-source revenue targets.

Committee Recommendations

The Committee therefore recommends that:

1. **the National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate and comply with Article 219 of the Constitution and Section 17(6) of the Public Finance Management Act, 2012.**
2. **the County executive puts in place measures to enhance its own generated revenue in order to meet its revenue target and address revenue shortfalls.**

2.0 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 nor given any explanation for failure to adhere to the provisions of the Public Sector Accounting Standards Board templates and The National Treasury's Circular No. AG.4/16/3 Vol. 1(9) dated 24 June, 2020.

Management responses

The issues raised in the 2018/19 audit were addressed in the management letter for that period and the management responses are provided in the report. Further, a number of the recommendations that were made by the auditors have since been acted upon as indicated against each point in the annexed prior year Audit Report.

Committee Observation

The Committee observed that the County Executive did not take action on the issues raised in the Report of the Auditor General for the financial year 2018/2019.

Committee Recommendation

The Committee recommends that the County executive complies with section 53 of the Public Audit Act, 2015 by taking action on the issues raises by the Auditor General and submits a report to the Auditor General within 60 days of the adoption of this report.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1. Unconfirmed County Own Generated Receipts – Kiborgok Tea Proceeds
As disclosed in Note 9 to the financial statements, the statement of receipts and payments reflects a balance of Kshs.282,051,152 under county own generated receipts which constitutes an amount of Ksths.15,352,946 received from Kiborgok tea proceeds. The proceeds arise from contract agreement between the County Government of Nandi and Chebut Tea Factory signed on 2 February, 2018. Review of the contract revealed the following anomalies;

I. **The County Government has another tea estate measuring approximately 3 hectares which is managed under the factory but no contract was provided for the same.**

The agreement was entered for the management of two tea farms, Kiborgok A being the main tea estate and Kiborgok B being the extra 3 hectares.

II. **The tea factory had leased 2 tractors from the County Government but no lease agreement was provided for audit verification.**

Management response

The County Government of Nandi is treated as a grower/farmer in Chebut Tea Factory. When a grower's green leaf is transported by the factory, transportation cost is deducted from the proceeds at a rate agreed and fixed by the Factory management from time to time. Alternatively, a farmer who transports their own green leaf gets a reimbursement of the transportation cost. The tractors are therefore not hired out but they are transporting green leaf for the County. In return the County gets a reimbursement of the transport cost and forms part of the County revenues.

IV. According to the revenue schedule from Chebut Tea Factory, the County Government was paid Kshs. 229,890 for leasing out the 2 tractors during the financial year 2019/2020.

However, according to the fifteenth schedule Part 1 of Nandi County Finance Act, 2019, the tea factory should have remitted an amount of Kshs. 8,064,000 since it had the tractors throughout the financial year.

Management response

Tea transportation was based on the number of kilos transported using the tractor and not machine hours. The rate applied was the approved rate by the factory. These tractors were not leased by Chebut Tea Factory as explained above but they were transporting green leaf for Kiborgok farm and Kaimosi ATC owned by the County. Furthermore, the tractors are stationed in the County farms and not at the factory.

V. The County Government did not provide the title deeds for the 2 farms under Chebut Tea Factory to confirm ownership status of the land.

Management responses

The title deeds for the two parcels of land above were available for consideration. The documents being very crucial and valuable are kept under lock and key at the County Headquarters, copies of the same were submitted for review.

VI. According to Section 4.1 of the contract agreement, the County Government as the principal ought to have entered into agreement with the pluckers and not the agent (factory).

The Pluckers were inherited by the County Government of Nandi from the defunct local authorities with existing contracts. The plucking agents are not in contract with the agency but with the County Government of Nandi.

VII. The rates being offered by Chebut Tea Factory are decided by its directors and not according to the prevailing market rates.

Management response

The rate of payment is dictated by the prevailing market prices and is proposed by the Directors who are elected by the farmers and ratified by all the farmers during the AGM.

VIII. The Tea Factory deducts for expenses which includes farm security and new factory project from tea sale proceeds, yet the expenses are borne by the County Government but the same were not provided for in the contract.

Management response

Chebut Tea Factory was owned by the farmers, County Government of Nandi being one of the farmers. The farmers then choose a board of directors to help in running the factory. The board of directors is the decision making organ of the factory. All decisions are finally ratified during the farmer's annual general meeting. Some of the decisions include new project deductions upon which the County becomes a shareholder of the new project. As a county Government of Nandi, the management was proud to participate in establishing new factories across the county to help farmers. The security expenses are part of the expenses incurred in managing the farm.

Committee Observation

The Committee observed that;

1. Management did not provide documents relating to the management service agreements at the time of audit contrary to section 62 of the Public Audit Act, 2015; and
2. there were weaknesses in internal controls in the county government with respect to management of the tea estates.

Committee Recommendations

The Committee recommends that:

1. **The County CEO undertakes administrative action against the responsible officer(s) who failed to provide the documents (management service agreements and leases relating to the tea farms and equipment) to the auditors in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Auditor – General within sixty (60) days from the adoption of this report;**
2. **The Management should prepare a policy guideline to enhance effectiveness in the management of the tea estates; and**
3. **The Auditor General should conduct a value for money audit to establish whether the proceeds from the tea estates optimised compared to other commercial establishments.**

2..Non-Compliance with the Law on Fiscal Responsibility - Wage Bill
The statements of receipts and payments reflects an expenditure of Kshs.3,191,219,469 on compensation of employees representing 53% of the total receipts of Kshs.6,041,486,796. This is contrary to the provisions of Regulation 25(1) (a) and (b) of the Public Finance Management (County Governments) Regulations, 2015 which limits the County Executive's expenditure on wages and benefits to not more than 35% of the total revenue for the year. Consequently, Management is in breach of the law.

Management response;

During the financial year 2019/2020, the County Executive of Nandi spent an amount of Kshs 3,191,219,469 against a total revenue of Kshs. 6,633,823,568 on compensation of employees. This expenditure exceeded the ratio of 35% of revenue prescribed in PFM Act. The bulk of the staff (50%) was made of health workers which the County had to hire in order to operationalize the new health facilities that had been put up. An estimated 130 more staff had to be hired under the department of Agriculture to roll out Artificial Insemination (AI) exercise initiated by the County to help empower the dairy farmers by improving the breeds hence production.

Another contributory factor to the high percentage is the covid-19 pandemic which led to a drop in the own source revenue from a projection of Ksh 629,900,204 to an actual amount of sh. 268m which was realized.

The above notwithstanding, the County was undertaking a staff performance appraisal in a bid to achieve a lean effective and efficient workforce. Roles will be merged, others scrapped off, and a number of staff re-skilled. Other staff will also be let go in order to avail funds to fund development projects. Progressively, the County does not anticipate to increase staff numbers even as it project the equitable share to increase.

Committee Observation

The Committee observed that the County Executive's wage bill during the FY 2019/20 stood at 53% of its total receipts which was above the threshold of 35%.

The high wage bill is a threat to the objects of devolution as provided for under Article 174(f) of the Constitution.

Committee Recommendations

The Committee recommends that-

1) **the management should provide to the Auditor General and the Senate the measures it will put in place to contain the high wage bill within sixty (60) days of the adoption of this report;**
2) **the management should strictly adhere to the provision of paragraph 25(1)(b) of the PFM Act (county government) regulations, 2015 which stipulate that the county wage bill should not exceed 35 per cent of the county total revenue; and**
3) **the county executive puts in place measures to enhance own source revenue collection in order to address wage bill gap.**

3. Non-Compliance with Law on Ethnic Composition

During the year under review, the total number of employees of County Assembly was four thousand nine hundred and five (4,905) employees out of which four thousand six

hundred and sixty-nine (4,669) or 95% were members of the dominant ethnic community in the county.

This is 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".

Further, out of the seventy-five (75) new employees recruited by Nandi County Public service Board during the year, 97% were from the dominant community. This was Contrary to provisions of Section 65(1e) of County Governments Act, 2012 which requires that, in selecting candidates for appointment, the board shall consider the need to ensure that at least thirty percent (30%) of the vacant positions at the entry level are filled by candidates who are not from the dominant ethnic community in the County.

In addition, Management did not provide an approved Staff Establishment for audit review. In the circumstances, it could not be confirmed whether the vacancies were filled in accordance with Part B 5(2) of the County Human Resources Manual, 2013. From the foregoing, the management is in breach of the law.

Management responses

Nandi County is a homogeneous county made up of almost one tribe. Non dominant communities form a small percentage of less than 2% as per the 2019 census statistics. Against this backdrop, most applications in response to a job advertisement reflect on this fact.

Recruitment guidelines require the selection of qualified candidates from the applicants which in most cases is from the dominant community. The county addresses this challenge by ensuring that equity amongst all the wards in the county is adhered to during the recruitment process.

Diversity in terms of gender, marginalized groups and Persons Living With Disabilities (PLWDs) are key consideration to address challenges occasioned by homogeneity of the county.

However, the 4669 employees who are the dominant community are not purely the residents of Nandi County but some of them come from Uasin Gishu, Trans Nzoia, Baringo, Elgeyo Marakwet and Kericho Counties where all of them share the code 23 meant for Kalenjin community.

Committee Observation

The Committee observed that there was no ethinic diversity among the County Executive employees. The Committee also observed that due to the homogeneous ethnographic population in most counties, it may not be feasible for them to attain the threshold provided under Section 7(2) of the National Cohesion and Integration Act,

2008 which states that *no public establishment shall have more than one third of the staff from the same ethnic community.*

Committee Recommendations

The Committee recommends that-

1. **The Senate initiates an amendment to section 7(2) of the National Cohesion and Integration Act, 2008 to exempt county entities from its ambit and to further provide that county entities ensure that not more than two thirds of its staff are from the same ethnic community.**
2. **The county executive should work progressively towards attaining the requirement of the provisions of Section 65(1)(e) of County Government Act on ethnic inclusivity.**
3. **the County Executive and CPSB should provide to the Auditor General a five-year strategy of measures it will put in place to ensure compliance is achieved within sixty (60) days of the adoption of this report.**

4. Non-Compliance with the One Third of Basic Salary Rule

During the year ended 30 June, 2019, review of the payroll for the months of January to June 2020 revealed that a number of employees earned a net salary of less than a third (1/3) of the basic salary as shown below

Salary month	January 2020	February 2020	March 2020	April 2020	May 2020	June 2020
Number of employees whose net salaries were less than one third of their basic salaries	29	19	34	9	5	4

This is contrary to Section C.1(3) of the Public Service Commission (PSC) Human Resource Policies, 2016 and Section 19 (3) of the Employment Act, 17 of 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. Management has not given explanation for failure to comply with the policy.

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

Management response

The County staff earning less than a third of their basic pay is attributed to the following reasons;
a) Transfer of health workers from urban areas to rural areas and vice versa affect their extraneous and hardship allowances hence earn less than a third of their basic pay.
b)Staff placed on interdiction are affected because they are subjected to half salary therefore earning less than a third of their basic pay
c) Staff departmental deduction done after the employee has attained a third of their basic pay. e.g. HELB loan, Pension and Mortgage.

Committee Observation

The Committee observed that some of the county staff were earning less than a third of their basic pay contrary to Section 19 (3) of the Employment Act 2007.

Committee Recommendations

The Committee therefore recommends that -

1. **The County Executive should provide to the Auditor General within sixty (60) days after the adoption of this report a plan of the measures put in place to mitigate on the issue as well as comply with the requirements of law.**
2. **The county should configure their Integrated Payroll and Personnel Database (IPPD) sytem such that it is able to lock out commitments beyond the accepted thresholds.**
3. **The Auditor General should continue monitoring the issue in subsequent financial years.**

5. Delayed Construction of Urban Economic and Infrastructure Project
As disclosed in Note 15 to the financial statements, the statement of receipts and payments reflects a balance of Kshs.619,565,832 under Other grants and transfers which includes an amount of Kshs.Kshs.101,143,935 in respect of the Kenya Urban Support Project (KUSP). The expenditure includes an amount of Kshs.52,808,618 paid to a construction company for proposed construction of urban economic and infrastructure project. However, the following unsatisfactory matters were noted;

i. Review of the project bills of quantities revealed that a sum of Kshs.5,500,000 was
provided for and paid under Certificate No. 03. However, documents were not provided to support or account for the payment made.
ii. According to the agreement signed between the construction firm and the County Government on 14 May, 2020, the contract period was extended for 8 weeks effective 2 April, 2020 until 30 June, 2020. However, physical verification on the site revealed that the project was about 90% complete. No explanation was

provided for the delayed completion of the project by the contractor despite the extension.

iii. The Kenya Power and Lighting Company's approval for the street lighting under the project was not provided for audit while publicity boards/signage for Jua Kali shades and the street lighting projects were not erected.

In the circumstances, it has not been possible to ascertain whether public resources have been utilized effectively and value for money realized from the payments of Kshs.52,808,618 made to the contractor.

Management Responses

In certificate No 03 Kshs 5,500,000 was paid to Southpole Construction ltd. To this regard, the contractor Placed a variation of Kshs 5,000,000 which was discussed and approved by the CPCT as follows: -

The PC and provisional sums provided as Contingencies were to cover Hoarding and site clearance which were not provided for in the b/q to a total of Kshs 2,000,000 while extra Kshs 3,000,000 arising from the reinforcement of the foundation and extra works in retaining wall and expansion joint, including short fall in timber for roofing, were to be done and paid for by suspending the External works.

The reason for suspension was to allow the works in the substructure to continue and be paid for without violating the clause on Variations which could only be considered for payment after 12 months from the day of issuance of the instruction to undertake the variation.

The Kshs 500,000.00 was paid as stipulated in the b/q as project management to the project manager and the supervising team.

The payment to South pole in certificate No 05 were suspended by the Inspection and Acceptance committee until the correctional works on Jua Kali were done and inspected.

The copies for the CPCT meeting and instructions to the contractor to undertake the works listed as variations were submitted for verification.

Committee Observations

The Committee noted the failure by the County executive to submit the relevant documents and information to the Auditor General during the audit exercise pursuant to Section 62 of the Public Audit Act, 2015.

Committee Recommendations

The Committee recommends that the County CEO undertakes administrative action against the responsible officer(s) who failed to provide the documents to the auditors in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Office of the Auditor General within 60 days of adoption of this report;

6. Acquisition of Assets

6.1 Delayed Installation and Commissioning of a Project

As disclosed in Note 17 to the financial statements, the statement of receipts and payments reflects acquisition of assets expenditure amounting to Kshs.823,841,480 which includes an amount of Kshs.102,190,154 paid in respect of a contract for the design, supply, delivery, installation and commissioning of Nandi Co-operative Creameries Milk Processing Plant and civil works that was signed on 14 June, 2019. Included in the latter are payments totalling Kshs.65,000,000 made to Co-operative Bank of Kenya against a letter of credit for payment to the construction company.

Further, the Department of Agriculture under the National Agricultural and Rural Inclusive Growth Project (NARIGP) project made a transfer of Kshs.55,808,331 towards issuance of a letter of credit to the equipment supplier. Verification of documents provided revealed. The tender for the supply and delivery of the equipment was entered into before the main builder's works were completed and the equipment delivered are likely to lie idle over a long period of time. A site visits carried out revealed the following anomalies. The quality, efficiency and performance of the machines delivered could not be confirmed as the machines had not been put into use and inspection reports were not provided.

i) It is not clear how NARIGP came on board as no agreement with the donor to finance the project was provided for audit review.

Management Response

NARIGP funded the project after approval from the National technical advisory committee (NTAC) and it was uploaded on the Systematic Tracking of Exchanges in Procurement (STEP). The Approval letter was submitted for verification.

iii) As at the time of audit, it could not be confirmed how much had been transferred to the supplier and how much was still held by the banks against the letters of credit issued due to the fact that documentary evidence relating to instructions to the banks and transfer documents to the supplier were not provided for audit review.

the Management stated that there has not been any transfer of funds from the bank to the supplier as the supplier has not yet delivered the equipment to Kabiyet. A letter from the bank indicating the balances and a copy of the Bank balance were submitted for verification.

iv.) Copies of the letters of credit issued by the banks to the Supplier were not provided for audit verification.

Copies of Letters of Credit were submitted with this response for audit purposes.

v) Inspection and acceptance committee reports giving an okay for transfers of funds to the supplier against verified deliveries were not produced.

Management response

The management stated that no NARIGP equipment had been delivered to site at the time of appearance. The first container was at ICD Nairobi. Once the equipment gets to the site a detailed inspection and acceptance report will be prepared and instruction letter sent to the bank to authorize the payment if the goods will meet the minimum criteria set out in the tender document.

Committee Observations

The Committee observed that;

1. Management did not provide documents relating to the contract at the time of audit contrary to section 62 of the Public Audit Act, 2015.
2. Procurement relating to the project were not in line with the Public Procurement and Disposal Act, 2015.

Committee Recommendations

The Committee recommends that;

1. **the accounting officer undertakes administrative actions against the responsible officer(s) who failed to provide the documents to the auditors in accordance with section 156 of the Public Finance Management Act and provides a status report to the Office of the Auditor General within 60 days from the adoption of this report.**
2. **the OAG keeps the matter in view in the subsequent audit cycle to monitor the implementation, especially compliance with the PFM Act, 2012 and the PPADA, 2015, in subsequent financial audits.**
3. **The Auditor General undertakes a special audit of the National Agricultural and Rural Inclusive Growth Project (NARIGP).**

6.2 Incomplete Utilization of an Enterprise Resource Planning System

As disclosed in Note 17 to the financial statements, the statement of receipts and payments reflects an amount of Kshs.823,841,480 under acquisition of assets which constitutes a balance of Kshs.19,520,560 in respect of purchase of ICT equipment and Kshs.9,494,994 in respect of acquisition of intangible assets all amounting to

Kshs.29,015,554. Verification of documents revealed that forty-nine (49) features under the ten (10) modules could not be captured and were not functioning. It was not clear whether all the features were required by the institution.

In the circumstances, the County Executive may not have received value for money from the payment for modules that were not developed and applied.

Management Responses

The Health Management Information Systems (HMIS) was the best to be procured by County and the management reiterated its value for money. It is futuristic in its setup and will allow the growth of the Health Sector in Nandi County. The following are the factors that affect full utilization of the rich features this HMIS has;

- Existing Systems used by the County with external control: The following systems by national Government affect full utilization of existing modules in HMIS: IPPD, e-Procurement and IFMIS. For Payroll to be rolled out in HMIS
- Flow and availability of Consumables: For the hospital to get full benefits of the system, their supplies of various consumables need to be available and to be continuously captured and used in the system. Example is the availability of all consumables needed by Nurses to do their job in the Nursing module like the Cadex, if this is not available, the flow of information in the system will be hampered, and it will appear as if the system is not complete.
- Network and Hardware availability in all the other sub-county hospitals and Health Centres. A budget has been put in place to ensure Network and Hardware is provided for all the other facilities to enjoy the benefits of the HMIS. The capability of HMIS to run multiple hospitals have been demonstrated and tested and explained.

Committee Observation

The Committee observed that forty-nine (49) features under the ten (10) modules of the Health Management Information Systems (HMIS) could not be captured and were not functioning in the system.

Committee Recommendation

The Committee recommends that the County executive provides an implementation status report to the Auditor General on Health Management Information Systems (HMIS) within 60 days of adoption of this report.

7. Stalled Project on Construction of Nandi County Governor's Office

As reported in the previous year, the County Executive hired a contractor to build the County Governor's Office at a cost of Kshs. 103,383,420. Thereafter, the contract was

varied to accommodate an additional floor at a cost of Kshs. 21,191,200 equivalents to 20.5% of the original contract price.

Review of the progress on the project revealed that payments totalling Kshs.97,685,287 had been made to the contractor. However, the contractor was not on site and the project had stalled. In addition, the County budget for the year 2019/2020 provided for an allocation of Kshs.20,780,655 to the project towards its completion but the funds were not utilized. In view of the delay, no value has been obtained on payments totalling to Kshs.97,685,287 made to the contractor.

Management Responses

The contract for the construction of the governor's office was entered in the financial year 2013/2014 under contract NDCG/TA/12/2013/14 and the indicated payment of Ksh. 97,685,287 had already been made by the time the new administration came in. There was an active investigation relating to the said project at the EACC office. The county had a number of engagements with the EACC office in a bid to obtain clearance for works to continue at the site.

The office advised verbally that they would issue a letter of "No Objection" once their investigation was complete. This letter of no objection was finally sent to the County on 16th March 2021, hence all other activities geared towards the completion of the building began after the letter was received. The works were later awarded to Bowen Construction Company and which was on site with the project expected to be completed by May 2023.

Committee Observations

The Committee observed that;

1. The EACC was investigating the matter;
2. There was a contract variation of Kshs.21,191,200 equivalent to 20.5% of the original contract price.
3. The project is not complete and the contractor was not on site as at 9th February, 2023.

Committee Recommendations

The Committee recommends that;-

1. **The Ethics and Anti-Corruption Commission (EACC) expedites the ongoing investigation on the project and provide a status update to the Senate within 90 days of adoption of report;**
2. **OAG to monitor the issue in the subsequent audit cycles; and**
3. **The Controller of Budgets should not authorise further payments to this project until the county obtains the approval of the Senate Finance Committee to vary the ceilings on construction of Governors residences.**

8. Leased Medical Equipment

As reported in the previous year, the County Executive signed a Memorandum of Understanding with the National Government for provision of medical equipment and related services. The equipment was to be procured by the National Government and thereafter supplied to the County in several lots as follows: Lot 1 -Theatre Equipment, Lot 2 Theatre Sterilization Equipment, Lot 5- Renal Dialysis Equipment, Lot 6 Intensive Care Unit Equipment and Lot 7- Radiology Imaging Equipment. Records presented for audit indicated that an amount of Kshs.131,914,894 was directly deducted by the National Treasury from the equitable share of revenue or payment for the leased equipment during the year under review, thereby bringing the total lease rental payments made by the County Executive to Ksths.522 million as at 30 June, 2020. Further, Lot 6 - Intensive Care Unit Equipment has not delivered. As a result, Nandi County did not establish an Intensive Care Unit as expected.

However, the values of the equipment supplied were not reflected in the County's asset records and the criteria used to charge the lease rentals could not be confirmed. In view of these anomalies, the valuation of the assets obtained through the Scheme and validity of the lease payments amounting to Kshs.131,914,894 for the year could not be confirmed.

Management Response

All the leased equipment above, Lot1 – Lot 6, have been supplied to the County and all of them are operational. The Intensive Care Unit has been established as well and it is up and running. However, the value of the equipment supplied could not be reflected in the County's asset records since the deductions are effected at the source and no one knows the actual cost of the leased equipment.

Committee Observations

The Committee observed that;

1. The county did not provide requisite documentation on the contract, equipment and supplies and carrying values;
2. The equipment supplied were not reflected in the County's asset records
3. the matter was interrogated by Senate ad-hoc committee on Medical Equipment Services (MES).

Committee Recommendations

The Committee recommends that

1) **The County CEO undertakes administrative action against the responsible officer(s) who failed to provide the requisite documentation on the contract, equipment supplied and carrying values to the auditors in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report;**

2) **County Executive should ensure that all assets are presented in the format prescribed by the National Treasury; and**
3) **the County executive provides a status report on the implementation of this project within 60 days of the adoption of this report.**

9. Non-Compliance with the Public Finance Management (County Governments) Regulations, 2015

During the year under review, the Nandi County Assembly had an approved budget of Kshs.674,665,357, equivalent to 10% of the total revenues of the county government of Kshs.6,671,704,894. The former exceeded the lower of seven per cent of the total revenues of the county government of Kshs.6,671,704,894 or twice the personnel emoluments of the County Assembly of Kshs.743,754,274, (which is lower). This is contrary to Regulation 25 (1) (f) of the Public Finance Management (County Governments) Regulations, 2015.

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

Management Response

The budget ceiling for recurrent expenditure for the County Assembly is set by the Commission on Revenue Allocation. During the FY under review, the figure was set at Ksh.649,760,252. Further, the assembly has been undertaking the construction of its chambers which has been ongoing for the last 5 years. The contract value for the chambers complex is Ksh.469 Million and a yearly provision has always been made based on the estimated pace of works. In the FY 19/20, the budgeted amount was Ksh.200,250,000. The CRA ceiling for assembly chambers is set at KSh.500 million, hence the Ksh.469 Million is within the approved limits.

Committee Observations

The Committee noted that the County Executive was in breach of law contrary to Regulation 25 (1) (f) of the Public Finance Management (County Governments) Regulations, 2015.

Committee recommendation

The Committee therefore recommends that the Senate Standing Committee on Finance and Budget to review ceilings allocated to County Assemblies in CARA to ensure county compliance with the thresholds in the Public Finance Management (County Governments) Regulations, 2015.

10. Delayed Completion of Projects

Physical verification of projects was conducted in the December, 2020 and January, 2021. A total of forty-six (46) projects with a total budget of Kshs.733,244,090 and total payments of Kshs.411,189,931 were verified. Out of the forty six (46) projects verified,

thirty-four (34) projects were complete. However, the twelve (12) projects with total payments of Kshs.311,578,818 were found either not complete and put into use or works were ongoing or the contractors were not on site.

Consequently, value for money has not been realized because of the inefficiencies in the implementation of some of the projects.

Management Response

The County initiated a total of 1415 projects, out of which 917 projects are complete and operational, 115 are complete and not operational, 181 are ongoing while 135 and 67 were yet to start and stalled respectively. The County Annual Progress Report (CAPR) 2019/2020 was submitted for Committee's verification.

Committee Observations

The Committee observed that;

1. twelve (12) projects with total payments of Kshs.311,578,818 were found either not complete and put into use or works were ongoing or the contractors were not on site;
2. contracts that require purchase of Letters of Credit are costly and result in imprudent use of public resources; and,
3. delay in projects implementation was detrimental to the county residents and negatively affected service delivery.

Committee Recommendations

The Committee therefore recommends that:

1. **the County Government takes immediate action to complete and/or operationalise the projects and provides a report to Auditor-General on project status.**
2. **The County executive should undertake proper project conceptualization, planning and execution to ensure timely completion of the projects as well as realization of value for money.**
3. **Auditor General to follow up on this matter in its subsequent audit cycle.**

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, GOVERNANCE RISK MANAGEMENT

Basis for Conclusion

1. Fixed Assets Register

Annex 5 - summary of fixed assets register to the financial statements discloses the total value of the County Executive's fixed assets as at 30 June, 2020 amounted to Kshs.6,733,309,506. The balance excludes assets which had been taken over from

defunct local authorities which includes land, buildings, motor vehicles, computers and other office equipment. The fixed assets register was not provided for audit review. In the circumstances, it has not been possible to ascertain the value of the assets owned by the County Government of Nandi

Management Response

The Fixed Assets register was presented for audit review during the audit and was resubmitted during the appearance for the committee's verification.

Committee Observations

The Committee observed that:

1. The County Executive did not have an updated Fixed Assets Register;
2. The County Executive did not have the values of all the assets and liabilities inherited from the defunct local authorities. This has affected the correct position of the assets and liabilities of the county executive; and,
3. The management did not submit the relevant documents and information to the Auditor General at the time of audit.

Committee Recommendations

The Committee recommends that the-

a) **County Executive should update and present their Fixed Assets Register in the format prescribed by the Public Sector Accounting Standards Board;**
b) **County Executive should adopt and implement the report of the Inter-Governmental Technical Relations Committee (IGTRC) on assets and liabilities from defunct Local Authorities and provide a status update to the Office of the Auditor General within 90 days of adoption of this Report; and**
c) **Office of the Auditor General should progressively review and report on the matter in the subsequent Financial Years.**

2. Internal Audit Function and Audit Committee

During the year under review, the Internal Audit Unit was reporting both functionally and administratively to the Accounting Officer while the Audit committee members had also resigned after citing lack of goodwill from the management in discharging their duties.

Whereas the Internal Audit Department is well staffed with twelve (12) officers, who are duly qualified to discharge their mandate, the function had no budgetary provision to support its activities. Consequently, internal audit function lacks operational independence and may not adequately discharge its mandate.

Management Response

The Audit Committee resignation was majorly occasioned by mismatch in expectations. The committee received the necessary induction training and was tasked with streamlining the internal audit function as well as reviewing the annual financial statements during audit. This was the first assignment. The team however could not deliver and instead asked for benchmarking trips which the budget could not allow at the time. The resignation paved way for appointment of a new team that was in office and was executing its mandate as expected.

The internal audit function was adequately staffed with competent staff as indicated here. Further the budget for the function is rightfully domiciled in finance department. Trainings and capacity building for the internal audit function had been done using the budget under finance department. All other requisitions for the unit were channeled through the Chief Officer, Finance and the same were honored. This is evidenced by the adequate furniture provided, computers/laptops and other accessories requested by the internal audit function. External trainings requested have always been considered on need basis as assessed by the Head of Internal Audit.

Committee Observations

The Committee observed that;

1. there was no Audit Committee in place as at the time of the audit;
2. Internal Audit unit had no budgetary provision to support its activities.

Committee Recommendation

The Committee recommends that the Cabinet Secretary for National Treasury and Economic Planning amends the Public Finance Management (County Government) Regulations, 2015 to mandate county governments to provide sufficient budgetary allocations to the Audit Committee and the Internal Audit Unit.

3. **Information and Communication Technology**

Review of the Information Technology internal controls revealed that the County Executive did not have an approved ICT Policy, IT security policy, policy on physical access to IT environment and IT continuity and disaster recovery plan to guide 1CT operations. It did not have an approved IT Steering Committee which is important in performing the oversight function and formulation of policies to ensure that IT department functions properly.

No risk assessment was done during the year and no risk management policy was in place. As a result, there is a likelihood that risks occurring in the normal course of operations of the County Government may not be identified and corrected. In the circumstances it has not been possible to establish whether the County Executive have an effective ICT infrastructure to assist in the achievement of organizational objectives.

Management Responses

The County Executive has an effective ICT infrastructure. There is a well formulated ICT Policy that has been guiding the operations of the County over the years. The policy has 23 Chapters attached and the County is implementing them gradually. The recent application being the Chapter on Data security to operationalize the new Data Centre at the Hospital.

Committee Observations

The Committee noted that;

1. The ICT policy and IT steering committee were not in place as at the time of audit;
2. It was not possible to establish whether the County Executive had an effective ICT infrastructure to assist in the achievement of organizational objectives; and,

Committee Recommendations

The Committee recommends that the County Executive expedites the establishment of a working IT Steering Committee and formulation of an ICT policy and submit evidence to the OAG within 60 days of the adoption of this report.

CHAPTER TEN

REPORT OF THE SENATE COUNTY PUBLIC ACCOUNTS COMMITTEE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF NYAMIRA COUNTY EXECUTIVE REPORT FOR THE FINANCIAL YEAR 2019/2020

The Governor of Nyamira County Executive Hon. Amos Nyaribo appeared before the Committee on Monday, 20th February, 2023 to respond (under oath) to audit queries raised in the Report of the Auditor General on Financial Statements for Nyamira County Executive for the Financial Year 2019/2020.

Qualified Opinion

EXECUTIVE SUMMARY OF THE UNRESOLVED ISSUES				
	QUERY	**COMMITTEE RECOMMENDATION**	**ACTORS**	**TIMELINE**
1	**1.6 Insufficient Disclosure on Fixed Assets** Fixed Assets Register did not include dates the assets were required and costs of some assets. In addition, assets taken over from the defunct local authorities had not been incorporated in the asset register.	The Committee recommends that the- a) County Executive should update and present their Fixed Assets Register in the format prescribed by the Public Sector Accounting Standards Board; b) County Executive should adopt and implement the report of the Inter-Governmental Technical Relations Committee (IGTRC) on assets and liabilities from defunct Local Authorities and provide a status update to the Office of the Auditor General within 90 days of adoption of this Report; and c) Office of the Auditor General should progressively review and report on the matter in the	1)County CEO 2)The Auditor General	Continuous

		subsequent Financial Years.		
2	**Budgetary Control and Performance** The summary statement of appropriation: recurrent and development combined for the year ended 30 June, 2020 reflects final receipts budget and actual on comparable basis of Kshs.7,001,976,762 and Kshs.6,074,876,690 respectively resulting to a shortfall of revenue totalling Kshs.927,100,072 or 13% of the budget. Similarly, the County Executive spent Kshs.5,996,474,615 against an approved budget of Kshs.7,001,976,762 resulting to an under-expenditure of Kshs.1,005,502,147 or 14% of the budget. In addition, the County Executive had budgeted to collect Kshs.250,000,000 in County own -generated revenue during the year under review but collected Kshs.187,324,098 resulting in a shortfall of Kshs.62,675,902 or 25 % of the budget.	The Committee recommends that: 1. the National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate; and 2. the County executive puts in place measures to enhance its own generated revenue in order to meet its revenue target and address revenue shortfalls.	1)The National Treasury 2)The Auditor General	Immediate
3	**1. Unsatisfactory Implementation of Projects** Ninety (90) projects valued at Kshs.320,138,261 contracted for execution were not implemented during the year under review. Forty (40) projects budgeted at Kshs.378,299,813 and on which actual expenditure of Kshs.275,987,745 had been	The Committee recommends that the Auditor General undertakes further verification of the queried projects and submits a status report on level of completion and status of utilization, to the Office of the Auditor General within sixty days of the adoption of this report.	The Auditor General	within 60 days from the adoption of this report

	incurred, had not been completed at time of audit. Eleven (11) projects contracted in the previous year at a cost of Kshs95,572,787 had stalled at time of audit.			
4	**1.1 Unapproved Variation of Construction Works** There was no evidence of the requisite approvals having been granted before variations were made that led to additional expenditure totalling Kshs 7,313,893.	The Committee recommends that;- 1. the County Executive should expedite the process of handing over of the project so that it can be put to immediate use for the residents of Nyamira to realize value for money. 2. the county government should undertake proper project conceptualization, planning, monitoring and execution to ensure timely completion of the project as well as realization of value for money 3. contract agreements should be developed with clauses that have liquidated damages for non-completion or non-execution of projects and should be drafted by County Attorneys 4. the Auditor General keeps the matter in view in the subsequent audit cycle in line with this recommendation.	i)The County CEO ii)The Auditor General	Continuous
5	**1.2 Incomplete and Abandoned Projects** No adequate explanation was provided for the reason why seven(7) projects that cost Kshs 20,233,298 , were either not complete, or had been	1. The Auditor General undertakes a value for money audit on the projects and submits a report to the Office of the Auditor General within	1)The Auditor General	1)6 months from the adoption of this report.

	completed but not put to use or had stalled after being abandoned by contractors.	six months of adoption of this report; 2. the county government takes immediate action to complete the incomplete projects and provide a report on project status to the office of the Auditor General within sixty (60) days from the adoption of this report; 3. the county executive should operationalize and facilitate its Monitoring and Evaluation department to monitor and report the status of county projects.	2)The Governor, Nyamira County	2)60days from the adoption of this report
6	**1.3 Delayed Completion of Road Upgrading Project** Kshs.18,404,779 was paid to a contractor for upgrading the 13.95 kilometres long B5 Borabu Inn-Golani Heights Resort – Jua Kali – Nyamira Boys – B5 Nyabite Market Road to bitumen standards. However, audit inspection of the works in October, 2020 indicated that even though the contract period had expired, the certified executed works were equivalent to 50% of the value of the contract. No plausible explanation was provided by Management for the delay in completing the project. As a result of the delay, the benefits expected from the project were not realized.	The Committee recommends that the Auditor General reviews the matter in the subsequent audit cycle to verify whether the project has been fully delivered and reports back to the Office of the Auditor General.	The Auditor General	Continuous

7	**1.4 Unserviceable Street Lights** i)eight (8) out of nineteen (19) light towers installed were not in use as the solar panels and batteries had been vandalized ii)the Department of Environment and Energy did not keep records on the status of the completed street lights and had not drawn plans for their security and maintenance.	The Committee recommends that the management should expedite implementation of the measures to secure the lights.	The County CEO	60 days from the adoption of this report
8.	**1.5 Unimplemented Covid-19 Isolation Building Project** Management's decision to restrict participation in the tender contravened Section 91(1) of Public Procurement and Asset Disposal Act, 2015 which prescribes open tendering as the preferred method for procurement of goods, works and services by public entities.	The Committee recommends administrative action be taken by the County CEO against the responsible officer(s) who contravened Section 91(1) of Public Procurement and Asset Disposal Act, 2015 in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report.	The County CEO	Within 60 days from the adoption of this report
9.	**2.1 Failure to Update Property Valuation Roll** Examination of Revenue Department records indicated that the land rates prescribed were set in the Valuation Roll prepared in 2006 by the defunct Local Authority.	The Committee recommends that the County executive should expedite updating of valuation roll in accordance with Section 3 of the Valuation for Rating Act CAP 266 so as to reflect current market values for optimal revenue collection and comply with the guidelines of the Public Sector Accounting Sector Boards of reporting in the FY 2023/2024.	The County CEO	FY 2023/2024
10	**2.2 Long Outstanding Land Rent Arrears** The records reflected accumulated arrears totalling Kshs.44,444,313 comprised of principal amount of Kshs.34,185,004and penalties	The Committee recommends that;- The County Executive should provide evidence to the Office of the Auditor General of how much outstanding arrears was collected following the waivers	1)The County CEO	Within 60 days from the adoption of this report

	totalling Kshs.10,259,309 which had been outstanding from the year 2010.	and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report.	2) the Inter-Governmental Relations Technical Committee	
11.	**2.3 Incomplete Revenue Automation System** Installation of the system was yet to be completed even though the project was fifteen (15) months behind its set completion date.	The Committee recommends that the accounting officer initiates the process of debarring the project vendor, Riverbank Solutions, due to under-performance. The county should urgently acquire a competent alternative system to ensure efficiency in revenue collection.	The County CEO	Immediately
12.	**3.0 Underfunding of Bursary Fund** In the year under review, the total County budget amounted to Kshs.7,001,976,762 and therefore the grants should have amounted to Kshs.175,049,419. Therefore, amounts disbursed totalling Kshs.126,520,000 fell short of the legal threshold by Kshs.48,529,419.	The Committee recommends that the matter be addressed by the Senate County Public Investment and Special Funds Committee.	The County Public Investment and Special Funds Committee.	Immediately
13.	**4.0 Overpayment of Tax Arrears to Kenya Revenue Authority** No explanation was provided by Management for the overpayment of the tax bill by Kshs.1,178,331.	The Committee therefore recommends that the National Treasury and the Kenya Revenue Authority should put a moratorium on payments of interests and penalties attributed to delay in exchequer release.	1)The National Treasury 2)The Kenya Revenue Authority	Immediately
14.	**5.1 Unsustainable Wage Bill** the County Executive's wage bill during the FY 2019/2020 stood at 45% of the its total receipts which exceeds the ratio of 35% set in regulation 25(1)(b)	1)That the County Executive to strictly adhere to the provision of paragraph 25(1)(b) of the PFM Act (county government) regulations, 2015 which stipulate that the county wage bill should not exceed 35 per cent of the county total revenue;	The County CEO	60 days from the adoption of this report.

		2) all staff compensations be processed through the IPPD system for accountability. 3)That County Executive to provide to the Auditor General the measures put in place to contain the county higher wage bill within sixty (60) days from the adoption of this report.		
15.	**5.2 Salaries Paid Outside the Integrated Payroll and Personnel Database (IPPD)** No explanation was provided by Management for the use of the manual system that is not only less efficient but is more prone to error, misuse and fraud.	The Committee recommends that; 1) The County Executive should engage the State Department of Public Service to fast-track the issuance of personal numbers to enable them onboard all employees on the Integrated Personnel and Payroll Database (IPPD) System; and 2) the Auditor General to monitor the matter in subsequent audit cycle.	The County CEO	60 days from the adoption of this report.
16.	**5.3.1 Lack of Disclosures on Recruitment Process** Examination of the county payroll for the month of June, 2020 indicated that forty (40) officers were, in the financial year under review, recruited and paid personal emoluments totalling Kshs.3,538,835 per month. However, it was not possible to confirm that the appointments were made in a fair and transparent way as required of public appointments and prescribed	The Committee, recommends that the County CEO undertakes administrative actions against the officers who failed to provide the documents to the auditors in accordance with section 156 of the Public Finance Management Act and provides a status report to the Office of the Auditor General within 60 days from the adoption of this report.	The County CEO	60 days from the adoption of this report

	in Section 65(2) of County Governments Act, 2012. In addition, it was not possible to confirm that the new employees possessed the skills and competencies required for their respective posts. The supporting documents were later provided to the Auditors.			
17.	**5.3.2 Filled Positions not in Approved Establishment** the County Executive had four thousand eight hundred and five (4805) employees out of whom eight hundred and sixty-two (862) held posts that were not in the approved staff establishment	1. The County Executive to strictly adhere to the provision of the PFM Act, 2012 on the fiscal responsibilities on county government expenditure on wages and benefits. 2. The Auditor General to closely monitor the enforcement of the fiscal responsibility's principles by the County Treasury in managing county government finances.	1)The County CEO 2)The Auditor General	Continuous
18.	**5.3.3 Irregular Recruitment of Members of the County Public Service Board** Four (4) members lacked Tax Compliance Certificates, Certificates of Good Conduct and Ethics and Anti-Corruption Commission Clearance Certificates, all of which had been prescribed as mandatory in the advertisements for the posts. These documents were later provided to the Auditors.	The Committee recommends that the County CEO undertakes administrative actions against the officers who failed to provide the documents to the auditors in accordance with section 156 of the Public Finance Management Act and provides a status report to the Office of the Auditor General within 60 days from the adoption of this report.	The County CEO	60 days from the adoption of this report
19.	**5.4 Lack of Training Needs Assessment**	The Committee recommends that the County Public Service Board should fully comply with the provision of Human	The County CEO	Continuous

	Needs assessments were not conducted to guide the Human Resource Management Advisory Committee in nominating officers for the training courses.	Resource Policies and Procedures Manual.		
20.	**5.5 Lack of Ethnic Diversity in Staff Establishment** Personnel records presented for audit indicated that the employees of the County Executive numbered 4,805 as at 30 June, 2020 out of whom 4,532 or 94% were members of the ethnic community dominant in the County	The county executive should work progressively towards attaining the requirement of the provisions of Section 65(1)(e) of County Government Act on ethnic inclusivity.	1)The Senate 2)The County CEO	Immedi ate

Qualified Opinion

1. Unconfirmed Balances

1.1 Errors in the Financial Statements

The financial statements contain the following casting errors and inaccuracies:

i) The statement of budget execution by programmes and sub-programmes reflects actual comparable expenditure totalling Kshs.5,996,474,615, but a recast of the respective payments schedules reflects payments totalling Kshs.6,032,819,189 resulting to an unexplained difference of Kshs.36,344,574.

ii) Note 12A to the financial statements reflects cash and cash equivalents balance of Kshs.721,334,351 and prior-year balance of Kshs.1,428,139,359. However, a recast of the accounts in the prior year balance yields Kshs.1,314,059,059 resulting to an unexplained difference of Kshs.114,080,300.

In view of these discrepancies, the accuracy and completeness of the aggregate expenditure and cash and cash equivalents balances reflected in the financial statements for the year ended 30 June, 2020 has not been confirmed.

Management Response

The management submitted that they had undertaken the following actions;

i. Provision of an explanation that Kshs. 36,344,574 being temporary imprest schedules which were presented together with payment details to the office of the Auditor General.

These were imprests issued to officers to undertake various official assignments that were captured in the IFMIS system as provision for encumbrances and once surrendered, they were to be removed from the

encumbrances register. The surrenders were included in payment details (register) and inclusion of the imprest as part of payments will lead to a double count hence their exclusion. Casting of the payment schedules excluding the imprest would amount to Kshs. 5, 996, 474, 615 as reflected in the financial statements.

ii. Provision of an explanation that a recast of note 12 A of the financial statements gave a discrepancy of Kshs. 114,080,300 due to an error of omission to bank name Kenya Urban Support Program (KUSP) A/C number 1000394374 held at the central of bank with a reconciled bank balance of Kshs. 114,080,300 as at 30th June 2020.

Committee Observation

The Committee noted that the matter has since been addressed.

Committee Recommendation

The Committee recommends that the matter be marked as resolved.

1.2. Variance between Financial Statements and Cashbook Balances

The statement of assets and liabilities reflects cash and cash equivalents balance totalling Kshs.721,334,351 as at 30 June, 2020, as further disclosed in Note 12A to the financial statements. The balance includes cash totalling Kshs.151,929,500 held in six (6) bank accounts as at 30 June, 2020. However, the reconciled cashbook balances for the accounts reflected an aggregate balance of Kshs.116,473,116 on the said date. The variance amounting to Kshs.35,456,384 between the two sets of records was not satisfactorily explained.

In addition, note 12A to the financial statements reflects bank balances for various health centres totalling Kshs.25,601,141 as at 30 June, 2020. However, Annexure 6 reflects inter-entity transfers made during the year under review that do not, however, include remittances to any health facility. In addition, Management did not provide bank reconciliation statements and bank certificates for the accounts.

Consequently, the accuracy of the bank balances totalling Kshs.721,334,351 reflected in the financial statements as at 30 June, 2020 was not confirmed.

Management Response

The management had undertaken the following actions;

i. A clarification that when draft financial statements were presented reported bank balance was as per unreconciled cashbook balances. As per the guidelines issued by International Public Sector Accounting Standards Board (IPSASB) which is an entity that regulates public financial reporting by County Governments, the amendment on the reported bank balances in the final report of the financial statement was based on the reconciled cash book balances on the six bank accounts as tabulated below;

	BANK	BALANCE AS PER DRAFT REPORT(UN	FINANCIAL STATEMENT BALANCE	VARIANCE

		RECONCILED)	(RECONCILED BANK BALANCE)	
1	CBK RMLF	21,183,904.00	20,579,326.00	(604,578.00)
2	CBK VILLAGE POLYTHECHINIC	67,422,399.00	66,627,399.00	(795,000.00)
3	CBK THS	4,364,650.00	2,150,928.00	(2,213,722.00)
4	CBK UIG	12,960,019.00	12,860,019.00	(100,000.00)
5	KCB SALARY ACCOUNT	2,253,145.00	-	(2,253,145.00)
6	TVETS	8,288,999.00	49,711,828.00	(41,422,829.00)
	TOTAL	**116,473,116**	**151,929,500.00**	**35,456,384.00**

The variance of Kshs. 35,456, 384.00, was thus as a result of change in reporting from actual bank balance to reconciled cash book balance which was adopted by the International Public Sector Accounting Standards Board (IPSASB).
An explanation that annexure 6 erroneously excluded an inter entity transfer of Kshs. 91,126,922 relating to transfer of health facilities. The reporting of this transactions was done under other grants and payments (note 9) of the financial statements. Further, bank reconciliation statements and bank certificates for the health facilities accounts had been forwarded to the office of the auditor general.

Committee Observations
The Committee noted that the County Executive had submitted the bank reconciliation statements and bank certificates for the six (6) bank accounts in question after the audit cycle.
The Committee further noted that the matter has since been addressed.

Committee Recommendations
The Committee recommends that the matter be marked as resolved.

1.3. Unreconciled Retention and Deposits Bank Balance
The cash and cash equivalents balance totalling Kshs.721,334,351 as at 30 June, 2020 further includes a retention bank balance of Kshs.85,424,928. However, Central Bank of Kenya records reflected retentions totalling Kshs.71,119,347 on 30 June, 2020. The difference amounting to Kshs.14,305,581 between the two sets of records was not satisfactorily explained.
In view of these anomalies, the validity, accuracy and the completeness of the bank balance totalling Kshs.721,334,351 reflected in the statement of assets and liabilities as at 30 June, 2020 could not be confirmed.

Management Response
The Controller of Budget and the National Treasury allowed counties to clear payments related to various supply of goods and services processed in the IFMIS as at 30th June 2020 in the month of July. The management took note of the auditor's observation that as at 30th June 2020, the reconciled bank balance of the retention account was Kshs. 71, 119,347, however a number of payments were cleared in early July relating to financial year 2019/2020 which were allowed as explained above. As such the reconciled bank balance of the retention account was presented as Kshs. 85,424,928 as opposed to Kshs. 71,119,347.

Committee Observation
The Committee noted that the County Executive had not submitted an updated statement of assets and liabilities at the time of audit.

Committee Recommendations
The Committee recommends that the matter be marked as resolved.

1.4 Unreconciled Exchequer Releases
Note 1 to the financial statements reflects Exchequer releases totalling Kshs.5,598,420,838 comprised of equitable share of Kshs.5,160,719,200 and donor funds totalling Kshs.437,701,638. However, analysis of the Integrated Financial Management Information System (IFMIS) records indicated that the equitable share of receipts to the County Government during the year under review totalled Kshs.4,104,493,204. The variance amounting to Kshs.1,056,225,996 between the two sets of records had not been reconciled.
Consequently, the accuracy, validity and completeness of the Exchequer releases balance totalling Kshs.5,160,719,200 for the year ended 30 June, 2020 could not be confirmed.

Management Response
The management submitted that a reconciliation of the same variance had been done and exchequer releases amounting to Kshs. 1,056,225,996 had been captured and processed through the IFMIS system in the miscellaneous receipts register.

Committee Observation
The Committee noted that the County Executive had submitted updated financial statements on exchequer releases.

Committee Recommendations
The Committee further recommends that the matter be marked as resolved.

1.5 Unsupported Procurement of Goods and Services
Note 7 to the financial statements reflects use of goods and services payments totalling Kshs.1,153,551,732 which in turn include office and general supplies and services totalling Kshs.59,505,653. Included in the latter balance is Kshs.17,290,850 and Kshs.11,575,380 spent on purchase of stationeries and cleaning materials, and

disinfectants and detergents respectively. However, the purchases were not supported with Requests for Quotations as prescribed in Section 106 (2)(b) of Public Procurement and Asset Disposal Act, 2015 which requires as many persons as necessary be invited to bid for supply of contracts to ensure effective use of public funds.
Further, acceptance and inspection reports as well as receipts of stationeries and cleaning materials, disinfectants and detergents purchased at Kshs.22,720,410 and Kshs.11,575,380 respectively were not recorded in stores ledgers. In the absence of appropriate evidence, it was not possible to confirm whether the items were inspected before they were received into the stores as required in Section 48 (3)(b) of the Public Procurement and Asset Disposal Act, 2015. In addition, requisitions for their issue from the stores or the identities of the persons they were issued to were not provided for audit. As a result of these omissions, value for money, receipt and proper use of the purchases worth Kshs.40,011,260 in aggregate has not been confirmed.

Management Response
The management clarified that request for quotations were not used given that procurement was done through framework agreement as per section 114 (7) of the PPADA 2015 whereby unbundling of procurement was done as per sec 154 (2) of the PPADA 2015 in order for the County Government to meet the threshold for preference and reservation groups (AGPO) in reference to treasury circular in relation to 30% preference achievement.
Further, all the goods received and issued from the stores were fully authorized by the person delegated by the accounting officer. Most goods were issued during the Covid-19 pandemic when Fumigations was done frequently.

Committee Observation
The Committee noted that the matter has since been addressed.

Committee Recommendation
The Committee recommends that the matter be marked as resolved.

1.6 Insufficient Disclosure on Fixed Assets
Annex 5 to the financial statements reflects Kshs.4,915,394,131 in respect of historical cost of assets as at 30 June, 2020. However, the fixed asset register was not up-dated and did not include important information on the assets on record. The missing information included the dates the assets were acquired and the costs of some assets.

As a result, the assets register did not provide adequate disclosure on the assets as required in Regulation 136(1) of the Public Finance Management (County Governments) Regulations, 2015. In addition, assets taken over from the defunct local authorities had not been incorporated in the asset register.
In the circumstances, the existence and valuation of the assets and the accuracy and completeness of the historical cost balance of Kshs.4,915,394,131 as at 30 June, 2020 could not be confirmed.

Management Response

The management agreed with the auditor's observation that the fixed asset register provided in the financial year 2019/2020 did not have adequate information. The County Government of Nyamira controlled two kinds of assets; Assets inherited from former Local Authority and assets acquired since devolution time. The process of transferring assets inherited from local authority was still ongoing. Assets acquired during the devolution period were initially recorded in the asset schedules as the county government was in the process of acquiring an automated fixed assets management system. The process of acquiring an automated asset fixed management system had been concluded and the county government of Nyamira was in the process of transferring information from the fixed assets schedule to the system.

Committee Observation
The Committee observed that the delay in completion of the exercise of valuation of assets and liabilities from the defunct local authorities had affected the correct statement of assets and liabilities that county governments inherited.

Committee Recommendations
The Committee recommends that the-

a) **County Executive should update and present their Fixed Assets Register in the format prescribed by the Public Sector Accounting Standards Board;**
b) **County Executive should adopt and implement the report of the Inter-Governmental Technical Relations Committee (IGTRC) on assets and liabilities from defunct Local Authorities and provide a status update to the Office of the Auditor General within 90 days of adoption of this Report; and**
c) **Office of the Auditor General should progressively review and report on the matter in the subsequent Financial Years.**

1.7 Unsupported Pending Bills
Notes 6.8(1) and 6.8(3) of other disclosures to the financial statements reflect pending accounts payables and other pending payables respectively. However, the disclosures provided contain the following anomalies.

1.7.1 Lack of Control Ledger Accounts on Pending Accounts Payable
Note 6.8(1) to the financial statements – other important disclosures, reflects pending accounts payable totalling Kshs.285,421,626 as at 30 June, 2020. However, the respective control ledger account was not provided for audit. As a result, the accuracy, validity and completeness of the pending accounts payables balance totalling Kshs.285,421,626 as at 30 June, 2020 could not be confirmed.

Management Response
The management submitted that the details of the pending bills and supporting documents had been forwarded to the Office of the Auditor General.

Committee Observation
The Committee noted that the matter has since been addressed.

Committee Recommendation
The Committee recommends that the matter be marked as resolved.

1.7.2 Other Pending Payables
Note 6.8(3) to the financial statements reflects other important disclosures-other pending payables totalling Kshs.337,384,522 as at 30 June, 2020. The balance includes debts owed to County Government entities and third parties totalling Kshs.51,962,896 and Kshs.285,421,626 respectively. However, contract documents, invoices and ledgers related to the balance were not provided for audit.
Consequently, the accuracy, validity and completeness of the pending bills balance totalling Kshs.337,384,522 as at 30 June, 2020 could not be confirmed.

Management Response
The management acknowledged the auditors' observation that pending bills for the County Government of Nyamira totalling to kshs.337, 384,522 related to recurrent and development for the County Executive totalling to Kshs. 285,421,626 and the un disbursed amount to the County Assembly of Ksh. 51, 962,896 respectively. Invoices and other related documents amounting to Kshs. 285,421,626 had been forwarded to the office of the Auditor General.
Pending bills amounting Ksh. 51, 962,896 related to undisbursed County Assembly ceiling which expired at the expiry of 2019/2020 Nyamira appropriation Act and it ought not to have been included in the pending bills report.

Committee Observation
The Committee noted that the matter has since been addressed.

Committee Recommendation
The Committee recommends that the matter be marked as resolved.

1.8 Misreported Bank Balance
The statement of assets and liabilities reflects cash and cash equivalents balance totalling Kshs.721,334,351 as at 30 June, 2020, as further disclosed in Note 12A to the financial statements. The balance includes Kshs.123,630,746 for Nyamira County Education Support Fund. However, the financial and other affairs of the Fund are managed and reported on separately from those of the County Executive.
Consequently, the bank balance totalling Kshs.721,334,351 was inflated by Kshs.123,630,746 and therefore, misrepresented the financial position of the County Executive as at 30 June, 2020.

Management Response
The management noted the auditor's observation that Ksh. 123,630,746 relating to Nyamira County Education fund ought to have been excluded from the financial statements of County Executive as per the Public Finance Management Act section 167 that guides on the reporting of funds created by the County Executive Committee Member for Finance. These funds were reported and audited independently. The

County Government of Nyamira prepared financial statements for Nyamira County Bursary Fund for the financial year ending 30th June 2020 and presented them to the office of the Auditor General.

Committee Observation
The Committee noted that the matter has since been addressed.

Committee Recommendation
The Committee recommends that the matter be marked as resolved.

2.0 Unreturned Exchequer Issues
The statement of receipts and payments for the year ended 30 June, 2020 reflects returned County Revenue Fund issues totalling Kshs.29,608,480. However, the statement of financial assets and liabilities reflects prior year cash and cash equivalents totalling Kshs.1,428,211,479. Therefore, bank and cash balances amounting to Kshs.1,398,602,999 were not transferred to the County Revenue Fund Account at the end of the financial year on 30 June, 2020.
Failure to return all unspent funds to the County Revenue Fund Contravened Section 136 (2) of the Public Finance Management Act, 2012. The provision requires appropriated money withdrawn from the County Exchequer Account but not spent by the end of the respective financial year, to be repaid to the County Exchequer Account.

Management Response
The management took note of the auditors' observation that returns to CRF was Kshs. 29,608,480 as opposed to Kshs. 1,428,211,479 as reflected in the statement of assets and liabilities for the following reasons;

- Kshs. 1, 017,220,344 was held at the County Revenue Fund Account (CRF) at Central Bank of Kenya hence there was no need for refund.
- Grants amount held in various Special Purpose Accounts were not to be returned to the CRF account as per the Controller of Budget guidelines and these included:
    1) Kenya Road maintenance Levy fund Kshs. 69,308,787
    2) KUSP Kshs. 114,080,300
    3) ASDSP Kshs. 7,218,777
    4) Village polytechnics Kshs. 37,594,951 5) THS UC (SPA) 7,890,537
    6) NAGRIP Kshs. 70,796,390
    7) Cooperative Bank NARIG Ksh. 394,295
    8) KCB NAGRIP Kshs. 1,751
    9) KCB-ASDSP Kshs.7,396
- Amount held in the retention account amounting to Kshs. 65,853,231 was held in suspense for third parties and was not returned to the CRF at the end of the financial year.

Committee Observation
The Committee noted that the matter has since been addressed.

Committee Recommendation

Project Name		Contract Sum (Kshs.)	Amount Paid (Kshs.)	Project Status
1.	Construction of Monoremes and Rigoma Markets Shades	7,037,752	7,037,752	Completed but not put to use
2.	Construction of Nyabite Market	4,515,300	2,715,165	Stalled. The respective contractors were not on project sites at the time of the audit.
3.	Construction of Classrooms and Pit Latrine at Matiero Primary ECDE	3,600,000	3,275,200	
4.	Construction of Classrooms at Gesore Primary ECDE	2,729,130	1,105,886	
5.	Construction of Classrooms at Bigege Vocational Training Centre	2,220,600	1,722,592	
6.	Construction of Twin House at Kiendege Talent Academy	3,934,509	1,674,483	
7.	Construction of Classrooms and Toilets at Raitigo Youth Polytechnic	2702220	2,702,220	Incomplete Project

Management Response

1. **Construction of Moturumesi Market Shade**

The management concurred with the auditor's observation that the project was complete but not in use at the time of audit. However, the market was now in use and the County were collecting revenue.

Construction of Rigoma Market Shade

The management concurred with the auditor's observation that the project was complete but not in use at the time of audit due to various challenges that the county was facing. However, the County had taken steps to ensure the market would be in use.

2. Construction of Nyabite Market

The management concurred with the auditor's observation that the project was abandoned by the contractor and was not on site during the time of the audit. However, the process of termination was ongoing and would be completed in due course.

3. Matierio Primary ECDE

The management clarified that the contract was awarded at a contract sum of Ksh. 3,600,000. At the time of audit review, payment amounting to Kshs. 3,275,200 had been made. The inspection and acceptance report were available. The class was complete and in use and posting of an ECD teacher had been done.

4. Gesore Primary ECDE

The management stated that the contract was awarded at a contract sum of Ksh. 2,729,130. A payment Ksh.1, 105,886 had been paid to the contractor as part payment for 40% of works completed. The contractor was unable to complete remaining works

and the contract had since been terminated in accordance with section 153 of the PPAD Act 2015 read together with Section 141(5) of the Public Procurement and Asset Disposal Regulations 2020 in readiness for re- tendering.

5. Bigege Vocational Training Centre
The management clarified that the contract was awarded at a contract sum of Ksh.2, 220,600, at the time of audit a sum of Kshs. 1,722,592 had been paid to the contractor. The contract was terminated and re-tendering done and as at 2021 the project was completed and put into use.

6. Construction of Twin House at Kiendege Talent Academy
The management concurred with auditor's observation that the twin house had stalled during the time of review and this was as a result of the COVID 19 pandemic effects, however since then the project was complete and in use.

7. Raitigo Vocational Training Centre
The management clarified that the contract was awarded at a contract sum of Ksh.2, 702,220 at the time of audit the classroom was complete while the toilet was incomplete. The contractor requested for Contract extension which was granted. The project was now complete and ready for equipping.

Committee Observations
The Committee noted that Nyabite market and Matierio Primary ECDE projects were not complete. With respect to Nyabite market, the Committee noted that the County Government took inordinately long to take action from the time the contractor abandoned the site to issuance of warning and default notices.

Committee Recommendations
The Committee recommends that:

1. **the Auditor General undertakes a value for money audit on the projects and submits a report to the Office of the Auditor General within six months of adoption of this report;**
2. **the county government takes immediate action to complete the incomplete projects and provide information on project status to the OAG within sixty (60) days of adoption of this report;**
3. **the county executive should operationalize and facilitate its Monitoring and Evaluation department to monitor and report the status of county projects.**

1.3 Delayed Completion of Road Upgrading Project
As disclosed in Note 11 to the financial statements, the County Executive spent Kshs.274,526,007 on construction of roads during the year under review. Included in the payments were Kshs.18,404,779 paid to a contractor for upgrading the 13.95 kilometres long B5 Borabu Inn-Golani Heights Resort – Jua Kali – Nyamira Boys – B5 Nyabite Market Road to bitumen standards. The project was funded under the Kenya Urban Support Programme.

The works were to be executed at a cost of Kshs.104,373,213.30 in one year starting from 5 August, 2019 to 5 August, 2020. However, audit inspection of the works in October, 2020 indicated that even though the contract period had expired, the certified executed works were equivalent to 50% of the value of the contract. No plausible explanation was provided by Management for the delay in completing the works. As a result of the delay, the benefits expected from the project were not realized.

Management Response
The management concurred with the auditor's observation that at the time of audit the project was behind schedule and an extension was sought from the contractor which was granted. The contractor had fully executed project works and the road was in motorable condition at 99%, working on final phase of raising final certificate and preparation of final inspection.

Committee Observation
The Committee noted that the matter was not fully mitigated as the contract had not been fully executed since the transfer of project vehicle to the county government of Nyamira had not been done.

Committee Recommendation
The Committee recommends that the Auditor General reviews the matter in the subsequent audit cycle to verify whether the project has been fully delivered and reports back to the Office of the Auditor General within 60 days of adoption of this report.

1.4 Unserviceable Street Lights
Expenditure records indicated that Kshs.13,277,268 was spent on installation of solar lights in various locations in the County. However, verification of the solar-powered street lights revealed that eight (8) out of nineteen (19) light towers installed were not in use as the solar panels and batteries had been vandalized. Further, the Department of Environment and Energy did not keep records on the status of the completed street lights and had not drawn plans for their security and maintenance.
In the absence of means to secure and maintain the street lights, the project has not provided the level of utility expected of it to the residents and there may be no value for money on the expenditure.

Management Response
The management concurred with the auditor's observation that a number of street lights had been vandalized. The management noted that in the financial year 2020/2021 funds had been allocated for normal repair and maintenance of street lights.
Further, management had set aside a budget in the current financial year (2022/2023) to undertake the following measures;

- Installation of metal spikes
- Reinforcement of solar panels in metal holding frames
- Oiling and greasing of the poles to make them slippery
- Installation of batteries in underground concrete box structure

Committee Observation
The Committee noted the mitigation plans by the County Executive.

Committee Recommendations
The Committee recommends that the management should expedite implementation of the measures to secure the lights.

1.5 Unimplemented Covid-19 Isolation Building Project
Revenue records indicated that Nyamira County Government received funding for Covid-19 pandemic mitigation totalling to Kshs.111,822,000. The County Government on 25 September, 2020 awarded a contract for construction of a 160-bed isolation complex at Nyamira County Referral Hospital at a contract sum of Kshs.95,860,834. The contract was awarded through restricted tendering.
However, Management's decision to restrict participation in the tender contravened Section 91(1) of Public Procurement and Asset Disposal Act, 2015 which prescribes open tendering as the preferred method for procurement of goods, works and services by public entities. Audit inspection of the project in November, 2020 indicated that the works, including ground-breaking activities, had not started.
Consequently, the County Executive is in breach of the law and the propriety and value for money on the contract valued at Kshs.95,860,834 had not been attained. Further, the mitigation against Covid-19 that the building was expected to provide in the County had not been realized.
Management Response
The County Government of Nyamira awarded a contract for construction of a 160-bed isolation complex at Nyamira County referral Hospital through restricted tendering as observed by the auditor. The management decision to choose this method was informed by the Covid-19 emergency circumstances that required an urgent response in terms of infrastructure construction for isolation of patients. Because time was of essence, this method was selected as it met the requirements of the PPAD Act 2015 section 102 (1) (b).
Works including ground breaking activities had not commenced by the time of the audit, however works started on 27th January 2021. This delay was occasioned by extra time needed by the contractor for mobilization of specialized materials, equipment and personnel to the site since there were restrictions in place from the Ministry of Health due to Covid 19 pandemic.
The management acknowledged non-completion of the project within the contract period as raised by the auditor. Arising from delays, the project manager issued a warning default notice. Upon non-response from the contractor, the management called for dischargement of bank guarantee to recover advance payment of Ksh. 19,172,166.90 after which the contractor went to court. The matter is still pending in court awaiting determination.

Committee Observation
The Committee noted that

1. informed that the contractor obtained Court orders barring termination of the contract, a factor that has caused stalling of the project.
2. The Committee observed that the management violated the procurement laws and procedures as it contravened Section 91(1) of Public Procurement and Asset Disposal Act, 2015.

Committee Recommendation
The Committee recommends administrative action be taken by the County CEO against the responsible officer(s) who contravened Section 91(1) of Public Procurement and Asset Disposal Act, 2015 in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report.

2. Unsatisfactory Management
As highlighted elsewhere in this report, the County Executive had budgeted to collect Kshs.250,000,000 County own-generated receipts during the year under review but collected Kshs.187,324,098 resulting in a shortfall of Kshs.62,675,902. Audit review of the revenue collection system suggested that the following anomalies may have contributed to the unsatisfactory performance:

2.1 Failure to Update Property Valuation Roll
Land rent records indicated that rents collected during the year totalling Kshs.13,798,137 were less by Kshs.3,202,284 from the sum of Kshs.17,000,421 collected in the previous year.

Examination of Revenue Department records indicated that the land rates prescribed were set in the Valuation Roll prepared in 2006 by the defunct Local Authority. Management had not updated the Roll even though land prices in the County have since risen. As a result, the County Executive has not realized the full potential of land rent revenue available in the County.

Management Response
The management concurred with the auditor's observation that at the time of audit, the valuation roll was not up to date due to budgetary constraints and Covid 19 effects. The County Government of Nyamira had budgeted for phase 1 of valuation roll for key municipalities and multinational companies within Nyamira County. At the time of appearance, terms of reference for the consultancy services were being done awaiting procurement process to commence.

Committee Observation
The Committee noted that the County Executive had not updated its valuation roll leading to under-collection of rent and rates.

Committee Recommendation
The Committee recommends that the County executive should expedite updating of valuation roll in accordance with Section 3 of the Valuation for Rating Act CAP 266 so as to reflect current market values for optimal revenue collection and

comply with the guidelines of the Public Sector Accounting Sector Boards of reporting in the FY 2023/2024.

2.2 Long Outstanding Land Rent Arrears

The records indicated that land rent collections totalling Kshs.1,413,287 was missing during the year under review. However, the records further reflected accumulated arrears totalling Kshs.44,444,313 comprised of principal amount of Kshs.34,185,004 and penalties totalling Kshs.10,259,309 which had been outstanding from the year 2010. There was no evidence of Management having dedicated effort to collect the long outstanding revenues.

Management Response

The management concurred with the auditor's observation that there was outstanding plot rent. To enhance collection, the management issued a waiver notice in the newspaper where some of the defaulters paid. Upon expiry of the waiver notice, management further issued demand notices to defaulters to pay in the financial year under review which had since expired.

Further, to ensure recovery of outstanding arrears, management had employed the following strategy: Issuance of any license is subject to clearance of all plot rent arrears.

Committee Observation

The Committee noted that the county government inherited the arrears from the defunct local government authorities.

Committee Recommendations

The Committee recommends that:

1. **the County Executive should provide evidence to the Office of the Auditor General of how much outstanding arrears was collected following the waivers and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report; and**
2. **the Inter-Governmental Relations Technical Committee should fast-track valuation of assets and liabilities from defunct local authorities to enable county governments update their financial statements accurately.**

2.3 Incomplete Revenue Automation System

Examination of records indicated that a sum of Kshs.9,599,300 was spent on acquisition of intangible assets during the year under review. Included in the expenditure was Kshs.7,900,000 paid to a vendor for supply, delivery, customization, commissioning and maintenance of a revenue collection and management system at a contract sum of Kshs.39,500,000. The system was to be installed in sixty (60) days starting from 23 May, 2019 to 23 August, 2019. At the time of the audit in October, 2020, payments made to the supplier totalled Kshs.19,750,000.

Audit review of the project indicated that installation of the system was yet to be completed even though the project was fifteen (15) months behind its set completion date. The outstanding deliverable components included supply of handheld Geographical Positioning System (GPS) enabled enforcement devices, high-end

The Committee recommends that the matter be marked as resolved.

3.0 Prior-Year Adjustments

Note 16 to the financial statements reflects a prior year bank account credit adjustment amounting to Kshs.804,848,000. However, the adjustment was affected in the current financial year instead of the prior year, contrary to International Public Sector Accounting Standard No.3 which provides that except in special circumstances, prior period errors shall be corrected retrospectively in the first set of financial statements authorized for issue thereafter. Further, the Note reflects a cash equivalents brought forward balance of Kshs.1,428,139,359, whereas the comparative statement of assets and liabilities reflects Kshs.1,428,211,479 as at 30 June, 2019.

Consequently, the adjustment does not conform to the IPSAS and further, its accuracy and validity has not been confirmed.

Management Response

The management concurred that the prior year adjustments should have been carried out in the financial year 2018/2019 (statement of assets and liabilities page 26). However, the County Executive presented to the office of the Auditor General the statement of assets and liabilities based on the guidelines of the Public Sector Accounting Standards Board.

Committee Observation

The Committee noted that the matter has since been addressed.

Committee Recommendation

The Committee recommends that the matter be marked as resolved.

Other Matter

Budgetary Control and Performance

The summary statement of appropriation: recurrent and development combined for the year ended 30 June, 2020 reflects final receipts budget and actual on comparable basis of Kshs.7,001,976,762 and Kshs.6,074,876,690 respectively resulting to a shortfall of revenue totalling Kshs.927,100,072 or 13% of the budget. Similarly, the County Executive spent Kshs.5,996,474,615 against an approved budget of Kshs.7,001,976,762 resulting to an under-expenditure of Kshs.1,005,502,147 or 14% of the budget.

In addition, the County Executive had budgeted to collect Kshs.250,000,000 in County own -generated revenue during the year under review but collected Kshs.187,324,098 resulting in a shortfall of Kshs.62,675,902 or 25 % of the budget.

The underfunding and under-expenditure may have constrained delivery of services and execution of projects planned for the year.

Management Response

The management concurred with the observations made by the auditor. However, the management clarified that during the period under review, underperformance occurred due to late exchequer release of its last tranche which was received in mid-July after

closure of the financial year 2019/2020 and conditional grants received towards the end of the financial year hence could not be implemented within the appropriated timeframe. The county initiated a supplementary budget which incorporated all the categories of funds as opening balances and eventually appropriated in the first revised estimates. The details of the appropriations and evidences of the opening balances were shown in the budget extract for first supplementary budget 2020/2021 and the refund statement dated 30th, July 2020.

In the financial year 2021/2022, the budget absorption improved to 83%. Further the underperformance of own source revenue was attributed to a number of issues ranging from the emergence of Covid-19 pandemic which adversely affected revenues collected from avenues such as markets and business licensing since most of them were shut down or downsized. However, there had been improvement in revenue collection with the introduction of Health Facility Improvement Fund (FIF) and the introduction of fully automated revenue collection system.

Committee Observation

The Committee noted that delays in receiving exchequer releases from the National Treasury and under-collection of own source revenue hindered optimal program implementation and budget execution.

Committee Recommendations

The Committee recommends that:

1. **the National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate; and**
2. **the County executive puts in place measures to enhance its own generated revenue in order to meet its revenue target and address revenue shortfalls.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1. Unsatisfactory Implementation of Projects

Examination of the Project Status Report as at 30 June, 2020 indicated that ninety (90) projects valued at Kshs.320,138,261 contracted for execution during the year under review was not implemented. In addition, forty (40) projects budgeted at Kshs.378,299,813 and on which actual expenditure totalling Kshs.275,987,745 had been incurred as at 30 June, 2020, had not been completed at the time of the audit in October, 2020.

The report further indicated that eleven (11) projects contracted in the previous year at an aggregate cost of Kshs.95,572,787 had since stalled as no works were ongoing at the time of audit. No adequate explanation was provided by Management on why the projects had stalled.

As a result, the residents of the County did not enjoy the benefits due from the unexecuted and incomplete projects.

In addition, the following unsatisfactory issues were observed in respect to projects included in the audit sample:

laptops, volume licenses for antivirus software, and a server for local backup and registration of a client database. No adequate explanation was provided by Management for the delay in execution of
the contract.
In view of the failure to complete the project, the anticipated improvements in collection and accounting for revenues in the County had not been realized.

Management Response
The management concurred with Auditor General's observation that the contract between the County Government of Nyamira and Riverbank Solutions Ltd on revenue automation was not complete as at the time of audit. The delay in delivery of the said hardware was attributed to the economic shutdown in the countries where the service provider had made orders for importation due to Covid-19 pandemic. But since then, the provider had executed her contractual obligations and the contract had come to an end with no extension due to under performance and a new service provider had been procured.

Committee Observation
The Committee noted that the county government did not realize value for money from the procurement of the Revenue Automation system as the revenue collection modules were not efficient.

Committee Recommendation
The Committee recommends that accounting officer initiates the process of debarring Riverbank Solutions due to under-performance.

2.4 Incomplete Use of the Electronic Revenue Collection System
Revenue records indicated that the County own-generated receipts in the year under review totalled Kshs.187,324,098. The balance included Kshs.94,660,809 revenue collected outside the electronic revenue collection system procured by the County. The daily transactions report indicated that collections made through the system totalled Kshs.92,663,289 during the year under review against Kshs.94,660,809 collected manually. Management did not provide an adequate explanation for the electronic system's lower performance.
Consequently, value for money and effectiveness of the electronic system could not be confirmed.

Management Response
The management concurred with the auditor's observation that there was revenue under collection during the year under review. However, management clarified that of the Kshs. 187,324,098 included Kshs. 94,660,809 collected through Health Management Information System and Kshs. 92,663,289 collected through Riverbank solutions (ZIZ).

Committee Observation

The Committee noted that the county government did not realize value for money from the procurement of the Revenue Automation system as the revenue collection modules were not efficient.

Committee Recommendation

The Committee recommends that accounting officer initiates the process of debarring Riverbank Solutions due to under-performance.

3.0 Underfunding of Bursary Fund

Expenditure records on other grants payments indicated that scholarship grants and other educational benefits totalling Kshs.126,520,000 were disbursed during the year under review. However, Section 12(1) of Nyamira County Education Act of 2016 provides that educational grants and benefits should amount to 2.5% of the County budget for the respective year. In the year under review, the total County budget amounted to Kshs.7,001,976,762 and therefore the grants should have amounted to Kshs.175,049,419. Therefore, amounts disbursed totalling Kshs.126,520,000 fell short of the legal threshold by Kshs.48,529,419.

Consequently, the Management may not have fulfilled the need for scholarship grants and benefits in the County during the year under review.

Management Response

The management concurred and took note of the audit observation and illustrated in the table below that; 25% of the appropriated budget after lessening transfers from other government entities, proceeds from domestic and foreign grant, returned issues to County Revenue Fund (CRF) was Ksh. 167,821,125.

However, 2.5% of the actual receipts after lessening transfers from other government entities, proceeds from domestic, foreign grants and returned issues to CRF was Ksh. 144,643,623.

The actual transferred amount was Ksh.126,520,000 as appropriated in the budget, the variation between the budget and the actual transferred amount was Ksh. 41,301,125, the variation between actual receipts and actual transfers was Ksh. 18,123,623 which could not be accomplished due shortfall in own source revenue.

Details	Adjustments	Balances
Total Budget	7,001,976,762	0
Less Transfers from other government entities	243,059,750	6,758,917,012
Less Proceeds from domestic and foreign Grants	16,463,524	6,742,453,488
Less Return Issues to CRF	29,608,480	6,712,845,008
2.50%	0	167,821,125
Actual Receipts	6,074,876,690	0
Less Transfers from other government entities	243,059,750	5,831,816,940
Less Proceeds from domestic and foreign Grants	16,463,524	5,815,353,416

Management Response

a) Ninety (90) projects valued at Kshs.320, 138,261 contracted for execution during the year under review were not implemented.

The management concurred with the auditor's observation that at the time of audit, ninety projects were not implemented. This was occasioned by late appropriation of the supplementary budget, prevailing covid-19 pandemic and an advisory from the National Government to scale down on development projects and focus more on covid-19 mitigation measures.

Out of the ninety (90) outlined projects, fifty-four (54) valued at ksh.190, 171,533 were reinitiated, implemented and completed in the subsequent financial years 2020/2021, 2021/2022.

b) Forty (40) projects not completed at the time of the audit.

The management concurred with the auditor's observation that 40 projects were not completed at the time of audit. However, management clarified that, out of the 40 projects, four (4) were multi year. Further, thirty-one (31) had since been completed and were in use.

c) Stalled Eleven (11) projects contracted in the previous year stalled at the time of Audit.

The management took note of the Auditor's observation and clarified that these were water projects within the County. The budget was for drilling and casing of twenty (20) boreholes by the County Government of Nyamira in collaboration with the National Water Harvesting and Storage a follow up was done and seven projects valued at Ksh. 76,625,055 had been completed and were in use. Four projects had been completed however installation of power was still outstanding.

Committee Observations

The Committee noted that the Management response was unsatisfactory.

The Committee further noted that the Auditor General had not completed the verification of all the projects in question.

Committee Recommendation

The Committee recommends that the Auditor General undertakes further verification of the queried projects and submits a status report on level of completion and status of utilization, to the Office of the Auditor General within sixty days of the adoption of this report.

1.1 Unapproved Variation of Construction Works

A sum of Kshs.32,999,967 was paid to a contractor hired to build amenity wards at Nyamira County Referral Hospital under a contract valued at Kshs.142,319,154 awarded through open tender. Audit verification of the project in October, 2020 confirmed that most of the contracted works had been completed. However, the scope of works on the main building were varied and as a result, the costs increased by Kshs.7,313,893. There was no evidence of the requisite approvals having been granted before the variations were made.

Consequently, the validity of the additional expenditure totalling Kshs.7,313,893 spent on the project was not confirmed.

Management Response

The management clarified that there were no contract variations at the time of audit for financial year 2019/20. However, during the execution, the project implementation team did an appraisal and noted that there were design deficiencies on three elements of mechanical, Electrical and builders works which the team approved within the original contract sum of Kshs. 142,319,154. Towards the end of the project and in consultation with the Public Procurement Review Authority, the accounting officer approved project appraisal which varied the cost by Kshs. 21,813,097.74 translating to 16% of the contract sum. The project is complete and the process of handing over was ongoing.

Committee Observation

The Committee noted that contract variations and delays in project completion indicate challenges with contract execution and project conception, planning and implementation.

Committee Recommendations

The Committee thus recommends that-

1. **the county Executive should expedite the process of handing over of the project so that it can be put to immediate use for the residents of Nyamira to realize value for money;**
2. **the county government should undertake proper project conceptualization, planning, monitoring and execution to ensure timely completion of the project as well as realization of value for money;**
3. **contract agreements should be developed with clauses that have liquidated damages for non-completion or non-execution of projects and should be drafted by County Attorneys; and**
4. **the Auditor General keeps the matter in view in the subsequent audit cycle in line with this recommendation.**

1.2 Incomplete and Abandoned Projects

Included in the construction and civil works payments totalling Kshs.102,281,070 disclosed in Note 11 to the financial statements is a sum of Kshs.20,233,298 spent on seven (7) projects. However, the projects were, at the time of the audit in October, 2020, not complete, or had been completed but not put to use; or had stalled after they were abandoned by contractors. The projects are outlined in the Appendix to this report.

No adequate explanation was provided by Management for the unsatisfactory state of the projects. As a result, the funds spent on the projects have not provided the expected utility to the residents of Nyamira County and may not provide value for money expended.

Less Return Issues to CRF	29,608,480	5,785,744,936
2.50%	0	144,643,623
Actual Transferred	126,520,000	
Variance between budget and actual transfer	41,301,125	0
variance between the actual amount and actual transfer	18,123,623	0

Committee Observation
The Committee noted that the matter was under the purview of Senate County Public investment and special funds Committee.

Committee Recommendation
The Committee recommends that the matter be addressed by the Senate County Public Investment and Special Funds Committee.

4.0 Overpayment of Tax Arrears to Kenya Revenue Authority
Included in the expenditure are tax arrears and penalties totalling Kshs.92,289,456 paid to the Kenya Revenue Authority. However, examination of tax records indicated that the Demand Letter and schedule issued by the Authority was for tax arrears and penalties totalling Kshs.91,111,125 only. No explanation was provided by Management for the overpayment of the tax bill by Kshs.1,178,331.
Non-compliance with statutory requirements resulted in wasteful expenditure on tax penalties.

Management Response
The management concurred with the auditor's observation, that a total of Ksh. 91,111,125 plus Kshs. 1,178,331 was paid as arrears and penalties accumulated for a period of three years. This came as a result of;

- Late disbursement of funds by the National Treasury that led to delay in payroll execution thus attracting interest and penalties on the part of Pay as You Earn.
- The Kenya Revenue Authority issued a demand notice of Ksh. 91,111,125 on 20th August 2019 and the above transaction was executed by central bank of Kenya due to an agency notice issued by Kenya Revenue Authority on 13/01/2020. The differential time between the date of the notice and payment time attracted interest and penalties of Kshs. 1,178,331 hence resulting to a total of Kshs. 92,289,456. Similarly, in the month December 2022 and January 2023, Kenya revenue authority had also executed the agency notices on the payroll on the month of December 2022 and January 2023 which the county government was yet to receive the monies and pay the salaries.

Committee Observation
The Committee noted that the County Executive was penalized for reasons beyond their control as the delay in remitting the taxes was as a result of delays in exchequer releases from the National Treasury.

Committee Recommendation

The Committee recommends that the national Treasury and the Kenya Revenue Authority should put a moratorium on payments of interests and penalties attributed to delay in exchequer release.

5.0 Irregularities in Personnel Management

5.1 Unsustainable Wage Bill

The statement of receipts and payments reflects compensation of employees of expenditure totalling Kshs.2,730,317,480 which translates to 45% of the County Executive's revenue receipts for the year under review totalling Kshs.6,074,876,690.
The proportion therefore exceeds the ratio of 35% set in Regulation 25(1)(b) of the Public Finance Management (County Governments) Regulations, 2015.
Excessive use of limited resources in payment of personnel emoluments reduces funds intended to finance development projects and critical public services and results in imprudent use of public resources.

Management Response

Management concurred with the auditors' observation that the county wage bill was beyond the 35% set limit. This was due to Collective Bargaining Agreement (CBA) for the Nurses, Doctors and Clinical officers without corresponding funding, SRC salaries review 2018/2019, 2019/2020 and irregular promotions exponentially increasing the wage bill. The management initiated a corrective measure on irregular promotions which was reversed by a court ruling. However, the process had been reinitiated with the support of the Ministry of Public Service, Gender and Affirmative Action State Department for Public Service.

Committee Observation

The Committee observed that the County Executive's wage bill during the FY 2019/2020 stood at 45% of the its total receipts. This affected the budgetary allocations available for development projects.

Committee Recommendations

The Committee recommends-

1. **That the County Executive to strictly adhere to the provision of paragraph 25(1)(b) of the PFM Act (county government) regulations, 2015 which stipulate that the county wage bill should not exceed 35 per cent of the county total revenue;**
2. **The County Executive should engage the State Department of Public Service to fast-track the issuance of personal numbers to enable them onboard all employees on the Integrated Personnel and Payroll Database (IPPD) System;**
3. **the Auditor General to monitor the matter in subsequent audit cycle; and**

4. **the management should provide to the Auditor General a three-year strategy of measures it will put in place to contain the high wage bill within sixty (60) days of the adoption of this report.**

5.2 Salaries Paid Outside the Integrated Payroll and Personnel Database (IPPD)

In addition, the compensation of employees' expenditure records indicated that payments totalling Kshs.2,707,851,266 were made through the prescribed electronic Integrated Payroll and Personnel Database (IPPD) system whereas the remainder amounting to Kshs.22,466,214 was processed and paid manually. No explanation was provided by Management for the use of the manual system that is not only less efficient but is more prone to error, misuse and fraud.

Management Response

The management concurred with the auditor's observation that during the year under review, some employees were paid outside the IPPD. This was as a result of; new recruitment which required officers to have personal numbers for their emoluments to be processed through IPPD and casuals who do not qualify for allocation of personal numbers thus could not be paid through IPPD system.

Committee Observation

The Committee observed that the County entity was processing salaries for some of its employees manually instead of using the IPPD system.

Committee Recommendation

The Committee recommends that;

1) **The County Executive should engage the State Department of Public Service to fast-track the issuance of personal numbers to enable them onboard all employees on the Integrated Personnel and Payroll Database (IPPD) System; and**
2) **the Auditor General to monitor the matter in subsequent audit cycle.**

5.3 Irregular Appointment of Staff

5.3.1 Lack of Disclosures on Recruitment Process

Examination of the county payroll for the month of June, 2020 indicated that forty (40) officers were, in the financial year under review, recruited and paid personal emoluments totalling Kshs.3,538,835 per month. However, further examination of the records revealed the following anomalies:

i. There were no advertisements for the vacancies and therefore the appointments were not made in accordance with the law.
ii. The qualifications, including skills and competencies required for the posts were not disclosed.
iii. Records on the recruitments including applications received from candidates, and those shortlisted, interviews conducted and lists of candidates selected were not presented for audit.

iv. Requisitions made by user departments or minutes of the County Public Service Board and the County Human Resource Advisory Committee confirming appointment of the new staff were not presented for audit.

In view of these anomalies, it was not possible to confirm that the appointments were made in a fair and transparent way as required of public appointments and prescribed in Section 65(2) of County Governments Act, 2012. In addition, it was not possible to confirm that the new employees possessed the skills and competencies required for their respective posts.

Management Response

The management took note of the auditor's observation and wished to confirm that indeed the recruitment took place and that due process was followed. Relevant supportive documents for the entire process had been availed.

Committee Observation

The Committee noted that the matter was still outstanding. The Committee also noted with concern the failure of the County Government entity to submit documents on time to the Auditor General.

Committee Recommendation

The Committee, therefore, recommends that the accounting officer undertakes administrative actions against the officers who failed to provide the documents to the auditors in accordance with section 156 of the Public Finance Management Act and provides a status report to the Office of the Auditor General within 60 days from the adoption of this report.

5.3.2 Filled Positions not in Approved Establishment

Further, examination of personnel records indicated that the County Executive had four thousand eight hundred and five (4805) employees out of whom eight hundred and sixty-two (862) held posts that were not in the approved staff establishment. Payments for emoluments to the respective staff totalled Kshs.27,518,135 in the month of June,2020 alone. In appointing staff to posts not provided for in the approved establishment, Management acted contrary to Section B.5(2) of the County Public Service Human Resource Manual which provides that job vacancies should only be declared for posts that are in the authorized establishment.

Consequently, the compensation of employee's expenditure totalling Kshs.27,518,135 spent on the staff employed in unauthorized posts was irregular.

Management Response

Management concurred with the auditor's observation and clarified that the officers identified in the report were on deployment to departments where their substantive designations were not domiciled. At the time of audit review, the county was using CARPS REPORT as opposed to the approved staff establishment.

The management confirmed that an approved staff establishment was in place and its operationalization was ongoing.

Committee Observation
The Committee noted failure by the County Treasury to enforce the fiscal responsibilities principles as spelt out under the PFM Act, 2012. The Committee observed that the high compensation to employee may reduce the fiscal space to undertake development activities for service delivery.

Committee Recommendations
The Committee recommends that-
1. **The County Executive to strictly adhere to the provision of the PFM Act, 2012 on the fiscal responsibilities on county government expenditure on wages and benefits; and**
2. **The Auditor General to closely monitor the enforcement of the fiscal responsibility's principles by the County Treasury in managing county government finances.**

5.3.3 Irregular Recruitment of Members of the County Public Service Board
Audit of the job application documents submitted by successful candidates for Nyamira County Public Service Board vacancies revealed that the four (4) members lacked Tax Compliance Certificates, Certificates of Good Conduct and Ethics and Anti-Corruption Commission Clearance Certificates, all of which had been prescribed as mandatory in the advertisements for the posts. Management did not explain why the requirements were ignored.
Consequently, the County Executive breached regulations it had set for appointment to the posts and it was therefore not clear whether the appointees complied with the requirements of Chapter Six of the Constitution.

Management Response
The management took note of the Auditor's observation and had since forwarded the missing documents.

Committee Observation
The Committee noted with concern the failure of the County Government entity to submit documents on time to the Auditor General.

Committee Recommendation
The Committee recommends that the accounting officer undertakes administrative actions against the officers who failed to provide the documents to the auditors in accordance with section 156 of the Public Finance Management Act and provides a status report to the Office of the Auditor General within 60 days from the adoption of this report.

5.4 Lack of Training Needs Assessment
Available records indicated that training expenses totalling Kshs.69,121,565 were incurred during the year under review. Included in the expenditure was a sum of Kshs.29,405,180 spent on training courses. However, contrary to Section 1.3 of the County Public Service Human Resources Manual, 2013, needs assessments were not

conducted to guide the Human Resource Management Advisory Committee in nominating officers for the training courses.
In the absence of a training needs assessment, there was no assurance that the funds totalling Kshs.29,405,180 spent on the courses were used in an effective way.

Management Response
The management concurred with the auditor's observation that as at the time of audit training needs assessment was not in place. However, the following steps were being undertaken to address this issue;

- Undertake a training needs assessment,
- Centralization of trainings through Departmental Human Resource Advisory Committee and County Human Resource Advisory Committee.

Committee Observation
The Committee noted that the County Executive did not comply with the County Public Service Human Resources Manual, 2013.

Committee Recommendations
The Committee recommends that the County Public Service Board should fully comply with the provision of Human Resource Policies and Procedures Manual.

5.5 Lack of Ethnic Diversity in Staff Establishment
Personnel records presented for audit indicated that the employees of the County Executive numbered 4,805 as at 30 June, 2020 out of whom 4,532 or 94% were of the ethnic community dominant in the County. This was contrary to Section 7(1) of the National Cohesion and Integration Act, 2008 which provides that all public establishments shall seek to represent the diversity of the people of Kenya in the employment of staff.
In the circumstance, the Nyamira County Executive is in breach of the law on promotion of ethnic diversity in public entities.

Management Response
Nyamira County Government in all its adverts encouraged applicants from all parts of the country to express interest of all openings for employment. However, few from other ethnicity expressed interest and even after they are shortlisted, they did not turn up for interviews. In the near future the County ensured they would keep encouraging all Kenyans to apply for vacancies.

Committee Observation
The Committee observed that there was no ethnic diversity among the County Executive employees. The Committee also observed that due to the homogeneous ethnographic population in most counties, it may not be feasible for them to attain the threshold provided under Section 7(1) and 7(2) of the National Cohesion and Integration Act, 2008 which states that *no public establishment shall have more than one third of the staff from the same ethnic community.*

Committee Recommendations

The Committee recommends that the county executive should work progressively towards attaining the requirement of the provisions of Section 65(1)(e) of County Government Act on ethnic inclusivity.

6.0 Failure to Observe All Accountability Reporting Requirements

Contrary to the requirements of Section 54(1) of the Public Finance Management (County Governments) Regulations, 2015, Management did not submit monthly financial and non-financial budgetary reports to the County Treasury with copies to the Controller of Budget and the Auditor-General.

Consequently, the Management did not observe all accountability reporting requirements on the activities of the County Executive.

Management Response

The management agreed with the auditor's observation as per PFM Act sec. 154(1) regulation 2015 County Government that required all accounting officers to prepare financial & non- financial reporting the format prescribed by the cabinet secretary in charge of National Treasury and present it to the County Treasury with copies to the Controller of Budget and Auditor General. At the time, the Public Sector Standards Board had given guidelines for the preparation and presentation of quarterly and yearly and non-financial reports for County Government entities.

Committee Observation

The Committee noted that the County Executive was in breach of the law as they had not submitted the monthly financial report and non-financial reports to the County Treasuries and copies to the Controller of Budget and Auditor General.

Committee Recommendations

The Committee recommends that the management undertakes measures to ensure full compliance with the law by submitting the required documents in a timely manner.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

1. Lack of an Audit Committee

Regulation 167(1) of the Public Finance Management (County Governments) Regulations, 2015 requires each County Government entity to establish an Audit Committee in accordance with prescribed regulations. Review of internal control and governance processes in the County Executive of Nyamira, indicated that the term of the County Audit Committee expired in October, 2019. However, Management did not appoint a new Committee thereafter. In the absence of the Committee, oversight on the County Executive's overall governance and operating systems, including internal controls were not adequate.

Management Response

The management concurred with the audit findings that at the time of audit review the Audit Committee term had expired. However, on 24th June 2020 there was an advertisement for appointment of the Audit Committee, inauguration and induction had been done and the committee was currently functional.

Committee Observation
The Committee noted that the matter has since been addressed.

Committee Recommendation
The Committee recommends that the matter be marked as resolved.

2. Lack of Documented Risk Management Policy and Reports
As similarly reported in previous years, the County Executive did not have a documented risk management policy in the year under review. Further, contrary to Regulation 158(1) of the Public Finance Management (County Governments) Regulations, 2015, no risk assessment activity was carried out during the year.
Therefore, Management lacked rational means to identify operational and other risks faced by the County Executive, to assess the likelihood of their occurrence and significance, and to establish means to mitigate their possible effects.

Management Response
The management concurred with the audit finding that as at the time of audit the County Risk Management Policy was not in place. However, the management stated that risk assessment for all departments had been conducted and a combined risk register was in place together with a risk management policy.

Committee Observation
The Committee noted that the matter has since been addressed.

Committee Recommendation
The Committee recommends that the matter be marked as resolved.

CHAPTER ELEVEN

REPORT OF THE SENATE COUNTY PUBLIC ACCOUNTS COMMITTEE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF NYERI COUNTY EXECUTIVE FOR FINANCIAL YEAR 2019/2020

The Governor of Nyeri County, Hon. Mutahi Kahiga, EGH, appeared before the Committee on Wednesday, 8th February 2023 to respond (under oath) to audit queries raised in the Report of the Auditor General on Financial Statements for Nyeri County Executive for the Financial Year 2019/2020.

Qualified Opinion

EXECUTIVE SUMMARY OF UN-RESOLVED AUDIT QUERIES				
	Query	**Recommendations**	**Actor**	**Timeline**
1.	**Unsupported Expenditure-Domestic Travel and Subsistence Allowances** ii)An amount of Kshs.362,050 was issued to an officer to pay allowances for officers who were scheduled to attend a drama festival. However, review of the surrender voucher revealed that the list of payees attached to the payment voucher included other unrelated activities such as County Sports Day and distribution of furniture transport allowance for 3 days for unspecified persons for which the imprest was not authorized for.	The Committee recommends that the accounting officer recovers imprest with interest from the imprest holder at the prevailing Central Bank interest rates as stipulated in the Public Finance Management (County Government) Regulation 93.	The CECM Finance	60 days from the adoption of this report

2	**8.0 Accounts Receivables – Outstanding Imprests** There is a discrepancy between the surrendered imprests amounts reflected in the IFMIS payment details and the financial statements, resulting in an unexplained difference and making it impossible to confirm the accuracy of the accounts receivables-outstanding imprests balance.	1) The County CEO undertakes administrative action against the officer(s) responsible for failure to undertake reconciliation of financial statements within the stipulated timelines and submit a report to the Office of the Auditor General within 60 days of adoption of this report. 2) The County Executive in liaison with the National Treasury undertakes capacity building for the responsible officer(s).	The County CEO The National Treasury	Within 60 days of adoption of this report
3	**9.1Inaccurate Pending Bills Balances** There are unexplained discrepancies in the pending bills balance and no explanation for the failure to pay them during the financial year, which affects the subsequent year's budget.	The Committee therefore recommends that: 1) the National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate so as to enable county entities settle their obligations on time; 2) the County Executive should disclose all pending bills in the format prescribed by the Public Sector Accounting Standards Board as stipulated under Section 104(1)(h) of Public Finance Management Act, 2012; 3) the county executive puts in place measures to enhance	The County CEO (Governor) The Nationa Treasury The DCI	Within 60 days of adoption of this report

		own generated revenue in order to meet its revenue target and address revenue shortfalls that contribute to the challenge of pending bills. 4) Pending bills deemed ineligible should be forwarded to the Directorate of Criminal Investigation (DCI) for investigation proper legal action taken against those filing false claims. 5) County Government to take note of judgement in a Kitale High Court Constitutional Petition E003 of 2023 that declared formation of pending bills verification committees unconstitutional and engage Office of the OAG and strengthen the internal audit functions.; and 6) All valid pending bills that have been reviewed by the Office of the Auditor General be paid and a payment plan be submitted to the county assembly for approval and progress report on implementation sent to the Senate and the Office of the Controller of Budget. 7) The County CEO undertakes administrative action against officer(s) responsible for failing to prepare accurate financial statements in accordance with Section 156 of the Public Finance Management Act, 2012 and submit a report to the Office		

		of the Auditor General within 60 days of adoption of this report; 8) The County Executive to identify training needs of its staff serving in the Finance Department and initiate capacity building and training in conjunction with the National Treasury within 60 days of adoption of this report.		
4	**9.2Pending Staff Payables** Pending staff payables amount to Kshs.27,791,273, including unpaid travel and subsistence claims, some of which have been outstanding for over a year without justification, and the analysis of pending staff payables does not comply with the reporting template prescribed by the Public Sector Accounting Standard Board (PSASB.)	The Committee therefore recommends that: (a) the National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate so as to enable county entities settle their obligations on time; (b) the County Executive should disclose all pending bills in the format prescribed by the Public Sector Accounting Standards Board as stipulated under Section 104(1)(h) of Public Finance Management Act, 2012; (c) the county executive puts in place measures to enhance own generated revenue in order to meet its revenue target and address revenue shortfalls that contribute to the challenge of pending bills. (d) Pending bills deemed ineligible should be forwarded to the Directorate of Criminal Investigation (DCI) for investigation proper legal action taken against those filing false claims.	CECM Finance National Treasury	Within 60 days of adoption of this report

		(e) County Government to take note of judgement in a Kitale High Court Constitutional Petition E003 of 2023 that declared formation of pending bills verification committees unconstitutional and engage Office of the OAG and strengthen the internal audit functions.; and (f) All valid pending bills that have been reviewed by the Office of the Auditor General be paid and a payment plan be submitted to the county assembly for approval and progress report on implementation sent to the Senate and the Office of the Controller of Budget.		
5	**9.3Other Undisclosed Pending Bills** Undisclosed pending payables of Nyeri County include KPLC power bills, salaries paid to health workers, unpaid legal fee notes, and pending bills from defunct local authorities. No satisfactory explanation was given for the omissions, making it impossible to confirm the accuracy and completeness of the pending bills balance.	1. the County Government should not pay the Ministry of Health any money for provision of medical services that were undertaken before the full transfer of the health function to Counties; 2. the National Treasury refunds the County Government any and all funds irregularly received ostensibly for provision of medical services that were undertaken before the full transfer of the health function to Counties. 3. make adequate efforts to pay its pending bills as a first charge in the subsequent audit cycle; 4. disclose all pending bills in the format prescribed by the Public Sector Accounting Standards Board as stipulated under section 104 (1)(h) of the	The County CEO The National Treasury	Next Audit Cycle

		Public Finance Management Act, 2012; and 5. adopt the report of the Inter-Governmental Relations Technical Committee on assets and liabilities from defunct Local Authorities and take charge in their books of accounts.		
6	**10.0Summary of Fixed Assets Register** The Summary of Fixed Assets Register indicated a total of Kshs.2,877,613,826 as at 30 June, 2020, but a review revealed that all parcels of land of undetermined values owned by the County Executive were omitted, while various assets inherited from defunct local authorities have not been disclosed or valued. Therefore, the accuracy, valuation and completeness of assets balance could not be confirmed.	The Committee recommends that the- a) County Executive should update and present their Fixed Assets Register in the format prescribed by the Public Sector Accounting Standards Board; b) County Executive should adopt and implement the report of the Inter-Governmental Technical Relations Committee (IGTRC) on assets and liabilities from defunct Local Authorities and provide a status update to the Office of the Auditor General within 90 days of adoption of this Report; and c) Office of the Auditor General should progressively review and report on the matter in the subsequent Financial Years.	The County CEO The Auditor General	Continuous
7	**Other Matters** **1.0 Budgetary Control and Performance** The financial statements show an 11% under-funding and 18% under-expenditure of the	a) The National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate; and **b)** the County Executive puts in place measures to enhance its own generated revenue	The National Treasury	Continuous

	budget resulting in constraints to execution of planned activities and delivery of services to the residents of Nyeri County.	pursuant to Section 104(d) of the Public Finance Management Act, 2012 in order to meet its revenue target and address revenue shortfalls.	The County CEO	
8	**2.0Revenue Trend Analysis** Revenue collections in Nyeri County consistently failed to meet budget targets and have shown a decline over the past four years, 2016/2017 and 2019/2020 indicating possible revenue leakages and an inefficient revenue collection system.	The Committee recommends that the County Executive; 1. puts in place measures to enhance its own generated revenue pursuant to Section 104(d) of the Public Finance Management Act, 2012 in order to meet its targets. 2. should adopt realistic revenue targets based on their mapped revenue streams; and **3.** should revise their budget to a realistic level based on past experience.	The County CEO	Continuous
9	**3.0Late Exchequer Releases** As a result of delayed receipts, the County executive did not have sufficient time to absorb its total budget for the year.	The Committee recommends that the National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate.	The National Treasury	Continuous
10	**4.0Unresolved Prior Year Matters** Various prior year audit issues remained unresolved as at 30 June, 2020. Management has not provided reasons for the delay in resolving the prior year audit issues.	The Committee recommends that the County executive complies with section 53 of the Public Audit Act, 2015 by taking action on the issues raises by the Auditor General and submits a report to the Auditor General within 60 days of the adoption of this report.	1. The County Chief Executive Officer. 2. The Auditor – General.	Within 60 days of adoption of this report

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES.				
1.	**1.0 Outstanding Imprests** Imprest balance of Kshs.5,671,031 ought to have been surrendered on or before 30 June, 2020 but remained outstanding after the due dates.	The Committee recommends that: 1) The County CEO undertakes administrative action against the officer(s) responsible for failure to undertake reconciliation of financial statements within the stipulated timelines and submit a report to the Office of the Auditor General within 60 days of adoption of this report; 2) the Accounting Officer recovers the outstanding imprest with interest at the prevailing Central bank rates from the officers who failed to surrender the safari imprest within 7 days of returning to duty station, pursuant to Regulation 93(6) of the PFM Act (County Governments) Regulations, 2015; 3) sanctions and surcharge of Accounting Officer who fails to recover outstanding imprests in line with Regulation 93(7) of the PFM (County Government) Regulations, 2015; and 4) The County Executive to identify training needs of its staff serving in the Finance Department and initiate capacity building and training in conjunction with the National Treasury within 60 days of adoption of this report.	County CEO National Treasury	Within 60 days of adoption of this report
2.	**2.0 Arrears of Revenue** Undisclosed arrears of revenue amounting to	The Committee recommends that;- a) the County executive should expedite updating of valuation roll in accordance with Section 3 of the Valuation for Rating Act CAP 266 so as to reflect	County CEO	Continuous

	Kshs.3.4 billion as of 30 June 2020 were found, and no indication of recovery efforts was provided, casting doubt on the recoverability of the outstanding revenue.	current market values for optimal revenue collection and comply with the guidelines of the Public Sector Accounting Sector Boards of reporting in the FY 2023/2024. The County Executive should consider alternative dispute resolution as a way of fast-tracking the court case on Valuation Roll. b) the County Executive adopts and implements the report of the Inter-Governmental Relations Technical Committee on valuation of assets and liabilities from defunct local authorities and take charge. c) the County Executive should make efforts to collect the outstanding arrears from the defaulters. d) the county executive should provide a report of all revenue arrears in the financial statements in the format prescribed by the Public Sector Accounting Standards Board; and e) the Office of the Auditor-General continues to monitor the status of the county revenues and arrears in the subsequent audit cycle.	The Auditor General	
3.	**Under-Banking of Hospital Revenue** An analysis of revenue collection reports and pay-in-slips from Nyeri Provincial Referral Hospital, Mt. Kenya Hospital and Mukurwe-ini Hospital revealed under banking of	The Committee recommends that the CECM Finance, in line with section 116 of the Public Finance Management Act, 2012 to cause a Fund to be established for management of the revenues collected from hospitals and provides a status report to the OAG within 60 days of adoption of this report.	The CECM Finance	Within 60 days of adoption of this report

	revenue amounting to Kshs.937,406 during the year under review.			
4.	**4.1 Excessive Expenditure on Personnel Emoluments** Examination of revenue and expenditure records indicated that compensation of employees expenditure for the year under review totalled Kshs.3,592,854,332 equivalent to 52% of the revenue of the County Executive totalling Kshs.6,956,824,044.	The Committee recommends that- 1. the management should strictly adhere to the provision of paragraph 25(1)(b) of the PFM Act (county government) regulations, 2015 which stipulate that the county wage bill shall not exceed 35 per cent of the county total revenue. 2. the county executive puts in place measures to enhance own source revenue collection in order to address wage bill gap; and 3. the management should provide to the Auditor General a three-year strategy of measures it will put in place to contain the high wage bill within sixty (60) days of the adoption of this report.	The County CEO The Auditor General	Within 60 days of adoption of this report
5.	**4.1 Compensation of Employees-Excessive Expenditure on Personnel Emoluments** The County Executive's compensation expenditure was Kshs.3,592,854,332, exceeding the 35% limit prescribed by regulations,	The Committee recommends that;- a) the management should strictly adhere to the provision of paragraph 25(1)(b) of the PFM Act (county government) regulations, 2015 which stipulate that the county wage bill shall not exceed 35 per cent of the county total revenue; b) the county executive puts in place measures to enhance own source revenue collection	County CEO County Public Service Board	Continuous

	indicating that most of the County's resources are spent on staff salaries, which negatively affects service delivery to Nyeri residents.	in order to address wage bill gap; c) The County Executive should engage the State Department of Public Service to fast-track the issuance of personal numbers to enable them onboard all employees on the Integrated Personnel and Payroll Database (IPPD) System; and d) the Auditor General to monitor the matter in subsequent audit cycle.	CECM Finance	
6.	**4.2 Non-Compliance with Regional Diversity Requirement** The County Executive had a workforce that was 92.8% from the dominant ethnic community, in breach of the National Cohesion and Integration Act, and only 12.6% of new hires were from minority communities outside the County, indicating a persistent breach of the law.	c) the County Executive should work progressively towards attaining the requirement of the provisions of Section 65(1)(e) of County Government Act 2012 on ethnic inclusivity. d) the County Executive and CPSB should provide to the Auditor General a five-year strategy of measures it will put in place to ensure compliance with Section 65 (1) (e) of County Government Act 2012 within sixty (60) days of the adoption of this report.	County CEO CPSB Auditor General	Continuos

7.	**4.3Failure to Comply with One Third Basic Salary Rule** During February and March 2020, some employees of the County Executive were paid net salaries below one-third of their basic pay, in breach of the Employment Act, 2007.	a) The County Executive should provide to the Auditor General within sixty (60) days after the adoption of this report a plan of the measures put in place to mitigate on the issue as well as comply with the requirements of law; b) The county should configure their IPPD system such that it is able to lock out commitments beyond the accepted thresholds; and c) The Auditor General should continue monitoring the issue in subsequent financial years.	County CEO Auditor General	Within 60 days of adoption of this report
8.	**5.0Irregular Allowances to Alcoholic Drinks Control and Management Committee** The County spent Kshs. 93,818,672 on domestic travel and subsistence, including Kshs. 2,429,600 paid to an alcohol regulation committee without approved regulations or meeting rates. The validity and propriety of the Kshs. 2,429,600	The Committee recommends that the County Executive liaises with the County Assembly to expedite enactment of the Nyeri County Alcoholic Drinks Control and Management Regulations and provide a status update to the Senate within 60 days from adoption of this report.	County Attorney	Within 60 days of adoption of this report

	allowances could not be confirmed.			
9	**6.1 Regularity of Legal Fees** The County spent Kshs. 55,042,329 on legal fees for private lawyers who represented the County in various court cases despite having a County Attorney. Records show that fee notes amounting to Kshs. 32,125,703 remained unpaid as at the time of audit and were not included in the list of pending bills. The validity and completeness of legal fees for the year ended 30 June 2020 could not be confirmed.	1. County Executive makes a provision in its budget for contingency liability in respect of legal fees pursuant to regulation 25(2)(e) of the Public Finance Management (County Government) Regulations, 2015; and 2. The County Executive utilizes the Office of the County Attorney to provide legal advice and court representation. The county should provide evidence of compliance with the County Attorneys Act within 60 days of adoption of this report.	CECM Finance County Attorney	Immediately
10	**6.2Payment to County Public Service Board Consultative Forum** Kshs. 300,000 was paid as annual subscription without approved law or regulation. Validity of expenditure unconfirmed.	The Committee recommends that the irregular payments to the County Public Service Board Consultative Forum be stopped and further recommends the surcharge of any County Secretary who continues to make the irregular contribution. The EACC should oversee the recovery of all the public funds irregularly transferred to the County Public Service Board Consultative Forum.	CECM Finance	Immediately
11	**7 Rent of Liaison Office at the Council of Governors**	The Committee recommends that the irregular payments to the Council of Governors (COG) be stopped and further recommends the surcharge of any Governor, in their capacity as Chief Executive	The County CEO	Immediate

	Amount of Kshs. 2,758,993 in respect of contribution to Council of Governors to defray expenses and rent for a Liaison Office at the Council of Governors offices in Westlands, Nairobi. However, the payment was made contrary to Section 37 of the Inter-Governmental Relations Act, 2012 which provides that operational expenses for the structures and institutions established by the Act is provided for in the annual estimates of the revenue and expenditure of the National Government.	Officer, who continues to make the irregular contribution. The EACC should oversee the recovery of all the public funds irregularly transferred to the Council of Governors (COG) by the Governor. This is in line with the Resolution of the Senate.		
12.	**8.0 Other Grants and Transfers** Kshs. 713,014,997 was transferred to various entities including Nyeri County Agriculture Mechanization Services and Wambugu Agricultural Training Centre, but the County lacked a policy on how the funds were to be spent and accounted for. Expenditure	1. The Committee recommends that- the County CEO undertakes administrative actions against the officers who failed to provide the documents to the auditors in accordance with section 156 of the Public Finance Management Act and provides a status report to the Office of the Auditor General within 60 days from the adoption of this report; and 2. the County Executive should develop a policy on the administration of the fund within 60 days of the adoption of this report and submit to the	The County CEO	Within 60 days of adoption of this report

	returns were not provided, hence the validity and propriety of Kshs. 11,113,064 expenditures could not be confirmed.	Auditor General for verification.		
13.	**9.1Construction of Market Stalls at Kaheti** The financial statement shows an expenditure of Kshs. 1,222,526,224 on asset acquisition, including Kshs. 66,677,566 spent on building construction. Kshs. 2,001,116 was used to build 12 instead of the 17 market stalls contracted. The validity and value for money of the expenditure could not be confirmed.	1. Ethics and Anti-Corruption Commission, and the Director of Public Prosecution cause investigation of the Head of Procurement with a view to instituting the prosecution of the officer for violation of Section 139 of the Public Procurement and Asset Disposal Act, 2015 and submits a report to the Office of the Auditor General within 60 days of adoption of this report. 2. The Kenya Institute of Supplies Management (KISM) takes action(s) against the Head of procurement in Nyeri County for professional misconduct pursuant to Section 23(1)(d)(i) of the Supplies Practitioner Act 2007 and provides an update to the Office of the Auditor General within 60 days of adoption of this report.	EACC, KISM The County CEO	Within 60 days of adoption of this report
14.	**9.2Construction of Market Shed and Stalls at Ruthagati** Kshs. 2,802,409 was spent on a market shed and stalls construction, but they were not utilized or in use. Therefore, there was no value for money.	The Committee recommends that the County Executive should ensure timely completion and handover of projects to the beneficiaries to ensure value for money is achieved.	County CEO	Continuous
15.	**10.1**	The Auditor General confirms the completion and utilization of the	Auditor General.	Within 60 days of

	Delayed implementation of projects a) Upgrading and Rehabilitation of Thiha-Sagana Irrigation Scheme. 10.2 b) Desilting and Construction of Kiria Earth Dam	project within sixty (60) days of the adoption of this report.		adoption of this report
16.	**11.0 Construction of Roads** **11.1** a) PCEA Kihate–Miiri Road 11.2 b) Kamunyaka –Turi and Thungari Road	The Auditor General confirms the completion and utilization of the project within sixty (60) days of the adoption of this report.	Auditor General.	Within 60 days of adoption of this report
17.	**11.3Wasteful Expenditure on Signposts** County required contractors to erect steel signposts with murals of Governor and MCAs costing an estimated Kshs. 80,000 per project, totaling Kshs. 51,200,000 for 640 projects, an uneconomical and wasteful use of public resources. Expenditure on construction projects could not be confirmed.	The County CEO undertakes administrative actions against the responsible accounting officers for misuse of public resources in accordance with section 156 of the Public Finance Management Act and provides a status report to the Office of the Auditor General within 60 days from the adoption of this report.	County CEO	Within 60 days from the adoption of this report
18.	**12.0 Construction of Boundary Wall for the Proposed Solid**	The Committee, therefore, recommends that the County CEO undertakes administrative actions against the officers who failed to	County CEO	60 days from the adoption of this report

	Waste Transfer Station in Nyeri Kshs. 16,946,547 was spent on a boundary wall for a waste transfer station that was not utilized due to litigation. The value for money could not be confirmed. Documents to explain this were provided late.	provide the documents to the auditors in accordance with section 156 of the Public Finance Management Act and provides a status report to the Office of the Auditor General within 60 days from the adoption of this report.		
19.	**13.0 Implementation of e-Procurement** The County Executive didn't fully use e-procurement in acquiring goods and services. Some processes were done on the e-platform, while others were done manually due to staff access or IFMIS module implementation issues.	The County Executive to identify training needs of its staff serving in the Finance Department and initiate capacity building and training in conjunction with the National Treasury within 60 days of adoption of this report	The County CEO	Immediate
REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE				
20.	**1.0 Cash Management** County Executive made cash withdrawals of Kshs. 114,658,203 for staff imprest without explanation. Cash payments are prone to abuse and misappropriation.	The Committee recommends that the County Executive should comply with Paragraph 93 of the Public Finance Management Act 2012 and Regulation on imprest management.	CECM Finance	Continuous

21.	**2.0 Revenue Collection Systems-Nyeri Pay System** a) Lack of segregation of duties b) Failure to use Standard Naming Convention c) Access to Operational Environment by consultant d) Inactive Users in Nyeri Pay System	1. County Executive reviews the administrative rights of the users so as to provide for segregation of duties; 2. County Executive adopts a Standard Naming Convention for all users; 3. County Executive reviews the rights of the developer and ensure that the County Executive has super rights to the system for executive review; 4. County Executive reviews the user rights of the Nyeri Pay System to ensure that only authorized staff have access to the system; and 5. Auditor General reviews the matter in the subsequent audit cycle to ascertain compliance.	CECM Finance	Immediate
22.	2.0 (V.) **IT General Controls** No approved ICT policy, data security or disaster recovery plans were in place, and there is no record of how the migration to Nyeri pay was done, which may have led to data loss.	The committee recommends that the Auditor General undertakes an audit of the system to verify how migration from LAIFOMS to Nyeri Pay System was executed and report back to the Senate in the next audit cycle.	Auditor General.	Immediate
23.	3.0 **Insufficient Information Technology System Controls** County Executive lacks IT Strategy Committee and IT Steering Committee, indicating weaknesses in IT governance structure.	1. The County Executive establishes both the Information Technology Strategy Committee and an IT Steering Committee; and 2. The Auditor General verifies the operationalization of the ICT policy in the next audit cycle.	CECM Finance	60 days from the adoption of this report

24.	(VI.) **Lack of Disaster Management and Recovery Policies** in place including fire suppression systems	The County Executive should expedite formulation of a Disaster Management and Recovery policy and copies should be submitted to the Auditor General for verification within sixty (60) days of the adoption of this report.	The County CEO	60 days
25	(X) **Lack of store management policies** including random survey and annual board of survey of stores and asset and an inventory management strategy.	The management should expedite the formulation of Stores Management Policy and a copy should be submitted to the Auditor General for verification within sixty (60) days of the adoption of this report.	The County CEO	60 Days

Basis for Qualified Opinion

1. Unconfirmed County Own Generated Revenue

The statement of receipts and payments reflects county own generated receipts of Kshs.656,628,153 for the year ended 30 June 2020, which is at variance with an amount of Kshs.664,859,880 indicated in the Annual Report of the Controller of Budget. The difference of Kshs.8,231,727 has not been reconciled. Further, revenue receipts and bank statements for Karatina Hospital were not provided for audit verification. Consequently, the accuracy and completeness of the county own generated receipts of Kshs.656,628,153 for the year ended 30 June 2020 could not be confirmed.

Management Responses

In the financial year 2019-2020, the total revenue reported in the audited financial statements amounted to Kshs 656,628,153; however, the revenue submitted to the Controller of Budget amounted to Kshs 664,859,880. The difference of Kshs 8,231,727 was due to revenue that was banked in the previous financial year 2018-2019 and receipted in the financial year 2019-2020. This was caused by customer's delay in presenting payments for official receipting immediately after banking.

Committee Observation

The Committee observed that the County executive had weak internal control systems arising from lack of procedures to guide operations. However, the Auditor informed the Committee the matter has since been resolved.

Committee Recommendation

The Committee recommends that the matter be marked as resolved.

2. Variances Between Financial Statements and Payment Details

The statement of receipts and payments reflects total actual payments of Kshs.7,361,383,139 for the year ended 30 June 2020. However, the balances reflected in the financial statements differed with those reflected in the respective payment details and vote book on seven (7) items as shown below;

Expenditure item	Amounts as per financial statement. (Ksh)	Amount as per payment details (Ksh)	Amount as per Vote Book (Ksh)
Domestic Travel and Subsistence	93,818,672	48,636,232	206,865,537
Foreign Travel and Subsistence	7,412,425	4,124,302	49,585,574
Printing, Advertising, and Information Supplies and Services	26,654,101	21,760,868	29,841,215
Insurance Costs	217,843,072	217,843,072	242,154,043
Specialized Materials and Services	131,154,062	129,428,705	119,896,874
Other Operating Expenses	55,042,329	53,878,274	90,179,848
Other Grants and Transfers	713,014,997	707,908,717	5,106,280

In the circumstances, the accuracy and completeness of the payments in respect of the above expenditure items for the year ended 30 June, 2020 could not be confirmed.

Management Responses:

The figures in the financial statement differed from the payment details because the payment details captured provisions for encumbrances, which had not yet been posted to the expenditure item. The imprest was charged to the general ledger at the time of surrender of the imprest. The figures in the financial statements and the vote book differed due to the inclusion of the County Assembly of Nyeri vote book in the analysis.

Committee Observation

The Committee noted the failure of the County Executive to provide reconciliation of the financial statements, payment details and the vote books as stipulated under section 62 of the Public Audit Act.

The Committee however noted that the reconciliations were provided and verified by the Auditors after the audit process.

Committee Recommendation

The Committee further recommends that the matter be marked as resolved.

3. Variances Between the Trial Balance and Financial Statements Balances
A review of the IFMIS trial balance revealed various balances which were at variance with the financial statements balances as follows;

Item	Financial Statements (Kshs.	Trial Balance (Kshs.	Variance (Kshs.)
Rentals of Produced Assets	6,025,723.35	6,033,723.35	8,000
Office and General Supplies and Services	25,343,902	25,358,702	14,800
Routine Maintenance-other Assets	194,046,573.55	194,066,573.55	20,000
Other Capital Grants and Transfers	491,276,953	492,449,053	1,172,100

The variances have not been explained or reconciled. Consequently, the accuracy and completeness of the reported balances in the financial statements could not be confirmed.

Management Responses

The figures adopted by the Auditor during the Audit process differ with what was submitted. According to the amended and submitted financial statements on 31st March 2021, figures in the Financial Statements and the Vote Book tally.

Committee Observation

The Committee noted the failure of the County Executive to provide reconciliation of the financial statements and trial balance as stipulated under section 62 of the Public Audit Act. The Committee however noted that the County Executive has since availed to the auditors the relevant records and documents showing the reconciled statements.

Committee Recommendation

The Committee further recommends that the matter be marked as resolved.

4. Variances between the Summary Statement of Appropriation-Combined and Budget Execution by Programmes and Sub-programmes

The summary statement of appropriation - recurrent and development combined reflects budget and actual expenditure amounts that are at variance with the amounts reflected in the statement of budget execution by programmes and sub-programmes as indicated below:

Item	Summary Statement of Appropriation-Combined	Budget Execution by Programmes and Sub-Programmes	Variance
	(Kshs.)	(Kshs.)	(Kshs.)
Final Expenditure Budget	8,974,917,684	8,260,832,452	714,085,232
Actual Expenditure Amounts	7,361,383,139	6,721,596,989	639,786,150

The variances between the two statements have not been explained or reconciled.

Management Response

There was a review of the financial statement on the use of goods and other grants and transfers under the receipts and payments, however the same was omitted under the Budget Execution, as shown in the table below.

Item	**Original Financial statements**	**Revised Financial statements**	**Change**
Uses of goods and service	1,022,383,461.35	1,022,443,262.45	59,801.10
Other grants and transfers	711,842,897.40	713,014,997.40	1,172,100.00
Total Change			**1,231,901.10**

The statement of appropriation combined budget execution includes Kshs. 714,085,232 which was the County Assembly of Nyeri budget. The actual expenditure in the execution included the County Assembly's Kshs. 638,554,249.00 plus the effect of change of Kshs. 1,231,901.10 totaling to Kshs. 639,786,150. The original and revised receipts were attached for the committee perusal.

Committee Observation

The Committee noted the failure of the County Executive to provide reconciliation of the summary Statement of Appropriation and Budget Execution by Programmes and Sub-programmes as stipulated under section 62 of the Public Audit Act.

The Committee however noted that the County Executive has since availed to the auditors the relevant records and documents showing the reconciled statements.

Committee Recommendation

The Committee further recommends that the matter be marked as resolved.

5.Unsupported Expenditure - Domestic Travel and Subsistence Allowances

The statement of receipts and payments reflects an expenditure of Kshs.1,022,443,262 under use of goods and services which, as disclosed in Note 12 to the financial statements, includes an amount of Kshs.93,818,672 in respect of domestic travel and Subsistence allowances. The latter balance includes payments amounting to Kshs.1,199,850 on various events held during the year which were not adequately supported as follows:

(i) Imprest amounting to Kshs.607,800 was issued to facilitate a 4-day workshop for the County Assembly Education Committee at a certain hotel in Nairobi held between 11th to 14th December 2019. However, IFMIS payment details indicate that the workshop was held at a different hotel. Further, it has not been explained why the County Executive paid allowances to Members of the County Assembly as the County Assembly has its own budget for such activities.

Management Response

The venue was changed due to logistical issues and the participants were notified. The conference facilities in the first hotel were inadequate and so change of venue was inevitable. The Department planned for the activity and had included the workshop with the Hon. Members in its annual work plan and had as well budgeted for it.

Committee Observations

The Committee observed that the workshop was held in a different hotel from the one that had been procured.

The Committee also noted that the matter was properly mitigated.

Committee Recommendation

The Committee recommends that the matter be marked as resolved.

(ii) An amount of Kshs.362,050 was issued to an officer to pay allowances for officers who were scheduled to attend a drama festival. However, review of the surrender voucher revealed that the list of payees attached to the payment voucher included other unrelated activities such as County Sports Day and distribution of furniture transport allowance for 3 days for unspecified persons for which the imprest was not authorized for.

Management Responses

The above imprest no. 3502803 amounting to Ksh 362,050 was a budget for three activities-

(i) Budget for ECDE drama and music festival.
(ii) Budget for county sports day events
(iii) Budget for distribution of ECDE junior chairs and tables.

Committee Observation

The Committee observed that an imprest of Ksh.362,050 was used for activities unrelated to the prior purpose for which the imprest was requisitioned for.

Committee Recommendation

The Committee recommends;-

1. **the Accounting Officer recovers the outstanding imprest with interest at the prevailing Central bank rates from the officers who failed to surrender the safari imprest within 7 days of returning to duty station, pursuant to Regulation 93(6) of the PFM Act (County Governments) Regulations, 2015; and**
2. **sanctions and surcharge of Accounting Officer who fails to recover outstanding imprests in line with Regulation 93(7) of the PFM (County Government) Regulations, 2015**

(iii) Further, imprest amounting to Kshs.230,000 was paid to an officer to facilitate 10 drivers who accompanied county officers on inspection and supervision of County Health Management Teams (CHMT) in the County. The field visit was reported to have taken place between 9th and 20th March, 2020. However, the surrender voucher was not supported with work tickets for vehicles used during the field visits.
In view of the foregoing, the accuracy, occurrence and propriety of the payments totalling Kshs.1,199,850 incurred on domestic travel and subsistence could not be confirmed.

Management Responses

The activity was part of assessment and Covid-19 preparedness where the County Health Management Team Members in combination with members from Sub-County Health Management Team visited all the health facilities in the County. This was part of support supervision to ascertain that everything was well in the county's facilities. The team was divided in several teams.

Committee Observation

The Committee noted that the matter had since been addressed as the supporting documents relating to the imprests have been submitted for audit review.

Committee Recommendation

The Committee recommends that the matter be marked as resolved.

6. Specialized Materials and Services.

6.1 Unconfirmed Purchase of Medical Supplies from KEMSA

The expenditure on use of goods and services also includes an amount of Kshs.131,154,062 in respect of specialized materials and services. Included in the expenditure, is an amount of Kshs.14,447,050 paid to the Kenya Medical Supplies Agency (KEMSA) for supply and delivery of medical supplies including pharmaceuticals, non-pharmaceuticals, laboratory, and X-ray materials. However, the payment was not supported with delivery notes, inspection and acceptance reports and counter receipt vouchers. (S13).

Consequently, the accuracy, propriety and occurrence of the payments of Kshs.14,447,050 incurred on the medical supplies during the year could not be confirmed.

Management Responses

The supply of health commodities to County facilities vide L/PO No. 2182 dated 28 June 2020 were delivered and accepted at Nyeri County Referral Hospital and Karatina Level 4 Hospital as per the PPADA. The delivery notes, Counter Receipt Vouchers (S13), inspection and acceptance reports to proof the authenticity and validity of the said transaction, named as Health Audit Response No. 2019/20 (B) was submitted for the committee's perusal.

Committee Observation

The Committee noted that the matter has since been addressed as the County Executive has since availed the relevant records and documents supporting the incurred expenditure in the purchase of the medical supplies to the County Government.

Committee Recommendation

The Committee recommends that the matter be marked as resolved.

6.2 Unconfirmed Purchase of Medical Supplies from Missions for Essential Drugs

The specialized materials and services expenditure of Kshs.131, 154,062 includes an amount of Kshs.33, 750,295.95 for purchase of drugs and non-pharmaceuticals items from Missions for Essential Drugs (MEDS). Although, the procurement was done through framework agreement, a written agreement between the County and the supplier was not provided for audit review. As a result, it was not possible to determine whether the prices offered were competitive compared with prevailing market prices. Further, supply of laboratory reagents valued at Kshs.4, 828,938.90 ordered by the County for the Nyeri County Referral Hospital were not recorded in the stock ledger cards.

Consequently, the accuracy, propriety and validity of the expenditure on supply of medical supplies during the year ended 30 June, 2020, could not be confirmed.

Management Responses

i) Medical commodities like drugs, medical supplies and equipment require stringent procurement mechanisms that ensure quality and allow for economies of scale. As part of its regulatory role, the National Government accredited

KEMSA and MEDS as suppliers of medical supplies to Counties. An extract of Policy Paper dated 2013 (page 28) giving direction on where counties should procure Pharmaceuticals and Non-pharmaceuticals to enhance efficiency in medical supply was submitted for verification.

ii) The supply of laboratory reagents to Nyeri County Referral Hospital valued at Kshs. 4,828,938.90 were delivered and entered in the store's ledgers. To confirm receipt and recording of the reagents in store; copies of S13, delivery notes, inspection & acceptance report and store folio numbers were provided together with S11 to confirm receipt and distribution.

Committee Observations

The Committee observed that the county executive breached the Public Procurement and Assets Disposal Act, 2015 by relying on the Directive from the National Government State Department for Health.

Committee Recommendation

The committee recommends that the matter be marked as resolved.

7. Transfers to Youth Polytechnics

The statement of receipts and payments reflects other grants and transfers totalling

Kshs.713,014,997, which includes an amount of Kshs.49,838,453 transferred to youth polytechnics in the County. However, a review of the transfers revealed the following observations:

i) During the financial year under review, the County received grants totalling to Kshs.55,143,298 from the Ministry of Education for development of youth polytechnics in the County, out of which the County transferred a total of Kshs.49,838,453 to youth polytechnics. The balance of Kshs.5,304,845 was not remitted to the institutions as intended.

ii) A review of records revealed that transfers totalling Kshs.5,179,638 to thirteen (13) youth polytechnics were not supported with acknowledgement receipts from the benefiting institutions.

iii) The grant of Kshs.55,143,298 from the Ministry of Education for development of youth polytechnics was disbursed to the County Government on condition that the County would match the contribution in the ratio of 1:1 as per the grant condition No. 6 (c). However, the County Government did not pay the equivalent amount to the youth polytechnics as required. No explanation was provided for the non- compliance with the conditions set for the grants.

Consequently, the accuracy, validity and completeness of the transfers to youth polytechnics of Kshs.49,838,453 for the year ended 30 June, 2020 could not be confirmed.

Management Response

In issues 1 & ii, the said balance was remitted to the institutions as tabulated below.

- Rukira Vocational Training Center Ksh 1,031,745 disbursed on 26/01/2021

- Karatina Vocational Training Centre Ksh 3,200,000 disbursed on 28/08/2020
- Gathuthi vocational training Centre Ksh 1,500,000 disbursed on 20/08/2020

The total amounts to Ksh 5,731,745 that was disbursed being the balance at the closure of the financial year.

The County Government of Nyeri was unable to match the contribution as per the grant condition No. 6 (c) as the resource envelop has continued to shrink and allocation is done to needier sector such as provision of medical drugs and the increasing wage bills.

Committee Observation

The Committee noted that:

1. issues (i) and (ii) have since been addressed.

2. the county executive failed to match their contribution as per the grant conditions; and

3. The grant has since been converted as an equitable share of revenue from the National Government.

Committee Recommendations

The Committee recommends that:-

1. **issues (i) and (ii) be marked as resolved; and**
2. **The county executive endeavors to meets its financial obligations to ensure that it utilizes conditional grants from the National Government.**

8. Accounts Receivables – Outstanding Imprests

The statement of assets and liabilities reflects a balance of Kshs.5,671,031 under accounts receivables-outstanding imprests as of 30 June, 2020. However, the IFMIS payment details indicated that imprests surrendered during the year amounted to Kshs.89,016,610 which differed from the amount of Kshs.108, 987,172 reflected in Note 26 to the financial statements as that imprest surrendered during the year. The resultant difference of Kshs.19,970,562 had not been reconciled or explained. Under the circumstances, the accuracy of the accounts receivables-outstanding imprests balance of Kshs. 5,671,031 as at 30 June, 2020 could not be confirmed.

Management Responses

The figure of Kshs. 19,960,734 was the outstanding imprest as at the end of 2018/2019 Financial Year. The amount was surrendered in the system. The new template required the County Treasury to capture the last financial year's imprest in Note 26. Evidence of surrendered imprest Register FY 18/19 was produced.

Committee Observation

The Committee noted the failure of the County Executive to provide reconciliation of the financial statements and IFMIS records as stipulated under section 9 (f) of the Public Audit Act.

Committee Recommendations

The Committee recommends that:

1) **The County CEO undertakes administrative action against the officer(s) responsible for failure to undertake reconciliation of financial statements within the stipulated timelines in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report;**
2) **the Accounting Officer recovers the outstanding imprest with interest at the prevailing Central bank rates from the officers who failed to surrender the safari imprest within 7 days of returning to duty station, pursuant to Regulation 93(6) of the PFM Act (County Governments) Regulations, 2015;**
3) **sanctions and surcharge of Accounting Officer who fails to recover outstanding imprests in line with Regulation 93(7) of the PFM (County Government) Regulations, 2015; and**
4) **The County Executive to identify training needs of its staff serving in the Finance Department and initiate capacity building and training in conjunction with the National Treasury within 60 days of adoption of this report.**

9. Pending Bills

9.1 Inaccurate Pending Bills Balances.

Annex 4 to the financial statements on Analysis of Pending Accounts Payable reflects pending bills of Kshs.389,854,571 which differs from the nil balance reflected under Note 8.8(1) on Other Important Disclosures. The difference was not explained or reconciled.

Further, no explanation was provided for failure to pay the pending bills, during the financial year they relate to, thus affecting the budget for the subsequent year to which they have to be charged. Further, no explanation was provided for failure to pay the pending bills, during the financial year they relate to, thus affecting the budget for the subsequent year to which they have to be charged.

Management Responses

There was an omission on note 8.8(1) on other disclosures, however a full annexure on the pending bills was provided in the financial statement with full details of the suppliers.

Pending bills arose as a result of non-disbursement of June 2020 Exchequer release.

Revenue source	Approved budget	Actual receipts	variance

Equitable share	5,412,150,000.00	4,946,705,100.00	465,444,900.00

Committee Observation

The Committee noted that the management did not submit all the relevant documents and information to the Auditor General at the time of audit contrary to section 62 of the Public Audit Act, 2015.

Committee Recommendations

The Committee recommends that:

1) **the County CEO undertakes administrative actions against the officers who failed to provide the documents to the auditors in accordance with Section 156 of the Public Finanace Management Act, 2012 and provides a status report to the Office of the Auditor General within 60 days of adoption of this report;**
2) **the County Executive should disclose all pending bills in the format prescribed by the Public Sector Accounting Standards Board as stipulated under Section 104(1)(h) of Public Finance Management Act, 2012;**
3) **the National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate so as to enable county entities settle their obligations on time;**
4) **the county executive puts in place measures to enhance own generated revenue in order to meet its revenue target and address revenue shortfalls that contribute to the challenge of pending bills;**
5) **Pending bills deemed ineligible should be forwarded to the Directorate of Criminal Investigation (DCI) for investigation proper legal action taken against those filing false claims;**
6) **County Government to take note of judgement in a Kitale High Court Constitutional Petition E003 of 2023 that declared formation of pending bills verification committees unconstitutional and engage Office of the OAG and strengthen the internal audit functions.; and**
7) **All valid pending bills that have been reviewed by the Office of the Auditor General be paid and a payment plan be submitted to the county assembly for approval and progress report on implementation sent to the Senate and the Office of the Controller of Budget.**

9.2 Pending Staff Payables

Annex 5 to the financial statements reflects pending staff payables amounting to Kshs.27,791,273 as at 30 June, 2020. The balance includes an amount of Kshs.5,579,188 in respect of unpaid staff travel and subsistence claims incurred while carrying out official duties, an indication that the staff financed the activities of the County Executive. Further, some claims have remained outstanding for long for over one (1) year without justification.

In addition, the analysis of pending staff payables did not include the original amount, amount paid to date and amount outstanding from the previous year as required in the reporting template prescribed by the Public Sector Accounting Standards Board (PSASB).

Management Response

The pending bills occurred due to failure to release the last tranche (Month of June 2020) of exchequer from the national treasury. Further, the officers' claims for allowances appeared in the list of pending bills as the line vote for domestic and foreign travels were reduced to finance Covid-19 containment measures as directed by the Presidents Executive Order of 18th March 2020.

Committee Observation

The Committee noted that the County Executive did not provide explanation for the outstanding imprest claims. The Committee also observed that the County Executive did not provide a status report on the pending bills as prescribed by the Public Sector Accounting Standards Board. This could lead to inadequate disclosures of the pending bills.

Committee Recommendations

The Committee therefore recommends that:-

1) **the National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate so as to enable county entities settle their obligations on time;**

2) **the County Executive should disclose all pending bills in the format prescribed by the Public Sector Accounting Standards Board as stipulated under Section 104(1)(h) of Public Finance Management Act, 2012;**

3) **the county executive puts in place measures to enhance own generated revenue in order to meet its revenue target and address revenue shortfalls that contribute to the challenge of pending bills.**
4) **Pending bills deemed ineligible should be forwarded to the Directorate of Criminal Investigation (DCI) for investigation proper legal action taken against those filing false claims.**
5) **County Government to take note of judgement in a Kitale High Court Constitutional Petition E003 of 2023 that declared formation of pending bills verification committees unconstitutional and engage Office of the OAG and strengthen the internal audit functions.; and**
6) **All valid pending bills that have been reviewed by the Office of the Auditor General be paid and a payment plan be submitted to the county assembly for approval and progress report on implementation sent to the Senate and the Office of the Controller of Budget.**

9.3 Other Undisclosed Pending Bills

A review of records of County Executive of Nyeri revealed the following undisclosed pending payables:

i) The National Treasury through a letter reference No. IGF/COD/01/E (51) dated 23rd December 2020 to all County Governors indicated that Nyeri County owed the Kenya Power and Lighting Company (KPLC) an amount of Kshs.37,990,434 for power bills as at 30th June, 2020. However, the balance had not been disclosed in these financial statements as a pending bill.

ii) Records maintained at the Ministry of Health indicates salaries paid in 2013/2014 to the health workers on behalf of County Executive of Nyeri amounting to Kshs.744,981,628 have not been refunded by the County to the Ministry of Health. The outstanding amount has also been omitted in the financial statements.

iii) Further, unpaid fee notes amounting to Kshs.32,125,703 relating to legal matters were not disclosed and included in the financial statements for the year ended 30 June, 2020.

iv) Pending bills of undetermined value inherited from the defunct local authorities in the County at the inception of devolution in 2013/2014 were also not disclosed in the financial statements.

No satisfactory explanation was provided for these omissions and as a result, the accuracy and completeness of the pending bills balance as at 30 June, 2020 could not be ascertained.

Management Response

The Management submitted as follows:

i. The county received the Treasury circular referenced above through the Council of Governors, but it did not pay the said amount since they were not authenticated or tabulated from which the bills are for which department or facility and was a lump sum figure. Nyeri County Government has always strived to pay its outstanding utility bills in time for its service providers.

ii. The county treated the said amount as both income and expense in the financial statements as no extra funds were received for that purpose in the financial under review and there was no formal request received from the Ministry of Health to such effect before arriving on the decision of making a contra entry. Schedule Four funds should follow the functions

iii. The fees could not have been declared as pending fees as the fee notes were pending verification in accordance with Advocates Remuneration Order. Further, some of the fees were interim fee notes signifying that the files had not been marked as closed. Lastly the verification could not be carried out as the advocates had not provided full documentation including judgments, rulings, decrees or certificate of taxation to signify the matters were closed.

iv. The balances for assets and liabilities inherited from the defunct Local Authorities in Nyeri County has not been included since the Committee on Assets and Liabilities has not handed over the assets to the County Government. The County Government appointed assets and liabilities committee which came up with the assets and liabilities as per attached report Ref: NCG/T&C/CALC

dated 24th July 2019 addressed to the Chairman Inter Governmental Technical Relations Committee.

Committee Observations

The Committee observed that:

1) the County Executive had not settled all its pending bills at the time of audit;
2) the County Executive did not provide a status report on all its pending bills as prescribed by the Public Sector Accounting Standards Board. This could lead to inadequate disclosures of the pending bills;
3) an amount of Kshs.744,981,628 being salaries for health workers dating back to financial year 2013/2014 was fully omitted from the pending bills; and
4) the County Executive did not have the values of all the assets and liabilities inherited from the defunct local authorities. This has affected the correct position of the assets and liabilities of county executive.

Committee Recommendations

The Committee recommends that;-

1. **the County Government should not pay the Ministry of Health any money for provision of medical services that were undertaken before the full transfer of the health function to Counties;**
2. **the National Treasury refunds the County Government any and all funds irregularly received ostensibly for provision of medical services that were undertaken before the full transfer of the health function to Counties;**
3. **the National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate so as to enable county entities settle their obligations on time;**
4. **the County Executive should disclose all pending bills in the format prescribed by the Public Sector Accounting Standards Board as stipulated under Section 104(1)(h) of Public Finance Management Act, 2012;**
5. **the county executive puts in place measures to enhance own generated revenue in order to meet its revenue target and address revenue shortfalls that contribute to the challenge of pending bills;**
6. **Pending bills deemed ineligible should be forwarded to the Directorate of Criminal Investigation (DCI) for investigation proper legal action taken against those filing false claims;**
7. **County Government to take note of judgement in a Kitale High Court Constitutional Petition E003 of 2023 that declared formation of pending bills verification committees unconstitutional and engage Office of the OAG and strengthen the internal audit functions.;**
8. **All valid pending bills that have been reviewed by the Office of the Auditor General be paid and a payment plan be submitted to the county assembly for approval and progress report on implementation sent to the Senate and the Office of the Controller of Budget.**

10. Summary of Fixed Assets Register

Annex 7- Summary of Fixed Assets Register indicated that additions during the financial year 2019/2020 amounted to Kshs.1,222,526,224, which when added to the balance brought forward of Kshs.1,655,087,602 results to a total of Kshs.2,877,613,826 as of 30 June, 2020. However, a review of the Assets Register revealed that all parcels of land of undetermined values owned by the County Executive were omitted in the financial statements. Further title deeds for the land were not provided for audit review, while all assets had not been tagged for ease of reference and identification. In addition, various assets inherited from the defunct local authorities have not been disclosed or valued.

In the circumstances, the accuracy, valuation and completeness of assets balance of

Kshs.2,877,613,826 as at 30 June, 2020 could not be confirmed.

Management Response

The balances for assets and liabilities inherited from the defunct Local Authorities in Nyeri County has not been included since the Committee on Assets and Liabilities has not handed over the assets to the County Government. The County Government appointed assets and liabilities committee which came up with the assets and liabilities as per attached report Ref: NCG/T&C/CALC dated 24th July 2019 addressed to the Chairman Inter Governmental Technical Relations Committee.

The parcels of lands held under trust were contained in the IGTRC report that was awaiting handing over. The figures in the financial statements are for the assets that were procured in the financial year under review. The County Government is in the process of revaluing and tagging all assets in the register.

Committee Observations

The Committee observed that:

1) the County Executive did not have an updated Fixed Assets Register; and
2) the County Executive did not have the values of all the assets and liabilities inherited from the defunct local authorities. This has affected the correct position of the assets and liabilities of county executive.

Committee Recommendations

The Committee recommends that the-

1. **County Executive should update and present their Fixed Assets Register in the format prescribed by the Public Sector Accounting Standards Board;**
2. **County Executive should adopt and implement the report of the Inter-Governmental Technical Relations Committee (IGTRC) on assets and liabilities from defunct Local Authorities and provide a status update to the Office of the Auditor General within 90 days of adoption of this Report; and**
3. **Office of the Auditor General should progressively review and report on the matter in the subsequent Financial Years.**

Other Matters

1. Budgetary Control and Performance

The summary statement of appropriation - recurrent and development combined for the year ended 30 June, 2020 reflects final receipts budget and actual on comparable basis

totaling Kshs.8,979,825,473 and Kshs.8,016,798,619 respectively, resulting to an under- funding of Kshs.963,026,854 or 11% of the budget. Similarly, the County Executive spent Kshs.7,361,383,139 against an approved budget of Kshs.8,974,917,684 resulting to an under-expenditure of Kshs.1,613,534,545 or 18% of the budget. The underfunding and underperformance constrained execution of planned activities and delivery of services to the residents of Nyeri County.

Management Response

On Budget Performance, the management stated that in the financial year under review, the final budget estimate of the County Executive was Kshs. 8,260,832,452 comprising of Kshs. 5,246,941,658 (63.5%) for recurrent expenditure and Kshs. 3,013,890,794 (36.5%) for development expenditure. This is in accordance to section 107 (2)(c) of the PFM Act, 2012 requiring the County Treasury to ensure that over the medium term a minimum of thirty percent of the County Government's budget shall be allocated to the development expenditure.

However, it is clear that the County Executive was only able to spend 24% of the total expenditure on development projects against the National set target of at least 30%. It is worth noting that implementation of projects and programs started late due to the stalemate on the approval of Division of Revenue Act (DORA), 2019 between the Senate and the National Assembly which further delayed the enactment of County Allocation of Revenue Act to as late as November, 2019.

During the financial year under review, the unexpected outbreak of COVID-19 pandemic highly affected the way of doing things especially due to its resultant containment measure and Ministry of Health Protocols. Implementation of development activities suffered the most.

Further, the National Government delayed the release of funds to the County Government thus affecting the implementation of the planned projects and programmes. Notably, the National Treasury failed to disburse the allocation for June, 2020 leading to cancellation of already processed payments in the IFMIS amounting to high amounts of unpaid works. This meant that most development activities were complete but actual payments was not possible due to the above challenges leading to high pending bills and reflected as low absorption. In preparing the budget, the County Treasury fully complied with the PFM Act by allocating 36.5 percent to development budget way beyond the required baseline of 30%. On Under expenditure the management concurred with the Auditor observation that the County Executive was not able absorb the total allocated budget estimate. This was due to the following reasons:

- Delay in the approval of Division of Revenue Act (DORA), 2019 due to the stalemate on between the Senate and the National Assembly

which further delayed the enactment of County Allocation of Revenue Act to as late as November, 2019.

- General delay in release of exchequer to the County Government thus affecting the implementation and timely payment for works, goods and services amounting to low absorption.
- The unexpected outbreak of COVID-19 pandemic highly altered normalcy in the way of doing things especially due to its resultant containment measures and Ministry of Health Protocols. The measures which included social distancing made it almost impossible to undertake some of the planned activities.
- The National Treasury did not disburse to the County Government, the allocation meant for June, 2020, leading to cancellation of already processed payments in the IFMIS. This meant that most of the activities had already been executed as planned but actual payment was not possible.

Due to the above challenges the county accumulated pending bills amounting to Kshs. 417,000,000 million which if conditions were favorable as initially planned could have covered part of the remaining spending.

Committee Observations

The Committee observed that:

1) there was under-utilization of appropriated funds by the County Executive as a result of delay in exchequer releases by The National Treasury; and
2) the county did not meet its own source revenue targets.

Committee Recommendations

The Committee recommends that;

1) **The National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate.**
2) **the County executive puts in place measures to enhance its own generated revenue in order to meet its revenue target and address revenue shortfalls.**

2. Revenue Trend Analysis

A trend analysis on revenue collections for the past four (4) years between 2016/2017 and 2019/2020 revealed persistent failure to meet budget targets and poor performance as indicated below:

	Budget	Actual		% of Actual	%
Year	Amount	Collection	Under Collection	Against	Revenue
	(Kshs.)	(Kshs.)	(Kshs.)	Budget	Growth

2016/2017	1,095,101,000	643,139,153	451,961,847	59%	-
2017/2018	1,000,000,000	760,186,651	239,813,349	76%	18%
2018/2019	1,000,000,000	837,394,937	162,605,063	84%	10%
2019/2020	1,000,000,000	656,628,153	343,371,847	34%	-21%

The shortfall and decline in revenue collection may be indications of revenue leakages and inefficient revenue collection system.

Management Response

During the year under review the country experienced the onset of covid-19 pandemic where most businesses were at minimum operations while others were shut down. Nyeri County revenue collection was severely affected as some revenue streams were completely crippled down e.g. the transport sector. Bars were also closed and markets were at minimal operation. The ripple effect was low revenue collection in almost all revenue streams. The Wambugu ATC was also an isolation center and no revenue was collected.

It is also important to note that during the year under review Nyeri County was among the counties selected to pilot the UHC project where all user fees for patients were free; this negatively impacted on the revenue collected from the hospitals.

ACCOUNT DESCRIPTION	BUDGET Kshs	ACTUALS Kshs	VARIANCE Kshs	REMARKS
Liquor Licence	**53,878,795**	**39,050,644**	14,828,151	Deadline had been set for 31st March 2020. This is after the onset of Covid-19 whereby all the bars were closed.
Hospital Services	**250,000,000**	**105,229,097**	144,770,903	Decrease due to introduction of UHC.
Public Health	**17,131,050**	**9,816,741**	7,314,309	
Business Permits	**120,000,000**	**79,622,442**	40,377,558	All these revenue streams were affected by Covid-19 since they are collected with the Business permits and the deadline is ordinarily 31st March.
Application Fee	**17,000,000**	**10,377,773**	6,622,227	
Fire-Fighting Services	**17,500,000**	**10,521,935**	6,978,065	
Refuse Collection Fee/Tipping charges/Garbage Dumping Fee/waste disposal charges	**42,331,880**	**36,703,639**	5,628,241	

ACCOUNT DESCRIPTION	BUDGET Kshs	ACTUALS Kshs	VARIANCE Kshs	REMARKS
Sign Boards & Advertisement Fee	**30,998,425**	**24,948,868**	6,049,557	
Parking Fees	**46,000,000**	**33,768,474**	12,231,526	The drop was due to Covid-19 after restriction of movement of PSVs and the working from home containment measure that were introduced.
Enclosed Bus Park	**79,806,070**	**70,075,755**	9,730,315	
Parking Clamping/Penalties/Offences fees	**7,016,000**	**4,116,270**	2,899,730	
Land Rates/Other Property Charges	**85,854,800**	**47,268,935**	38,585,865	These streams are development related. During the period of the pandemic development across the country was affected.
Ground Rent - Current Year/Temporary Occupation License (TOL)	**6,000,000**	**2,850,032**	3,149,969	
Ground Rent - Other Years	**3,500,000**	**2,118,775**	1,381,225	
Approvals (Extension of users, Subdivision, transfer, Amalgamation, survey, e.t.c.)	**9,565,800**	**6,501,873**	3,063,927	
Buildings Plan Approval Fee	**15,572,000**	**6,678,788**	8,893,212	
Buildings Inspection Fee	**3,818,570**	**2,172,720**	1,645,850	
TOTAL LOCAL SOURCES	**805,973,390**	**491,822,760**	314,150,630	314,150,630 is 93% of 336,199,964.57 which is the deficit in revenue collection

The table below showed an illustration of 2 consecutive years in revenue collection the comparison clearly shows that the above drop was caused by the above reasons of Covid-19 and introduction of UHC. It is clear that even the gains that had been made in some revenue streams were surpassed by the decrease.

ACCOUNT DESCRIPTION	ACTUALS FY 2019/2020	ACTUALS FY 2018/2019	VARIANCE	
	Kshs	Kshs	Kshs	

Hospital Services	105,229,097	242,227,436	136,998,339	Decrease due to Introduction of UHC
Public Health	9,816,741	13,381,715	3,564,974	
Liquor Licence	39,050,644	46,188,654	7,138,010	Deadline had been set for 31st March 2020 after onset of Covid-19 Where all the bars were closed
Business Permits	79,622,442	93,027,580	13,405,138	All these revenue streams were affected by Covid-19 since they are collected with the Business permits and the deadline is normally 31st March
Land Rates	47,697,691	61,247,091	13,549,400	
Buildings Plan Approval Fee	6,678,788	16,898,597	10,219,809	
TOTALS	**288,095,403**	**472,971,073**	**184,875,671**	

Committee Observations

The Committee observed that—

1) the County Executive overestimated its own source revenue targets; and
2) the County Executive had an inadequate mechanism for collecting own source revenue.

Committee Recommendations

The Committee recommends that—

1. **the County Executive should put in place measures to improve their own source revenue collection capacity in order to meet their targets;**
2. **the County Executive should adopt realistic revenue targets based on their mapped revenue streams; and**
3. **the County Executive should revise their budget to a realistic level based on past experience.**

3. Late Exchequer Releases

Note 1 to the financial statements indicates total Exchequer releases of Kshs. 6,300,195,891, out of which an amount of Kshs. 1,198,352,442 or 19% was received by the County Government from The National Treasury during the months of June and July, 2020 as detailed below:

Date	Transaction Details	Amount (Kshs.)	Classification

04-Jun-20	User Fees Foregone	13,701,379	Conditional Grant
04-Jun-20	Rehabilitation of VCT's	27,571,649	Conditional Grant
04-Jun-20	Level 5 Hospitals	114,609,017	Conditional Grant
04-Jun-20	Covid -19	124,390,000	Conditional Grant
18-Jun-20	Kenya Climate Smart Agri. Project (KCSAP)	74,236,237	Conditional Grant
22-Jun-20	Universal Health Care (UHC)	79,947,195	Conditional Grant
24-Jun-20	Equitable share	487,093,500	Equitable Share
30-Jun-20	DANIDA - Covid-19 Grant	5,600,000	Conditional Grant
02-Jul-20	Kenya urban Support Program (KUSP-UIG)	8,800,000	Conditional Grant
02-Jul-20	KDSP Level 1	30,000,000	Conditional Grant
02-Jul-20	Kenya urban Support Program (KUSP-UDG)	169,253,465	Conditional Grant
06-Jul-20	Covid -19 Staff Allowance	63,150,000	Conditional Grant
	Total	**1,198,352,442**	

As a result of the delayed receipt of funds, the County Executive did not have sufficient time to absorb its total budget for the year.

Management Response

The National Treasury did not disburse to the County Government, the allocation meant for June 2020, leading to cancellation of already processed payments in the IFMIS. This meant that most of the activities had already been executed as planned but actual payment was not possible. Due to that challenge the county could not absorb the funds as per the budget.

Committee Observation

The Committee noted that the county executive experienced delay in exchequer releases from The National Treasury thereby hampering program implementation and budget execution.

Committee Recommendations

The Committee recommends that The National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate.

4. Unresolved Prior Year Matters

Various prior year audit issues remained unresolved as at 30 June, 2020. Management has not provided reasons for the delay in resolving the prior year audit issues.

Committee Observation

The Committee observed that the County Executive did not take action on the issues raised in the Report of the Auditor General for the Financial year 2018/2019.

Committee Recommendations

The Committee recommends that the County executive complies with section 53 of the Public Audit Act, 2015 by taking action on the issues raises by the Auditor General and submits a report to the Auditor General within 60 days of the adoption of this report.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES.

Basis for Conclusion

1. Outstanding Imprests

Records of the County Executive indicates that an outstanding imprest balance of Kshs.5,671,031 ought to have been surrendered on or before 30 June, 2020 but remained outstanding after the due dates. This is contrary to Regulations 93(5) of the Public Finance Management (County Government) Regulations, 2015 which requires a holder of a temporary imprest to account for the imprest within seven days after returning to duty station.

Management responses

The imprests were received in the County Treasury after the financial statements had been prepared. The imprests were not surrendered in the system for they would have altered the figures in the financial statements before Auditing was complete.

The manual surrender of imprests was done but the system surrender was not done to avoid interference with the figures already casted in the financial statements.

Committee Observation

The Committee noted there was breach of Regulation 93(5) of the Public Finance Management (County Government) Regulations, 2015 on imprest management.

Committee Recommendation

The Committee recommends that the County CEO takes action(s) against the accounting officer(s) for failure to recover un-surrendered imprests with interests pursuant to Regulation 93(6) of the Public Finance Management (County

Government) Regulations, 2015 and provides a status report to the Office of the Auditor General within 60 days of adoption of this report.

2. Arrears of Revenue

Revenue records revealed that the County had arrears of revenue amounting to Kshs.3,401,467,381 as at 30 June, 2020 comprising of land rates, house rent and stall rent of Kshs.3,216,247,525, Kshs.106,199,638 and Kshs.79,020,218, respectively.

The arrears of revenue had not been disclosed in the financial statements and no indication was provided of the effort being made by Management to recover the debts.

Consequently, the recoverability of the outstanding revenue is doubtful.

Management Response

Land rate arrears

The rates outstanding is majorly due to the disputed valuation Roll which is not enforceable due to objections raised by the public on land rates applicable which are yet to be resolved by the Valuation Court. There are various court cases e.g. Nyeri High Court Petition No. 17 of 2015. The County government initiated the review of the valuation roll through the Department of Lands. Unfortunately, the process was not completed due to onset of Covid-19 immediately after appointment of the valuation court members vide gazette notice.

About the arrears on house rent amounting to Kshs.106,199,638.40, the management stated that the huge arrears are due to some nonexistent premises included in the database inherited from the defunct Local Authorities. This is due to the delay by the Transition Authority to verify the assets and liabilities of the Counties. However, the County Government initiated a data clean up exercise to identify non-existent properties that is ongoing. The county has been issuing demand notices to the clients. However, the balance of the rent arrears was due to the economic hardship and the effects of Covid -19 whereby the County Government would not have evicted the tenants some of who had lost their jobs due to lockdowns and other containment measures. E.g some temporary stalls that are included in the list had been ordered to completely shut down as summarized in the table below.

Sub County	Amount
Mathira	18,390,032.90
Nyeri town	35,309,211.00
Tetu	50,826,189.00
Kieni West	976,800.00
Kieni East	407,032.40
Mukurwe-ini	290,373.10

Total	**106,199,638.40**

Committee Observation

The Committee observed that the county executive developed its valuation roll. However, it could not be implemented as it was challenged in Court of Law. The Committee also observed that the County did not disclose all the revenue arrears in the financial statements.

Committee Recommendations

The Committee recommends that -

1. **the County executive should expedite updating of valuation roll in accordance with Section 3 of the Valuation for Rating Act CAP 266 so as to reflect current market values for optimal revenue collection and comply with the guidelines of the Public Sector Accounting Sector Boards of reporting in the FY 2023/2024. Addtionally, County Executive should consider alternative dispute resolution as a way of fast-tracking the court case;**
2. **the County Executive adopts and implements the report of the Inter-Governmental Relations Technical Committee on valuation of assets and liabilities from defunct local authorities and take charge;**
3. **the County Executive should make efforts to collect the outstanding arrears from the defaulters;**
4. **the county executive should provide a report of all revenue arrears in the financial statements as prescribed by the Public Sector Accounting Standards Board; and**
5. **the Office of the Auditor-General continues to monitor the status of the county pending bills in the subsequent audit cycle.**

3. Under-Banking of Hospital Revenue

An analysis of revenue collection reports and pay-in-slips from Nyeri Provincial Referral Hospital, Mt. Kenya Hospital and Mukurwe-ini Hospital revealed under banking of revenue amounting to Kshs.937,406 during the year under review. This was contrary to Regulation 63(4) of the Public Finance Management (County Governments) Regulations, 2015 which requires that all public money collected by a receiver or collector of revenue by a County Government entity, be paid into the designated bank accounts of the County Government and should not be used by any public officer in any manner between the time of their receipts and payment into the bank except as provided by the law.

Management Responses

The management stated that it was important for the committee to note that revenue collected on the last day of the month is banked on the first working day of the following month. Also, if the end of the month falls on a weekend, cash for the last 3 days of the month is banked on the first working day of the following month. This results in under-banking in some months and over-banking in others. This may create an impression that some cash is not banked on time or there is spending before banking which is not true.

To resolve this, the department of health introduced M-pesa Pay Bills to all level 4 and 5 hospitals in the County to avoid handling of cash and ensure timely banking of all revenue collected at the end of the day. The M-pesa Pay Bills are integrated into the designated bank account of the County Government where all revenue for Health Services are banked.

Committee Observation

The Committee observed the use of own source revenue at source by the County Executive is contrary to Section 109 (2) of the Public Finance Management Act, 2012.

Committee Recommendation

The Committee recommends that the CECM Finance, in line with section 116 of the Public Finance Management Act, 2012 establish a Fund for management of the revenues collected from hospitals and provide a status report within 60 days of adoption of this report.

4. Compensation of Employees

4.1 Excessive Expenditure on Personnel Emoluments

Examination of revenue and expenditure records indicated that compensation of employees expenditure for the year under review totalled Kshs.3,592,854,332 equivalent to 52% of the revenue of the County Executive totalling Kshs.6,956,824,044. The expenditure therefore exceeded the threshold of 35% prescribed under Regulation 25 (1) (b) of the Public Finance Management (County Governments) Regulations, 2015.

The high wage bill is an indication that most of the County's resources are spent on staff salaries at the expense of development projects and thus impacting negatively on service delivery to the residents of Nyeri.

Management Response

A. Root Cause

Increased personal Emoluments.

This was attributed to the fact that Nyeri County was formerly Provincial Headquarters and thus the County inherited most of the devolved officers from the National Government and most of them were in the higher grades. The County also inherited all staff from the defunct Local Authorities (i.e. Nyeri Municipal Council, Karatina Municipal Council, Othaya Town Council and Nyeri County Council. Though the

County inherited those staff not all of them had the skills to assist the County deliver its mandate compelling the County to fill those gaps whereas the inherited staff had to be retained.

Engagement of ECDE Caregivers to achieve the mandate of the County Government as per the Constitution on devolved units also increased the wage bill. The county had to undertake that mandate and hence increased the budget for salary emoluments.

Phase three of the salary review by SRC

Salaries and Remuneration Commission did a review that was to be undertaken in three phases. During the period under review the 3rd phase was implemented affecting the wage bill since salary for staff was increased upwards. Further, the devolved functions necessitated recruitment of personnel to provide technical expertise which could not be found in the already existing workforce and hence the reason for continuous employment despite the ballooning wage bill.

However, the County Government is committed and will continue exploring all potential avenues geared towards managing the wage bill to the required ceiling. Recently, the County Government undertook a staff identification exercise to wind out any possible ghost workers. Therefore, all the paid employees are genuine workers.

Corrective Action

Wage Bill Management Strategies

Ballooning wage bill has been a great impediment to realization of county development goals. The County Government had undertaken the following measures to curb the escalating wage bill;

Development of County Staffing Plan

The County Staffing plan was developed to serve as a guide in determining the ideal number of workers required in the County to reduce the wage bill. The plan, that was developed to run for the period 2018-2023, was intended to ensure that every Department has sufficient staff with the right skills and competences to achieve the County Government objectives as highlighted in the County Integrated Development Plan (CIDP) 2018-2022.

Through implementation of the Staffing Plan the County has tried to balance staffing through matching of staff with the skills through re-designation and integration of staff by the County Public Service Board as was recommended in the staffing plan.

Voluntary Early Retirement

In exercise of County Public Service Board authority under Section 84 (1) (b) of the County Government Act, 2012, the Board initiated a Voluntary Early Retirement Program to be implemented in the FY-2020-2021. All County Public Officers were eligible to apply. The County Government of Nyeri was trying to find a way of reducing the wage bill by giving an additional package to the final benefits to those willing to benefit through that programme. Voluntary Early Retirement was also a recommendation in the staffing plan.

Programme on essential counselling skills and psychosocial support

The County Government through the Department of County Public Service and in liaison with the Ministry of Gender and Public Service has undertaken training on psychosocial support to the employees as a way of reducing stress and mental health issues to improve performance and effective service delivery. This will help the county to increase revenue and reduce the wage bill.

Translation of Terms of employment from contract to Permanent and pensionable

The County Government effected change of Terms of employment from Contract to Permanent to reduce the burden of paying the 31% of basic salary to cater for staff gratuity and instead be contributing only 15% to cater for pension whereas the staff will contribute 7.5 gratuity for the pension. The County Government was to safe 16% and thus reduce the wage bill.

Replacement of retired staff is being considered only in areas where we have rare skills or rather uncommon skills that cannot be filled internally. This will go along motivating staff and hence improve performance.

The County Government plans to increase Revenue Base which will improve the Revenue Collection and hence reduce the wage bill.

Committee Observation

The Committee observed that the County Executive's wage bill during the FY 2019/20 stood at 52% of its total receipts which was above the threshold of 35%. The high wage bill is a threat to the objects of devolution as provided for under Article 174(f) of the Constitution.

Committee Recommendations

The Committee recommends that-

1. **the management should strictly adhere to the provision of paragraph 25(1)(b) of the PFM Act (county government) regulations, 2015 which stipulate that the county wage bill should not exceed 35 per cent of the county total revenue.**
2. **the county executive puts in place measures to enhance own source revenue collection in order to address wage bill gap; and**
3. **the management should provide to the Auditor General a three-year strategy of measures it will put in place to contain the high wage bill within sixty (60) days of the adoption of this report.**

4.2 Non-Compliance with Regional Diversity Requirement

Examination of personnel records indicated that the County Executive had a total of 2,934 employees, out of which 2,723 or 92.8% of the workforce were from the dominant ethnic community in the County contrary to Section 7(2) of the National Cohesion and Integration Act, 2008. The law requires the County Government 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.

Further, out of a total of two hundred and six (206) new staff recruited by the County Public Service Board (CPSB) during the year under review only 26 employees (12.6%) were from the minority communities outside the County, an indication of persistent breach of the law.

Management Responses

The County Public Service Board, in consideration to section 66 of the County Government Act invites applications for the various vacant posts through advertisement in the national dailies and further circulates the adverts widely in order to reach as wide as possible a diverse population. In the advert, it is usually indicated that the County Public Service Board will consider diversity in the recruitment process. More often, it is notable that in all the adverts, only a small percentage of the applicants come from the non- dominant communities. However, in the selection of candidates, the board takes consideration of the limited applicants under this category and gives them consideration in order to make effort to comply with the provisions of the law.

Committee Observation

The Committee observed that there was no ethinic diversity among the County Executive employees. The Committee also observed that due to the homogeneous ethnographic population in most counties, it may not be feasible for them to attain the threshold provided under Section 7(2) of the National Cohesion and Integration Act, 2008 which states that *no public establishment shall have more than one third of the staff from the same ethnic community.*

Committee Recommendations

The Committee recommends that the county executive should work progressively towards attaining the requirement of the provisions of Section 65(1)(e) of County Government Act on ethnic inclusivity.

4.3 Failure to Comply with One Third Basic Salary Rule

A review of the County Executive's payroll revealed that in the months of February 2020 and March 2020, sixty-four (64) employees and thirty-three (33) employees respectively earned net salaries which were below a third of their basic pay. This was contrary to Section 19(3) of the Employment Act, 2007 which states that the total amount of deduction of the wages of an employee should not exceed two thirds of such wages.

Management Response

Rent deduction of monthly and arrears

This resulted due to officers who were affected by rent deduction increase from Housing Department and payment of arrears for some staff who had forwarded their documents

for rent deduction, but the Ministry of Housing delayed in submitting the letter Authorizing increase in rent arrears.

B. Corrective Action

Ministry of Land and Housing be requested to be submitting letters immediately they increase the Housing Rent.

Pension for officers employed by county public service board on permanent and pensionable Terms.

County Public Service Board of Nyeri appointed staff on Permanent and Pensionable basis who were previously not contributing to the pension scheme since the County did not have a pension scheme previously. Some of the Staff appointed had already committed their salary and hence resulted to increase of the two third of basic salary affecting the one third rule since staff were to contribute 7.5 % of their basic salary as per that guideline while the employer was to contribute 15%.

Interdicted and Suspended Officers

All those officers under interdiction and suspension were affected by the 1/3 rule as the law indicates that they can only be paid half salary and allowances thus affecting the 2/3 of the officer's basic salary.

Tax Relief Reduction from 30% to 25%

Tax relief cut by the President due to Covid 19 allowed the staff to borrow more loans and hence affected the 1/3 rule after revision to 30%.

Committee Observation

The Committee observed that some of the county staff were earning less than a third of their basic pay contrary to Section 19 (3) of the Employment Act 2007.

Committee recommendations

The Committee therefore recommends that -

1. **The County Executive should provide to the Auditor General within sixty (60) days after the adoption of this report a plan of the measures put in place to mitigate on the issue as well as comply with the requirements of law.**
2. **The county should configure their IPPD sytem such that it is able to lock out commitments beyond the accepted thresholds.**
3. **The Auditor General should continue monitoring the issue in subsequent financial years.**

4.4 Appointment of Persons without Requisite Qualifications

Examination of personnel records revealed that one officer appointed to fill a vacant position of Assistant Social Welfare Officer had qualification in Bachelor of Science in Information Science, contrary to the advertised qualification in Sociology, Social Work or Community Development. Further, a new employee recruited to fill the position of a

mortician, Job Group E could not be confirmed due to varying names in the appointment letter issued by the County Public Service Board and names contained in the National Identify Card. No reason has been provided for the anomalies.

Management Response

1. According to the advertisement for SOCIAL WELFARE OFFICER, JOB GROUP 'K', the applicant had to have A bachelor's degree in any of the following disciplines: Sociology, Social Work or Community Development; or equivalent qualification from a university recognized in Kenya. Qualifications in Psychology, and/or Guidance and Counselling will be an added advantage The Board considered the qualifications of the officer as equivalent qualifications to the given qualifications.
2. The said officer Janet Sifuna Sikhoya, ID 30981706 was appointed to fill the position of Mortician Job Group E. The academic papers bear the names Sifuna N Janet. The officer's birth certificate no 090751 bears the names of the parents as Ismael Sifuna Manyulu and Gladys Nabangala Sifuna and her name Janet Sikhoya. She is therefore the same person. A copy of her birth certificate was attached for review.

Committee Observations

The Committee noted that the matter has since been addressed.

Committee Recommendation

The committee recommends that the matter be marked as resolved.

5. Irregular Allowances to Alcoholic Drinks Control and Management Committee

The statement of receipts and payments reflects an expenditure of Kshs. 1,022,443,262 under use of goods and services which, as disclosed in Note 12 to the financial statements, includes an amount of Kshs. 93,818,672 in respect of domestic travel and subsistence allowances. Included in the domestic travel and subsistence expenditure is an amount of Kshs. 2,429,600 paid to members of the County and Sub-County Committee, appointed by Management to regulate the consumption and sale of alcohol in the County.

Although the Committee was established following the enactment of Nyeri County Alcoholic Drinks Control and Management Act, 2014, there are no Regulations in place outlining how the Committee should operate. Further, each Committee Member was entitled to an amount of Kshs. 4,000 per meeting but the rate has not been approved by the County Assembly and Salaries and Remuneration Commission.

Consequently, the validity and propriety of the committee allowances incurred during the financial year of Kshs. 2,429,600 could not be confirmed.

Management Response

Payment of allowances for the Committee Members is contained in the SRC Circular No: SRC/ADM/CIR/1/13 (122) dated 16th April, 2014. For purposes of regulating the

operations of the Alcoholics Drinks Control Management Committees, the Nyeri County Alcoholic Drinks Control Regulations were prepared and submitted to the County Assembly for consideration and approval.

Notwithstanding the above, the Director of Alcoholic Drinks Control has always regulated the number of meetings held. The Sub-County Chairpersons are required to seek formal authority from the Director, Alcoholic Drinks Control Management, in order to hold any meeting at the Sub-County level. It should be noted that the activities spelt out in the calendar of activities dictate the number of meetings to be held e.g. Inspection, Public Participation forums, recommendation meetings and approval meetings which are guided by the number of applicants and subsequent appeals.

The regulations are yet to be approved by the County Assembly which once approved will guide in regulating the number of meetings to be held by the Sub County and County Committees. The management however engaged the relevant County Assembly committee to ensure the regulations are approved without further delay.

Committee Observation

The Committee noted that the lack of regulations on the management of the funds could expose it to misuse.

Committee Recommendation

The Committee recommends that the County Executive liaises with the County Assembly to expedite enactment of the Nyeri County Alcoholic Drinks Control and Management Regulations and provide a status update to the OAG and the Senate within 60 days of adoption of this report.

6. Other Operating Expenses

6.1. Regularity of Legal Fees-

The expenditure of Kshs. 1,022,443,262 on use of goods and services also includes an amount of Kshs. 55,042,329 in respect of other operating expenses. Included in the latter amount are payments amounting to Kshs. 18,432,198 in respect of legal fees for lawyers who represented the County in various court cases. However, despite the County recruiting its own County Attorney, private lawyers were engaged to represent the County in court cases due to inadequate capacity of personnel in the Department.

Further, records indicate that there were 199 ongoing court cases including some which commenced before the creation of the devolved units in 2013/2014. In addition, fee notes amounting to Kshs. 32,125,703 issued by the private lawyers remained unpaid as at the time of audit in November, 2020. However, the unpaid legal fees were not included in the list of pending bills as of 30 June, 2020.

Consequently, the regularity and completeness of the legal fees for the year ended 30 June, 2020 could not be confirmed.

Management Responses

As of 2nd November 2020, the County had a total of 395 legal files which are kept at the County Attorney's registry. The legal Unit provided a list of unpaid fee notes as of 2nd November 2020 amounting to Ksh 32,125,702.82. The unpaid legal fees of Kshs32,125,702.82 could not be declared as pending bills as the cases were still on going in court and actual cost could not be verified.

For the period under review (July 2019- June 2020), the County Government had not appointed a County Attorney. The County Attorney was appointed with effect from 27th July 2020 and assumed office upon taking oath on 10th September 2020 in accordance with the Office of the County Attorney's Act. The county has further recruited six Legal Officers in a bid to capacitate the office adequately and has commenced the process of taking over the outstanding cases from external lawyers.

Committee Observation

The Committee noted that the County Executive did not provide a contingency liability in respect of legal fees accrued but not due.

Committee Recommendation

The Committee recommends that-

1. **County Executive makes a provision in its budget for contingency liability in respect of legal fees; and**
2. **the County Executive utilizes the Office of the County Attorney to provide legal advice and court representation.**

6.2 Payment to County Public Service Board Consultative Forum

The expenditure of Kshs. 55,042,329 on other operating expenses includes an amount of Kshs. 300,000 paid as annual subscription to the County Public Service Board National Consultative Forum. The payment was made without an approved law or regulation formulated by the County Executive and approved by the County Assembly on management of subscription fees.

The validity of the expenditure therefore could not be confirmed.

Management Responses

The County Public Service Boards National Consultative Forum was registered on 11th September 2014 under the Societies Act. The Registration Certificate No. is 45750. The objective of the forum, among others, is to articulate issues specific to the mandate of the County Public Service Boards countrywide. All the forty-seven (47) County Public Service Boards are members as per the Forums constitution.

The Forum, through its Constitution, has set amount to be paid for registration and the annual subscription as stipulated. This provides the basis for the payment of the Kshs 300,000, paid annually by every County Public Service Board.

The amount is usually provided in the budget under the vote of Membership and Annual subscription to various organizations.

Committee Observations

The Committee observed that the payment to County Public Service Boards National Consultative Forum was not anchored in law therefore irregular and unlawful.

Committee Recommendations

The Committee recommends that;-

1) **the irregular payments to the County Public Service Board Consultative Forum be stopped and further recommends the surcharge of any County Secretary who continues to make the irregular contribution; and**
2) **the EACC should oversee the recovery of all the public funds irregularly transferred to the County Public Service Board Consultative Forum**

7. Rent of Liaison Office at Council of Governors

The expenditure of Kshs. 1,022,443,262 on use of goods and services also includes an amount of Kshs. 6,033,723 on rental of produced assets. Included in the expenditure is an amount of Kshs. 2,758,993 in respect of contribution to Council of Governors to defray expenses and rent for a Liaison Office at the Council of Governors offices in Westlands, Nairobi. However, the payment was made contrary to Section 37 of the Inter-Governmental Relations Act, 2012 which provides that operational expenses for the structures and institutions established by the Act is provided for in the annual estimates of the revenue and expenditure of the National Government.

As a result, the validity and value for money for the expenditure of Kshs. 2,758,993 could not be confirmed.

Management Response

The Council of Governors, on behalf of Counties, entered into an agreement for lease of County liaison offices at Delta Centre, Westlands, Nairobi, on 6th January 2014. The Counties have been paying rental fees for the facility as per the lease agreement which was negotiated and entered into on behalf of all counties. The management confirmed that the lease for the Nyeri County Liaison office expired on 31st January 2020 and the county has since vacated the premises.

Committee Observation

The Committee noted that payments made to the council were irregular and unlawful. The Committee also noted that the payment has since stopped since the lease for the County Liaison office expired on 31st January 2020.

Committee Recommendations

The Committee recommends that;-

1. **the irregular payments to the Council of Governors (COG) be stopped and further recommends the surcharge of any Governor, in their capacity as Chief Executive Officer, who continues to make the irregular contribution; and**

2. **The EACC should oversee the recovery of all the public funds irregularly transferred to the Council of Governors (COG) by the Governor. This is in line with the Resolution of the Senate.**

8. Other Grants and Transfers

The statement of receipts and payments reflects other grants and transfers totaling Kshs. 713,014,997 for the year ended 30 June 2020. The expenditure includes transfers to Nyeri County Agriculture Mechanization Services and Wambugu Agricultural Training Centre (ATC) amounting to Kshs. 8,745,092 and Kshs. 2,367,972, respectively. However, the County did not have a policy on how the funds were to be spent and accounted for by the two institutions. Further, expenditure returns in respect of the transfers to the institutions were not provided for audit review.

As a result, the validity and propriety of the expenditure totaling to Kshs. 11,113,064 could not be confirmed.

Management Response

The department had requested for a revolving fund for the departmental institutions through a cabinet paper to the Excom. The fund was meant for sustainable service delivery for instance the Wambugu Agricultural training center has commercial enterprises such as dairy that require continuous supply of inputs to ensure continuous flow of output. These enterprises do not fit well with the closure of a financial year, which normally delay disbursement of funds. This affects the institution in maintaining these enterprises. Timely acquisition of inputs has also been a challenge due to at times unavailability of funds at the county treasury thus affecting timely farm operations.

The Excom recommended the department to develop a bill that will create the revolving fund, which was submitted to the County Assembly of Nyeri for approval. The county assembly requested an advisory on the bill vide a letter to the county treasury, which advised them to either have the institutions as commercial entities or create a budgetary item for direct transfer for some budgetary items. The department opted for the latter option and opened bank accounts outside the IFMIS where the funds were transferred.

The 2019/20 expenditure returns for Wambugu Agricultural Training Centre (ATC) and Nyeri County Agriculture Mechanization Services were submitted for the committee's review.

Committee Observations

The Committee noted that;

1. the County Executive failed to submit documents to the Auditor General at the time of audit contrary to section 62 of the Public Audit Act, 2015; and
2. there was no policy on how the funds were to be spent and accounted for.

Committee Recommendations

1. **The Committee recommends that- the accounting officer undertakes administrative actions against the officers who failed to provide the**

documents to the auditors in accordance with section 156 of the Public Finance Management Act and provides a status report to the Office of the Auditor General within 60 days from the adoption of this report; and

2. **the County Executive should develop a policy on the administration of the fund within 60 days of the adoption of this report and submit to the Auditor General for verification.**

9. Construction of Buildings-

9.1 Construction of Market Stalls at Kaheti

The statement of receipts and payments reflects an expenditure of Kshs. 1,222,526,224 under acquisition of assets which, as disclosed in Note 17 to the financial statements, includes an amount of Kshs. 66,677,566 incurred on construction of buildings. The latter balance includes an amount of Kshs. 2,001,116 relating to construction of market stalls at Kaheti.

The contract was awarded to the lowest evaluated bidder and the works entailed construction of seventeen (17) market stalls. An inspection carried out on 24 November, 2020 revealed that the contractor completed only twelve (12) stalls instead of seventeen (17) tendered for and awarded by the County. No reason was provided for the reduced scope of works.

Consequently, the validity and value for money on the expenditure of Kshs. 2,001,116 incurred on the construction of market stalls could not be confirmed.

Management Response

During the financial year 2019/2020 the Department of Trade initiated Construction of 17 market stalls at Kaheti Market. However after the excavation of the ground at the Site, the Traders Representative together with other Traders complained of the sizes of the stalls which they termed as too small to operate in. They requested the site handing over Committee to revise the valuation of the BQ, the committee did conquer with the traders that the sizes were too small to operate in. The clerk of works promised to have the bill of quantities revised to accommodate the traders concerns without affecting Cost of the project since there was no additional resource that could be appropriated at that juncture. The clerk of works also informed them that such a move would result in reduction of the number of stalls. The project therefore ensured value for money.

Committee Observation

The Committee observed that the County Executive varied the contract for the construction of the stalls without following due process contrary to Section 139 of Public Procurement and Assets Disposal Act, 2015.

Committee Recommendations

The Committee recoemnds that the;-

1. **Ethics and Anti-Corruption Commission to cause investigation of the Head of Procurement with a view to instituting the prosecution of the officer for**

violation of Section 139 of the Public Procurement and Asset Disposal Act, 2015 and submits a report to the Senate within 60 days of adoption of this report; and

2. **The Kenya Institute of Supplies Management (KISM) takes action(s) against the Head of procurement in Nyeri County for professional misconduct pursuant to Section 23(1)(d)(i) of the Supplies Practitioner Act 2007 and provides an update to the Office of the Auditor General within 60 days of adoption of this report.**

9.2 Construction of Market Shed and Stalls at Ruthagati

The construction of building expenditure of Kshs. 66,677,566 also includes an amount of Kshs. 2,802,409 incurred on construction of a market shed and ten (10) stalls at Ruthagati open air market. However, an audit inspection carried out in November, 2020 confirmed that although the construction was complete, the structures were not being utilized and the constructed gate had been vandalized. No explanation was provided for the failure to utilize the structure as intended.

Consequently, the residents of Ruthagati have not received value for money on the expenditure of Kshs. 2,802,409.

Management Response

The Construction of Ruthagati market was proposed by the members of the public and was included in the CIDP for the period 2018-2022.The same was also included in the ADP for Financial year 2018/2019.Therefore it is clear that consultation was made before the project was undertaken by the county Government.

By the time of the audit in November 2020 the department was in the process of allocating the market spaces as well as the market stalls, a process that involved the local community and the local leadership. The Department thereafter conducted open balloting for the award of the stalls to Ruthagati market where 79 traders were allocated market spaces while 10 traders were allocated market stall as a way of operationalizing the project to promote economic grow of the area.

The allotment could not have been done immediately on completion as there was a government directive on ministry of Health Covid-19 Protocols' that suspended all meetings, trainings public gatherings.

The Department repaired the gate as soon as the market was operationalized to secure the traders goods during the night.

Committee Observations

The Committee noted that the

1. completed stalls were not in use; and
2. residents of Nyeri were not getting value for money from the project.

Committee Recommendation

The Committee recommends that the County Executive should ensure timely completion and handover of projects to the beneficiaries to ensure value for money is achieved.

10. Delayed Implementation of Projects

10.1 Upgrading and Rehabilitation of Thiha-Sagana Irrigation Scheme.

The grants and other transfers expenditure of Kshs. 713,014,997.40 includes a sum of Kshs. 9,985,319 spent on upgrading and rehabilitation of Thiha-Sagana Irrigation Scheme funded under the Kenya Climate Smart Agriculture Programme (KCSAP). The tender was awarded to a contractor on 19 June 2020 at a contract sum of Kshs. 31,002,476 and the works set for completion in 6 months ending on 20 December 2020. An inspection carried out on 26 November 2020 revealed that substantial works had not been completed, about 3 weeks to expiry of the contract period. Minimal works were also on- going at the site and no explanation was provided for the delay and unsatisfactory performance.

Management Response

The tender for Upgrading and rehabilitation of Thiha-Sagana irrigation Scheme in Mukurweini Central Ward was advertised in the standard Media on 9th April 2020. The tenders were opened on 15/5/2020 and evaluated between 21st -23rd May 2020. Nine bidders responded to the bid and after evaluation Joycot General Contractors Ltd was awarded the tender through contract No. CGN/ALF/KCSAP/78/2019-2020 at a contract price of Kshs. 31,002,475.64 on 19/6/2020 for a period of six months.

The upgrading and Rehabilitation of Thiha-Sagana Irrigation Scheme as at 3rd December 2020 was at 72% as per interim certificate number 1 and 2. However, the contractor requested for a three (3) month extension vide letter dated 11th December 2020 requesting for extension due to unavoidable circumstances such as: heavy rains, shortage of casuals due to Covid-19 protocols and delay of supply of material due to effects of Covid-19.

The project implementation committee assessed the progress of project implementation and recommended an extension of 3 months period on the basis of the remaining works. The extension to 20th March 2021 was approved on 15th December 2020 as per the agreement attached for committee verification. The project was completed on 24th February 2021 as per the attached substantial completion certificate. The extension did not have any cost implications, since the total amount paid to contractors was KES 30,859,858.16 which did not exceed the initial contract values for the project KES 31,002,475.64 as summarized in the table below:

In addition, the inspection team was satisfied with the performance of the contractor.

Tender no.	Tender description	Contractor	Contract value	Payment certificates		
				No.	Date	Amount

CGN/ALF/KCSAP/78/2019-2020	Proposed upgrading and rehabilitation of Thiha-Sagana irrigation scheme in Mukurweini central ward	Joycot general contractors ltd	31,002,475.64	1	26/6/2020	9,985,319.50
				2	3/12/2020	13,729,106.86
				3	19/3/2021	7,145,431.80
				Total Paid		30,859,858.16

Committee Observation

The Committee noted that the matter has since been addressed as the project has been completed.

Committee Recommendation

The committee recommends that the matter be marked as resolved.

10.2 Desilting and Construction of Kiria Earth Dam

An additional amount of Kshs. 12,213,989 was also paid to a contractor under the Kenya Climate Smart Agriculture Programme (KCSAP) for desilting and construction of Kiria earth dam. The works entailed desilting, construction of storage tanks, installation of solar system and construction of distribution system for irrigation. The tender was awarded to the contractor on 18 May, 2020 at Kshs. 32,412,292 and the works were to start immediately and be completed in 6 months ending 30 November, 2020. However, audit verification of the project in November 25, indicated that the level of completion was about 30% and was behind schedule compared with 6 months or 100% of the contract period.

No satisfactory explanation was provided for the failure to complete the projects within the contract period which may lead to cost escalation.

Management Response

Desilting and construction of Kiria earth dam, storage tank, solar system and distribution system for irrigation project in Gatarakwa Ward was advertised in the standard media on 7th February 2020. The tender was opened on 10/3/2020 and evaluated on 26 March 2020. Five bidders responded to the bid and after evaluation Trans World Construction company Ltd was awarded the tender through the contract No. CGN/ALF/KCSAP/67/2019-2020 at a contract price of Kshs 32,412,292.10 on 28/5/2020 for a period of six months ending 30th November 2020.

Desilting and Construction of Kiria Earth Dam, Storage Tank, Solar System and Distribution System for Irrigation Project as at 16th November 2020 was at 75% as per interim certificate number 1 & 2. However, the contractor requested for a one (1) month extension on vide a letter dated 23rd November 2020 due to unavoidable circumstances such as ; 'the dam took longer than expected to drain water , heavy rains, and inadequate staff due to the Covid-19 protocols. The project implementation committee assessed the progress of project implementation and recommended an extension of 1-month period on the basis of the remaining works. The extension to 28th December 2020 was approved on 24th November 2020. The project was completed on 28th December 2020 as per the substantial completion certificate. The extensions did not have any cost implications since the total amount paid to contractors KES 32,947,050.60 did not exceed the initial contract values for the project KES 32,956,111.13.

Tender no.	**Tender description**	**Contractor**	**Contract value**	**Payment certificates**		
CGN/ALF/KCSAP/67/2019-2020	Desilting and construction of Kiria earth dam, storage tank, solar system and distribution system for irrigation project	Trans world construction company ltd	32,956,111.13	**No.**	**Date**	**Amount**
				1	26/06/2020	12,213,989.00
				2	16/11/2020	12,450,814.80
				3	28/12/2020	8,282,246.80
				Total paid		**32,947,050.6**

Committee Observation

The Committee noted that the matter has since been addressed as the project has been completed.

Committee Recommendation

The committee recommends that the matter be marked as resolved.

11. Construction of Roads

The statement of receipts and payments reflects an expenditure of Kshs. 1,222,526,224 under acquisition of assets which, as disclosed in Note 17 of the financial statements, includes an amount of Kshs. 368,651,476 incurred on construction of various roads in the County. Examination of the expenditure records revealed the following anomalies:

11.1 Construction of PCEA Kihate – Miiri Road

Included in the expenditure on construction of roads is an amount of Kshs. 3,780,635 paid to a firm for marraming of PCEA Kihate Road – Karatina and Miiri Road.

According to the Bills of Quantities, the tendered distance of the road was 2.4km. However, a field visit inspection indicated that the marram was spread on a distance of 2.1km of the road, leaving about 300m translating to unaccounted over-payment to the contractor of Kshs. 472,579.

Management Response

Although the Bills of quantities gave a length of 2.4KM as the ideal length of the road, the reality on the ground revealed that some sections of the road due to topography and general slopes of the road were wider.

The pricing was arrived at by providing rates for the quantities provided which were multiplied with contractors' rates and the amounts for each item and then these were added together to provide the tender sum/contract sum. Thus, variance which as a result of varying road width was arrived at by checking the actual quantities multiplied by the relevant applicable rates to arrive at difference. This was what was done and was also in compliance with instructions to tenderers.

Committee Observation

The Committee noted that the matter has since been addressed as the project has been completed.

Committee Recommendation

The committee recommends that the matter be marked as resolved.

11.2 Construction of Kamunyaka – Turi and Thungari Road

Included also in the expenditure on construction of roads is an amount of Kshs. 3,698,944 paid to a firm for murraming of 2km Kamunyaka-Turi and Thangari Roads. However, an audit inspection carried out revealed that the actual distance of the road covered was only 1.8km instead of 2km, resulting in unexplained over payment of Kshs. 369,894 to the contractor at the quoted rates in the Bill of Quantities.

Management Responses

Although the Bills of quantities gave a length of 2KM as the ideal length of the road, the reality on the ground revealed that some sections of the road due to topography and general slopes of the road were wider.

The pricing was arrived at by providing rates for the quantities provided which were multiplied with contractors' rates and the amounts for each item and then these were added together to provide the tender sum/contract sum. Thus, variance which as a result of varying road width was arrived at by checking the actual quantities multiplied by the relevant applicable rates to arrive at the difference. That was what was done and was also in compliance with instructions to tenderers No.3 specifically 3.2c, 3.3 and 3.4 in the bills of quantities.

Committee Observation

The Committee noted that the matter has since been addressed as the project has been completed.

Committee Recommendation

The committee recommends that the matter be marked as resolved.

11.3 Wasteful Expenditure on Signposts

Records examined indicated that the County Executive required the project contractors to erect steel signposts for all projects with murals of the Governor and area Members of the County Assembly. The signposts were estimated to cost an average of Kshs. 80,000 which was included in the Bills of Quantities for the projects. Further, about 640 projects were awarded and implemented during the financial year under review thus translating to an approximated expenditure of Kshs. 51,200,000, which is uneconomical and wasteful use of public resources.

Consequently, the regularity and value for money for the expenditure incurred on the construction projects could not be confirmed.

Management Responses

The County used the said materials due to the following reasons:

i. In black cotton soils, timber cannot be anchored on the ground since it rots very first especially for projects which take long and also the preservation of forests hence the use of steel. The bill board was also used as part of Civic education to the community so that they can own and protect the said projects.
ii. The Portrait of the County Leaders was used to help the general public to differentiate between the projects carried out by National and County Government.

Committee Observation

The Committee noted that-

1. the requirement for the County Executive to erect the steel sign posts with portraits of leaders was wasteful expenditure; and
2. the procurement of the signposts was not cost effective in breach of Article 227(1) of the Constitution.

Committee Recommendation

The County CEO undertakes administrative actions against the responsible accounting officers for misuse of public resources in accordance with section 156 of the Public Finance Management Act and provides a status report to the Office of the Auditor General within 60 days from the adoption of this report.

12. Construction of Boundary Wall for the Proposed Solid Waste Transfer Station in Nyeri

The expenditure of Kshs. 1,222,526,224 under acquisition of assets also includes an amount of Kshs. 477,693,229 incurred on construction and civil works. The expenditure includes an amount of Kshs. 16,946,547 spent on construction of a boundary wall for the proposed Nyeri solid waste transfer station. A site inspection carried out on the project revealed that it had not been utilized. Management indicated that the site has not been utilized due to several litigations by members of the public casting doubt on whether public participation was conducted before the project commenced.

Consequently, value for money amounting to Kshs. 16,946,547 spent on the boundary wall could not be confirmed.

Management Responses

The land in question is located in Peri-Urban areas that include Witemere/Blue valley/Kangemi/Kingongo. The amount of the contract was Ksh. 16,946,546.95 awarded to Geoems Technologies Limited.

However, at the completion of the project the value of permanent work done including extra work was Ksh. 12,033,417.76 This resulted from a NEMA advisory where the project (perimeter wall) was scaled down to leave a recommended distance away from the nearby river. Works done for the 1st certificate amounted to Ksh. 9,927,799 and whose payment was completed. The 2nd certificate amounted to Ksh. 2,102,618. Due to the scale down, a total of Ksh. 4,913,129 was not used. This amount would have been used for internal works within the proposed site, including relocating electric line and construction of all-weather roads. An EIA Survey for the project was carried out and a report made.

Public participation meeting was consequently conducted in line with EIA data collection on 29th November 2019. Stakeholders meeting was also convened on 3rd of December, 2019 at Eland Hotel. Further Public Baraza was thereafter held on 23rd December, 2019 at Nyakinyua School.

The construction work was carried out; however, the site could not be put into use due to a petition filed at Environmental/ Land Court of Kenya, Nyeri as Petition 5 of 2020, on 14th day of April 2020 which was still active.

Committee Observation

The Committee observed that the management failed to provide information to the Auditor during the audit exercise contrary to section 62 of the Public Audit Act, 2015.

Committee Recommendation

The Committee, therefore, recommends that the accounting officer undertakes administrative actions against the officers who failed to provide the documents to the auditors in accordance with section 156 of the Public Finance Management Act and provides a status report to the Office of the Auditor General within 60 days from the adoption of this report.

13. Implementation of e-Procurement.

During the financial year under review, the County Executive did not fully implement e-procurement in acquisition of goods and services. A review of the procurement process and enquiry from the procurement unit staff revealed that some of the processes including open tenders and quotations, advertisements, issuance of requisitions and purchase orders and goods received notes (GRN) were done on the e-procurement platform. However, other processes like tender opening, evaluation and awarding were done manually outside the system. Management attributed the non-compliance to challenges in accessing the IFMIS by some staff or partial implementation of IFMIS modules.

Management Response

The E-procurement process was partially in use by then as this was implemented in phases. The process of capacity building of all staff was on going through the Kenya Devolution Support Programme. All the staff have now been capacity built and the County had fully implemented the e-procurement system as per Executive Order No. 2 of 2018 on Procurement of Public goods and Services.

Committee Observation

The Committee noted the lack of capacity of county staff to optimally utilize the IFMIS modules.

Committee Recommendation

The County Executive to identify training needs of its staff serving in the Finance Department and initiate capacity building and training in conjunction with the National Treasury within 60 days of adoption of this report.

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

Basis for Conclusion

1. Cash Management

During the year under review, the County Executive made cash withdrawals totalling Kshs. 114,658,203 which was paid as imprest to county staff to meet various expenditure needs. Management has not provided an explanation why the payments were made through cash instead of cheque or funds transfer to staff bank accounts for ease of accountability. Further, cash payments are highly prone to abuse and misappropriation than bank transfers or cheque system.

Management Response

The amount stated as Ksh 114,658,203 can be traced in the financial statement note 26 as imprests issued during the year under review and all imprests are transmitted to the officer's bank accounts through Real Time Gross Settlement (RTGS) to individual officer's bank accounts. The officer issued with the imprest ensures that all the

beneficiaries append their signatures and support fully with any other document required and hence the accountability and transparency in the money paid can be confirmed.

Committee Observation

The Committee noted the County Executive had weak internal management systems which could expose the entity to loss of public funds.

Committee Recommendation

The Committee recommends that the County Executive should adopt best practices in the management of public funds. Further, the management should adhere to Public Finance Management Act 2012 and Regulation on imprest management.

2. Revenue Collection Systems

i) Lack of Segregation of Duties

A review of users of Nyeri Pay system revealed that there were staff with excessive rights cutting across all modules of the system. Out of the users with excessive rights, 3 were administrators who could initiate a transaction, process and delete the transaction leaving no or minimal audit trail. As a result, a fraudulent transaction can be processed without being detected.

Management Responses

The management submitted that the system is still under development stage hence it's important for the revenue-in-charge to have all the rights to be able to monitor the system development and confirm any reported malfunction by the system users. The Internal audit is also incorporated, and they can view all the operations real time. In case of cancellation - there are different stages of approvals and support documents for justification of such.

Although some of the users have many roles including system administration, there is limitation as to what the users can do. The system does not allow for deletion of data; even by system administrators. Instead, in case there is data that is not required, the system provides for either cancellation or invalidating e.g. for receipts.

In a critical focal area such as receipting, receipts have both a receipt Number with the cashier's code within the receipt number and are serialized such that globally unique and incremental numbers (URNs) are maintained and therefore a skipped number can be identified as an issue requiring further investigation.

However, based on the audit advice, the county was reviewing the user roles so that a clear segregation structure is created, distributed and adhered to. Further the management removed the receipting role to prevent completion of any payment transaction.

Committee Observation

The Committee noted that the matter has since been addressed.

Committee Recommendation

The committee recommends that the matter be marked as resolved.

ii. Failure to use Standard Naming Convention

It was noted that creation of users in Nyeri Pay system did not use a standard naming convention for proper access. Further, some of the accounts could not be directly traceable to an individual. Consequently, there were several cases of duplicate accounts which increased the risk of repudiation as it was difficult to establish accountability.

Management Responses

Although the county keeps records of user activities and all usernames contain a part of all official users' names or part of some official names. The county will be introducing a naming convention such as <First Name. Last Name> for all users. This is as per the advice of the auditors.

Committee Observation

The Committee noted that the matter has since been addressed.

Committee Recommendation

The committee recommends that the matter be marked as resolved.

iii. Access to Operational Environment by Consultant

The audit enquiry revealed that the Nyeri pay software system developer had unlimited access to Nyeri Pay operation environment in developing, testing and operationalizing the software's updates and patches. Thus, there is risk of unauthorized access or changes to the operational environment.

Management Response

By then, the county was still engaging the consultant to make updates to the system. The consultant has also primarily been given a "Dummy Test" environment and once dummy test is completed a final live test was done on the live system. This arrangement was not permanent and was intended to run until a formal handover of the system was done.

However, the county will consider the audit advice to reorganize the implementation and audit processes.

Committee Observation

The Committee noted that the matter has since been addressed.

Committee Recommendation

The committee recommends that the matter be marked as resolved.

iv. Inactive Users in Nyeri Pay System

A review of users of the Nyeri Pay system revealed that there were thirty-seven (37) users who had never logged in the system. This is against the principle of least privilege that require a user to be assigned only what is needed to undertake his or her duties. The system therefore has a risk of unauthorized access arising from assignment of excessive privileges.

Management response

The county had initially intended to register all staff into the system to conclude a register so that only a simpler task of deployment and re-deployment of user roles would remain to be undertaken on a needs basis. This would be to ease the process during busy operation seasons. At the time of interrogation, the active users in the systems were those with the designated tasks.

Committee Observations

The Committee noted that the matter has since been addressed.

Committee Recommendations

The committee recommends that the matter be marked as resolved.

v. IT General Controls

A review of the County Executive's ICT environment revealed that there was no approved ICT Policy in place including Data Security and Disaster Recovery Plans. Further, no records were provided to show how the migration from LAIFOMS to Nyeri pay was done. Under the circumstances, the County may have lost data during the migration of the information to the new system.

Management Responses

Although there was no formal documentation for the migration, the county took initiative to check that the customer accounts and the closing statuses and balances in LAIFOMS as at the time of migration were reflected as the opening balances in Nyeri-Pay System. Moreover, as months went by, the county checked that the system correctly computed respective charges related to various migrated modules as would be computed in LAIFOMS.

Committee Observation

The Committee noted that the matter has since been addressed.

Committee Recommendation

The committee recommends that the matter be marked as resolved.

3. Insufficient Information Technology System Controls

A review of the control and governance processes applied by the County Executive in its Information Technology (IT) operations revealed the following weaknesses.

i. Lack of Information Technology (IT) Strategy Committee and an IT Steering Committee, both of which are important aspects of the County Executive's governance structure.

Management Responses

ICT department was in the process of formulating an ICT Steering committee in the County. However, the absence had not left any void since the County was largely guided by policy and Standards set by ICT Authority which is mandated to oversight ICT in both levels of government.

The County was also in the Process of restructuring the ICT function which will inform the setup of different committees that will drive ICT.

Committee Observation

The Committee noted that the matter has since been addressed.

Committee Recommendation

The committee recommends that the matter be marked as resolved.

ii. Failure to develop IT Security Policy to ensure data confidentiality, integrity and availability.

Management Response

The County Government of Nyeri had formulated an ICT policy that will ensure data confidentiality, integrity and availability. The policy was approved by cabinet on 21st August 2021.

Committee Observation

The Committee noted that the matter has since been addressed.

Committee Recommendation

The committee recommends that the matter be marked as resolved.

iii. Absence of a policy to manage upgrades made to all financial and performance information systems, except those owned by The National Treasury. Therefore, unauthorized changes may be made to the systems resulting in loss of data and information, and lack of data integrity.

Management Responses

The County Government of Nyeri was at the time using a draft ICT policy. The policy was anchored in the provisions of the existing national legal frameworks, relevant international protocols and conventions which include but not limited to;

- Constitution of Kenya 2010, article 43, Article 53, The fourth Schedule Articles 185(2), 186(1) and 187(2), Article 189(2).

- The Kenya Vision 2030
- Government ICT Standards 2016.
- The Nyeri County Integrated Development plan (CIDP) 2018-2022
- The Nyeri County Annual Development Plan (ADP) 2018-2019
- National Policy on Information and Communication Technology (ICT); GoK, 2007.
- ICT Standards and Guidelines. Directorate of E-Government. Kenya (2011)
- Digital Economy Blueprint
- Computer misuse and Cyber Act 2018

The County government of Nyeri has an ICT Policy which is in line with the existing legal framework and provisions of international ICT policies and standards as mentioned above.

Committee Observation

The Committee noted that the matter has since been addressed.

Committee Recommendation

The committee recommends that the matter be marked as resolved.

iv. Inadequate user-knowledge by the staff operating the procurement software module;

Management Response

All Procurement Staff are frequently trained on use of the IFMIS system both internally by the County Government and externally by the National Treasury.

This is also supported by an annual training calendar provided by the IFMIS team in the National Treasury.

Committee Observation

The Committee noted the lack of capacity of county staff to optimally utilize the IFMIS modules.

Committee Recommendation

The Committee recommends continuous capacity development of staff and support from the National Treasury.

v. Lack of policies to control physical access to IT environments which could result in unauthorized interference in the IT assets.

Management Responses:

The County Government invested in upgrading the existing server room and among the areas of upgrade was access control, to access the Server room you have to have Biometric Access Granted to you by the Chief ICT officer in-charge. No one else has access to the Server room remotely or locally.

The County is also governed by the following laws;

- County Government of Nyeri ICT Policy effective 21st August 2021
- Data Centre Standard, ICTA-2.002:2019
- Electronic Records and Data Management Standard, ICTA-4.002:2019
- Information Security Standard, ICTA-3.002:2019

Committee Observation

The Committee noted that the matter has since been addressed.

Committee Recommendation

The committee recommends that the matter be marked as resolved.

vi. There are no Disaster Management and Recovery Policies in place including fire suppression systems. As a result, the risk of the County Executive's IT assets not recovering from disasters are high.

Management Responses

The County Government of Nyeri has a fire alarm system that is smoke detection activated and there is an onsite fire extinguisher. The County Government of Nyeri intends to upgrade this to more advanced technologies in a phased approach due to budgetary constraints.

Committee Observation

The Committee noted that the County entity did not have a Disaster Management and Recovery Policy in place.

Committee Recommendation

The Committee recommends that the management should expedite the development of a Disaster Management and Recovery policy and copies should be submitted to the Auditor General for verification within sixty (60) days of the adoption of this report.

vii. There is no business continuity plan, including IT continuity plan with an off-site back-up component.

Management Responses

The County Government has deployed a cloud mirror server to backup revenue data offsite. The County also had local servers in Sub-County, where physical backups are done and stored offsite for resilience in case of any disaster.

Committee Observation

The Committee noted that the matter has since been addressed.

Committee Recommendation

The committee recommends that the matter be marked as resolved.

viii. There are no user management standards and procedures in the county. As a result, staff do not have standard procedures to follow to minimize risk of errors, fraud and the loss of data or its integrity.

Management Response

The issuance of user rights and roles is now governed by the ICT Policy 2021 which ensures all systems in the County Government have an audit trail. A system administrator is assigned to every system. System logs are also kept to prevent any data manipulation.

Committee Observation

The Committee noted that the matter has since been addressed.

Committee Recommendation

The committee recommends that the matter be marked as resolved.

ix. Absence of user management standards and procedures for the County. As such, staff do not have standard procedures to follow to minimize risk of errors, fraud and the loss of data confidentiality and integrity.

Management Responses

The issuance of user rights and roles is now governed by the ICT Policy 2021 which ensures all systems in the County Government have an audit trail a system administrator is assigned to every system. System logs are also kept to prevent any data manipulation.

Committee Observations

The Committee noted that the matter has since been addressed.

Committee Recommendations

The committee recommends that the matter be marked as resolved.

X) Absence of store management policies including random survey and annual board of survey of stores and asset and an inventory management strategy.

Management Responses

In the year 2021 the County government of Nyeri implemented an automated asset management register under the KDSP programme that manages asset movement, depreciation and asset transfers. The county is in the process of formulating a policy that will guide in development of a stores management system that will allow automated surveys considering the different geographical locations where stores are located.

Committee Observation

The Committee noted that the County entity did not implement any stores management policies.

Committee Recommendation

The Committee recommends that the management should expedite the development of stores management policies and strategies and copies should be

submitted to the Auditor General for verification within sixty (60) days of the adoption of this report.

CHAPTER TWELVE

REPORT OF THE SENATE COUNTY PUBLIC ACCOUNTS COMMITTEE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF SIAYA COUNTY EXECUTIVE REPORT FOR THE FINANCIAL YEAR 2019/2020

The Governor of Siaya County Executive Hon. James Orengo, EGH, appeared before the Committee Thursday, 8th June 2023 to respond (under oath) to audit queries raised in the Report of the Auditor General on Financial Statements for Siaya County Executive for the Financial Year 2019/2020.

Qualified Opinion

EXECUTIVE SUMMARY OF THE UNRESOLVED ISSUES				
S/NO	**AUDIT QUERY**	**COMMITTEE RECOMMENDATION**	**ACTORS**	**TIMELINE**
1.	**1.0Unsupported Adjustment - Budgeted Exchequer Releases** • The summary statement of appropriation - recurrent and development combined reflects a final budget of Kshs.8,106,977,580 under Exchequer releases. • However, the budgeted amount had been arrived at after a negative adjustment of Kshs.341,576,215 which has not been explained. • In the circumstances, accuracy and completeness of the	The Committee recommends that; 1. The county executive reports to Senate the findings of the Taskforce on the Audit of Siaya County Governments Systems and Governance Reforms that has been set up in Siaya County and the measures proposed to ensure streamlining of existing financial and other internal control systems, IFMIS operations; and	The County Chief Executive Officer	60 Days from the date of adoption of this report

	financial statements for the year ended 30 June, 2020 could not be confirmed.	2. the County CEO undertakes administrative action against responsible officer(s) for failing to undertake reconciliation of financial statements in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report.		
2.	**Fixed Assets** The summary of fixed assets register at Annex 5 to the financial statements reflects a balance of Kshs.1, 195,616,531 being additions during the year, resulting to an unreconciled variance of Kshs.181, 547,678. The summary of fixed assets register at Annex 5 to the financial statements reflects a comparative balance of Kshs.5,241,149,603 which differs with the balance of Kshs.1,471,622,238 reflected in the audited financial statements for	The Committee recommends that the- a) County Executive should update and present their Fixed Assets Register in the format prescribed by the Public Sector Accounting Standards Board; b) County Executive should adopt and implement the report of the Inter-Governmental Technical Relations Committee (IGTRC) on assets and liabilities from defunct Local Authorities and	The County Chief Executive Officer The Auditor General.	60 days from the date of adoption of this report

	the year ended 30 June, 2019	provide a status update to the Office of the Auditor General within 90 days of adoption of this Report; and Office of the Auditor General should progressively review and report on the matter in the subsequent Financial Years.		
3.	**5.0 Pending Bills** Pending bills relating to construction of building of Kshs.17,486,043 and construction of civil works of Kshs.42,038,481 both totalling to Kshs.59,524,524 were not supported by certificates of works done. The creditor's ledger was not provided to ascertain the creditor's movement from Kshs.386, 787,728 as at 30 June, 2019 to Kshs.222, 333,808 as at 30 June, 2020. Pending bills amounting to Kshs.271, 951,370 were paid on behalf of the County of Siaya for health workers salaries by the Ministry of Health in 2013-2014. The amount was not included in the pending	The Committee recommends that;- 1. the National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate so as to enable county entities settle their obligations on time; 2. the County Executive should disclose all pending bills in the format prescribed by the Public Sector Accounting Standards Board as stipulated under Section 104(1)(h) of Public Finance Management Act, 2012; 3. the county executive puts in place	3. The County Chief Executive Officer 4. The Auditor General. 5. The Kenya Revenue Authority	60 days from the date of adoption of this report

	bills balance of Kshs.222, 333,808 as at 30 June, 2020 understating the pending bills balance at close of the year under review	measures to enhance own generated revenue in order to meet its revenue target and address revenue shortfalls that contribute to the challenge of pending bills; 4. Pending bills deemed ineligible should be forwarded to the Directorate of Criminal Investigation (DCI) for investigation proper legal action taken against those filing false claims; 5. County Government to take note of judgement in a Kitale High Court Constitutional Petition E003 of 2023 that declared formation of pending bills verification committees unconstitutional and engage Office of the OAG and strengthen the internal audit functions.; 6. All valid pending bills that have been reviewed by the Office of the Auditor General be paid and a payment plan be submitted to the county assembly for approval and progress report on implementation sent		

		to the Senate and the Office of the Controller of Budget; 7. the KRA should cease imposing penalties on counties for late statutory deductions remittances as it is caused by late exchequer releases from the National Treasury; 8. The County CEO undertakes administrative action against responsible officer(s) for non-remittance of statutory deductions and Sacco dues in accordance with Section 156 of the Public Finance Management Act, 2012 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report.		
4.	**1.0Budgetary Control and Performance** i. Total budget was Kshs.8,881,773,924, but actual receipts was Kshs.6,133,453,887 resulting to under-funding of Kshs.2,748,320,038 or 31% of the budget. ii. The County Executive spent	The Committee therefore recommends that: 1. the National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate. 2. the County executive puts in place measures	The National Treasury	Continuous

	Kshs.6,117,545,831 against an approved budget of Kshs.8,881,773,924 resulting to an under-expenditure of Kshs. 2,764,228,093 or 31% of the budget.	to enhance its own generated revenue in order to meet its revenue target and address revenue shortfalls.		
5.	**2.0Late Exchequer Releases** Note 1 to the financial statements reflects total Exchequer releases of Kshs. 5,688,553,543, out of which an amount of Kshs. 1,129,430,250 or 20% was received by the County Government from the National Treasury during the month of June	The Committee therefore recommends that: 1. the National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate . 2. The County executive puts in place measures to enhance its own generated revenue in order to meet its revenue target and address revenue shortfalls.	The National Treasury	Continuous
6.	**1.0Irregular Expenditure on Council of Governors** Amount of Kshs.1, 250,000 incurred on Council of Governors during the year under review.	The Committee recommends that;- 1. the irregular payments to the Council of Governors (COG) be stopped and further recommends the surcharge of any Governor, in their capacity as Chief Executive Officer, who continues to	The County Chief Executive Officer EACC	Immediate

		make the irregular contribution; and 2. The EACC should oversee the recovery of all the public funds irregularly transferred to the Council of Governors (COG) by the Governor. This is in line with the Resolution of the Senate.		
7.	**2.0Outstanding imprests** Outstanding imprests of Kshs.37,907,238 as at 30 June, 2020, which includes imprest totaling Kshs. 7,035,768 issued in 2018/2019 financial year had not been surrendered as at 30 June, 2020	The Committee recommends that- 1. the Ethics and Anti-Corruption Commission causes an investigation into the responsible officer(s) for breach of Regulations 93(6) and 93(7) of the Public Finance Management (County Government) Regulations, 2015 and provides a status report to the Office of the Auditor General within 60 days of adoption of this report. 2. the Institute of Certified Public Accountants of Kenya (ICPAK) takes action(s) against the Head of Treasury for gross negligence in the	1. The EACC 2. ICPAK	60 days from the date of adoption of this report

		conduct of professional duties which constitutes a professional misconduct pursuant to Section 8 (a) and 30 of the Accountants Act CAP 531 and reports to the Office of the Auditor General within 60 days of adoption of this report ;and 3. the officers who failed to surrender the safari imprest within 7 days of returning to duty station in violation of Section 93(5) of the PFM Act (County Governments) Regulations, 2015 be surcharged with an interest at the prevailing Central bank rates.		
8.	**3.0 Irregular Salary Payment to Employees** An officer who retired in December, 2019 was paid an amount of Kshs.94, 400 being salary up to January, 2020. Management did not provide explanations for the anomalies	The Committee recommends that the county continues engaging the Ministry of Agriculture, Livestock and Fisheries in a bid to recover the amount of Kshs.94,000.	The County Chief Executive Officer	Immediate
9.	**4.0 Non- Compliance with Regional Diversity Requirement**	The Committee recommends that- 1. The county executive should work	The Senate The County Public Service Board	60 days from the date of

	Examination of personnel records indicated that the County Executive had a total of 1,883 employees, out of which 86% of the workforce were from the dominant ethnic community in the County.	progressively towards attaining the requirement of the provisions of Section 65(1) (e) of County Government Act on ethnic inclusivity. 2. The County Executive and CPSB should provide to the Auditor General a five-year strategy of measures it will put in place to ensure compliance is achieved within sixty (60) days of the adoption of this report.		adoption of this report
10.	**5.0 Failure to Comply with One Third Basic Salary Rule** Review of the County Executive's payroll revealed that thirty-seven (37) employees earned net salaries which were below a third of their basic pay	The Committee therefore recommends that - (1) The County Executive should provide to the Auditor General within sixty (60) Days after the adoption of this report a plan of the measures put in Place to mitigate on the issue as well as comply with the requirements of Law; (2) The county should configure their IPPD system such that it is able to lock out commitments beyond the accepted thresholds; 3)The Auditor General should continue monitoring the issue in subsequent financial years.	The County CEO	60 days from the date of adoption of this report
11.	**6.0 Excessive Expenditure on Personnel Emoluments**	The Committee recommends that;	The Governor The Auditor General	Within 60 days from the date of

	Examination of revenue and expenditure records indicated that compensation of employee's expenditure for the year under review totalled Kshs.2, 326,451,400 equivalent to 38% of the revenue of the County Executive totaling Kshs.6, 133,453,887	1. That the County Executive to strictly adhere to the provision of paragraph 25(1)(b) of the PFM Act (county government) regulations, 2015 which stipulate that the county wage bill should not exceed 35 per cent of the county total revenue; and 2. That County Executive to provide to the Auditor General the measures put in place to contain the county higher wage bill within sixty (60) days from the adoption of this report.		adoption of this report
12.	**7.1Grounded Serviceable Tractors** Physical verification revealed that 22 tractors were supplied but only 8 tractors were operational leaving 14 serviceable tractors grounded and lying idle. Under the circumstance, value for money was not obtained from the 14 grounded tractors procured during the year ended 30 June, 2014	The Committee recommends that the county government takes immediate action to service and repair the grounded tractors and provide a status update to the Office of the Auditor General within 60 days from the adoption of this report.	The Governor The Auditor General	Within 60 days from the adoption of this report.
13.	**7.4Rehabilitation of Miruka Water Pan** Physical verifications in November, 2020 revealed that the solar accessories were not installed. Further the site was bushy, and the toilets and bathrooms could not be accessed. In the circumstance, the	The Committee recommends that; (1) The county government takes immediate action to ensure opening up and utilization of complete projects and provide a status update within 60 days from the adoption of this report;	The Governor The Auditor General	60 days from the date of adoption of this report

	propriety and value for money on the expenditure of Kshs.4, 590,400 could not be confirmed.	(2)The Auditor General should audit the projects to ascertain the utilization of the said projects in line with this recommendation.		
14.	**7.5 Supply of Heifers to Farmers** • An expenditure of Kshs.2,448,000 for supply and delivery of 19 dairy cows in calf to Yimbo East, Sigomere, North Ugenya ward during the year under review. • Physical verification in November, 2020 revealed that more than half of the animals delivered died but the death reports issued by the Veterinary Department were not provided to confirm the death of animals.	The Committee recommends that the county CEO to take administrative action against the responsible officer(s) who failed to undertake due diligence in the conception of the heifer farming project in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report.	The Governor	60 days from the date of adoption of this report
15.	**7.6 Supply of Poultry to Farmers** • An amount of Kshs.4,780,500 incurred for the supply and delivery of 15,965 one-month old chicks to Yala Township, Alego Usonga, Bondo, Rarieda, Ukwala, Ugunja, Wagai, Asembo and Sidindi wards. • Physical verification in November, 2020	The Committee recommends that the county CEO to take administrative action against responsible officer(s) who failed to undertake due diligence in the conception of the Poultry farming project in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Office of the Auditor General within	The Governor	Within 60 days from the date of adoption of this report

	revealed that more than half of the chicks delivered died but the death reports issued by the Veterinary Department were not provided to confirm the death of the chicks	sixty (60) days from the adoption of this report.		
16.	**7.8 Purchase of Land for State Officers Residence** Kshs.9, 500,000 for the purchase of parcels of land for state officer's residence. However, the following anomalies were noted: (i) the purchased parcels of land were not in the approved budget and procurement plan during the year of audit review. (ii) There was no public participation before the parcels of land were purchased as the procurement was funded by the savings made from road constructions. (iii) No title deeds for the parcels were produced for audit verifications.	The Committee recommends that the County CEO undertakes administrative action against the responsible officer(s) for expending money on a project not in the procurement plan in violation of the provisions of the Public Procurement and Asset Disposal Act, 2015 in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report.	The County CEO	60 days from the date of adoption of this report

	(iv) Physical verification in November, 2020 revealed that the parcels have not been fenced.			
17.	**7.11Unsupported Payments for Preparation of County Spatial Plan** The payment of Kshs.10,000,000 was made before approval of the final draft report by the County Assembly and no explanation has been provided for the anomaly.	The Committee recommends that the County CEO undertakes administrative action against the responsible officer(s) for making the payment of Kshs.10 million before approval of the final draft report by the County Assembly in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report.	The County CEO	60 days from the date of adoption of this report
18.	**7.12 Implementation of Nyalnawi Water Pan** • An amount of Kshs.8,406,250 for fencing the community water point for livestock trough and distilling works at Nyalnawi water pan. • Physical verification in November, 2020 revealed that the project had been vandalized. The flush water toilets were clogged, the fence toilet doors were vandalized and the water pan had no	The Committee recommends that; (1) The county government takes immediate action to repair the vandalized water pan; (2)The Auditor General should audit the project and report to the Committee in the next audit cycle.	The County CEO	

	gates to secure the project.			
19.	**7.13 Inventory not Taken on Charge-Assorted Sports Item** Kshs.5,605,438 for the supply of assorted sports items. However, the assorted sports items were not taken on charge in the store's ledger.	The Committee recommends that the county CEO takes administrative action against, responsible officer(s) who failed to take charge in the store's ledger in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report.	The County CEO	60 days from the date of adoption of this report

Qualified Opinion

1.0 Unsupported Adjustment - Budgeted Exchequer Releases

The summary statement of appropriation - recurrent and development combined reflects a final budget of Kshs.8,106,977,580 under Exchequer releases. However, the budgeted amount had been arrived at after a negative adjustment of Kshs.341,576,215 which has not been explained. In the circumstances, accuracy and completeness of the financial statements for the year ended 30 June, 2020 could not be confirmed.

Management Response

The Management stated that the negative adjustment of Kshs. 341,576,215 from 2019/2020 original budget to supplementary budget can be explained through the summary in the table below;

Item	2019/20 Original Budget (Kshs.)-A	2019/20 Supplementary Budget (Kshs.)-B	Variance-(B-A)	Remarks
Equitable share-A	5,673,000,000	5,791,950,000	118,950,000	The variance is the additional equitable share allocation

Conditional Grants-B	715,544,467	750,544,467	35,000,000	The variance is the additional allocation to Water Tower programme-Grant
Own Source Revenue (OSR)-C	420,000,000	420,000,000		
BF from FY 2018/19-D	2,414,805,672	1,919,279,457	(495,526,215)	The negative variance is the deficit in balances brought forward from FY 2018/19
Total=(A+B+C+D)	**9,223,350,139**	**8,881,773,924**	**(341,576,215)**	

The deficit in BF from FY 2018/19 of **Kshs. 495,526,215** was attributed to the following factors;

1. Non receipt of **Kshs. 200,000,000** for lease of medical equipment.
2. Non realized Own Source Revenue (OSR) of **Kshs. 140,377,623**
3. Non-receipt of **Kshs. 155,148,592** for other conditional grants

Further, the County Executive attached supplementary budget extract as evidence to show the movement of balance brought forward from Kshs.2,414,805,672.00 to Kshs.1,919,279,457.00 to support the Kshs.495,526,215.00 negative variance in balance brought forward from FY 2018/2019.

Committee Observations

The Committee noted that;

1. The County Executive had financial statements with a negative adjustment of Kshs.341, 576,215 that was not explained; and
2. the variance was a result of professional negligence.

Committee Recommendations

The Committee recommends that;

1. **the county executive report back the findings of the Taskforce on the Audit of Siaya County Governments Systems and Governance Reforms that has been set up in Siaya County and the measures proposed to ensure streamlining of existing financial and other internal control systems, IFMIS operations and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report; and**

2. **the County CEO undertakes administrative action against the accounting officer, the Chief Officer Finance, the Head of County Treasury and any other officer(s) responsible for undertaking reconciliation of financial statements in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report.**

2.0 Fixed Assets

As disclosed in Note 17 to the financial statements, the statement of receipts and payments reflects an expenditure of Kshs.1, 377,164,209 incurred on acquisition of assets during the year under review. However, the summary of fixed assets register at Annex 5 to the financial statements reflects a balance of Kshs.1, 195,616,531 being additions during the year, resulting to an unreconciled variance of Kshs.181, 547,678. Further, the summary of fixed assets register at Annex 5 to the financial statements reflects a comparative balance of Kshs.5,241,149,603 which differs with the balance of Kshs.1,471,622,238 reflected in the audited financial statements for the year ended 30 June, 2019. The resultant variance of Kshs.3, 769,527,365 has not been explained or reconciled. In addition, a parcel of land measuring 2.0 hectares worth Kshs.2, 000,000 was not recorded in the assets register.

Under the circumstance, the accuracy and completeness of the total fixed assets balance of Kshs.6, 436,766,134 as at 30 June, 2020 could not be confirmed.

Management Response

The Management stated that the differences between financial statements (Note 17) and the summary of fixed asset register (Annex 5 in the financial statement) was due to expenditure classification in the Public Sector Accounting Standards Board reporting format (IPSAS Cash Basis).The format classified all capital expenditure as acquisition of assets but not all the capital expenditure qualifies as fixed assets.
IAS 16 prescribes that an item of property, plant and equipment should be recognized (capitalized) as fixed asset if it is probable that the future economic benefits associated with the asset will flow to the entity and the cost of the asset can be measured reliably. IAS 16 further states that the cost of an item of property, plant and equipment shall be recognized as fixed asset if, and only if:

- it is probable that future economic benefits associated with the item will flow to the entity; and
- The cost of the item can be measured reliably.

This recognition principle shall be applied to all costs at the time they are incurred, both **incurred initially** to acquire or construct an item of property, plant and equipment and **incurred subsequently after recognition** to add to, replace part of or service it. The acquisition of assets not updated in the fixed assets register do not qualify as fixed assets as explained below

i. **Research studies, project preparation and design supervision (Kshs.135,288,099)** Research studies, project preparation and designs supervision were intangible assets as defined under IAS 38 which are non-monetary assets without physical substance and identifiable and therefore are not supposed to be updated in the Fixed Assets Register.

ii. **Biological Asset (Kshs. 25,351,675)** were other assets that are in Note 17(Acquisition of assets) of the financial statement but were not updated in the assets register because they were recorded as explained in the IAS 41 and therefore were not listed as fixed assets as defined in IAS 16 and don't qualify to be updated in the Fixed Assets Register. Biological assets were issued to the community and therefore the County Government did not have custody over them.

iii. **Acquisition of Other Inventory (Kshs10, 025,171).** These are consumables and therefore didn't qualify to be fixed Assets as defined in IAS 16. Although classified as acquisition of assets as prescribed under IPSAS format, they are current assets in nature and therefore could not be updated in the fixed assets register; and

iv. Refurbishment of buildings (Kshs.10, 882,731) these are not additions of Fixed Assets during the year but improvements to the already existing buildings. They cannot be tagged as new additions for the year under review.

The Management also stated;

(i) That the balance of Kshs. 5,214,149,603.00 was cumulative balance of acquisition of assets as at 30th June, 2019 but not expenditure on acquisition of assets for the period ended 30th June, 2019.

(ii) The Kshs.1,471,622,238.00 was the total expenditure on acquisition of Assets for the period Ended 30th June, 2019 (Refer to Note 17 of the Financial Statement FY 2018/2019)

(iii) That the resultant variance as per your findings of Kshs.3, 769,527,365.00 was the cumulative balance brought forward for FY 2017/2018.

Reconciliation of financial statement (Note 17) and Fixed Assets Register balances

	Amount (Kshs.)	**Amount (Kshs.)**	**Reason for not updating in the Fixed Assets Register**
Acquisition of Assets total in the Financial statement		1,377,164,209.00	
Acquisition of Assets not updated in Fixed Assets Register			

Research Studies, Project Preparation ,Design & Supervision	135,288,099		These are intangible assets as defined under IAS 38 assets without physical substance and identifiable and therefore are not in the Fixed Assets Register (Current Assets)
Purchase of certified seeds and breeding stock	25,351,675.00		These are not fixed assets as defined by IAS 16 therefore don't qualify to be updated in the fixed assets register (Current Assets)
Acquisition of Other Inventory	10,025,172.00		These are consumable and don't qualify to be Fixed Assets as defined in IAS 16 (Current Assets)
Refurbishment of buildings	10,882,731.00		These are not additions of Fixed Assets during the year but improving the already existing buildings. Updating done in fixed assets register for the existing buildings.
Totals Assets not updated in Fixed Assets register	**181,547,668.00**	(181,547,668.00)	
Fixed Assets Register Additions		**1,196,616,531.00**	

Management stated that the lands purchased in the period under review were captured in the supporting schedules and fixed asset register.

Committee Observations

The Committee observed that;

1. the County Executive lacked an updated Fixed Asset Register; and
2. 2.0-hectare piece of land has not been recorded in the fixed assets register of the County Executive

Committee Recommendations
The Committee recommends that the-

1) **County Executive should update and present their Fixed Assets Register in the format prescribed by the Public Sector Accounting Standards Board;**
2) **County Executive should adopt and implement the report of the Inter-Governmental Technical Relations Committee (IGTRC) on assets and liabilities from defunct Local Authorities and provide a status update to the Office of the Auditor General within 90 days of adoption of this Report; and**
3) **Office of the Auditor General should progressively review and report on the matter in the subsequent Financial Years.**

3.0 Unexplained Variance - Compensation of Employees
Compensation of Employees The statement of receipts and payments reflects an expenditure of Kshs.2,326,451,400 under compensation of employees which differs from the balance of Kshs.2,362,946,400 reflected in the supporting schedules. The resultant variance of Kshs.36, 495,000 has not been explained or reconciled. In the circumstance, validity, accuracy and completeness of the compensation of employees cost of Kshs.2, 326,451,400 for the year ended 30 June, 2020 could not be confirmed.

Management Response

Management submitted that the County's supporting schedules for Compensation of Employees of Kshs. 2,326,451,400.00 excluded Kshs.36,495,000 received on 6th July 2020 in respect to doctor's allowance during Covid-19 and therefore could not be reported as expenditure under compensation of employee during the year under review. Management confirmed that the payment was subsequently done in the financial 2020-2021.

Committee Observations

The Committee noted that the matter has since been addressed.

Committee Recommendations
The Committee recommends that the matter be marked as resolved.

4.0 Undisclosed Transfers to Other Government Units
The statement of receipts and payments reflects transfers to other Government entities of Kshs.858, 267,464 while the supporting schedules for the expenditure reflected an amount of Kshs.1, 082,246,513 resulting to a variance of Kshs.223, 979,049 which had not been explained or reconciled. Under the circumstance, the accuracy and completeness of the transfers to other Government units of Kshs.858, 267,464 for the year ended 30 June, 2020 could not be confirmed.
Management Response
Management stated that;

i. The supporting schedule of Kshs.1,082,246,513 comprised of Kshs.223,979,042 being transfers of Grants received from Donors and the National Government and Kshs.858,267,464 being transfers to the County Assembly
ii. The transfers of grants of Kshs. 223,979,049.00 (from donor and National government) did not qualify to be categorized as Government Entity hence the non-disclosure in our financial statements as transfers to other Government entities

Committee Observations
The Committee noted that the matter has since been addressed.

Committee Recommendations
The Committee recommends that the matter be marked as resolved.

5.0 Pending Bills
Annex 2 to the financial statements on Analysis of Pending Accounts Payables reflects pending bills of Kshs.222,333,808 which decreased by Kshs.164,453,920 from Kshs.386,787,728 as at 30 June, 2019. However, the following anomalies were observed:

(i) Pending bills relating to construction of building of Kshs.17,486,043 and construction of civil works of Kshs.42,038,481 both totalling to Kshs.59,524,524 were not supported by certificates of works done.
(ii) The creditor's ledger was not provided to ascertain the creditor's movement from Kshs.386, 787,728 as at 30 June, 2019 to Kshs.222, 333,808 as at 30 June, 2020.
(iii) Pending bills amounting to Kshs.271, 951,370 were paid on behalf of the County of Siaya for health workers salaries by the Ministry of Health in 2013-2014. The amount was not included in the pending bills balance of Kshs.222, 333,808 as at 30 June, 2020 understating the pending bills balance at close of the year under review.

In the circumstance, the accuracy and completeness of the Kshs.223, 333,808 as at 30 June, 2020 could not be confirmed.

Management Response
Management submitted that;

i. Certificates of work done in relation to pending bills on construction of buildings of Kshs. 17,486,043 and civil works of Kshs. 42,038,481.00 are attached for verification;
ii. The County master/consolidated creditors ledger was attached for verification;
iii. The pending bills amounting Kshs. 271,951,370 were not included in our financial statement since they were not supported by any document to confirm its existence for it to be part of the pending bills for the year ended 30th June 2020. In addition, the County was yet to receive demand note/invoice from the Ministry of Health. Further, in the financial year 2019-2020 the Office of the Auditor General (OAG) circularized that any individual/institution that is owed by County Governments (s) to submit documents for verification. Ministry of

Health did not bring up this pending bill. The County viewed the pending bill of Kshs.271, 951,370 as ineligible.

Committee Observations

The Committee observed that;

1. the Siaya County Executive pending bills at the time of appearance before the Committee stood at approximately Kshs.400 million;
2. Siaya County Executive had established a pending bills verification Committee;
3. the Siaya County Executive pending bills were majorly statutory deductions and Sacco dues;
4. the Siaya County Executive has a balance of Kshs.52 million owed to LAPFUND which was penalties and interest accrued;
5. the Kenya Revenue Authority (KRA) imposed penalties on counties for late statutory deductions remittances caused by late exchequer releases.
6. the County Executive did not provide a status report of all its pending bills as prescribed by the Public Sector Accounting Standards Board. This could lead to inadequate disclosures of the pending bills.

Committee Recommendations

The Committee recommends that;-

1. **the National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate so as to enable county entities settle their obligations on time;**
2. **the County Executive should disclose all pending bills in the format prescribed by the Public Sector Accounting Standards Board as stipulated under Section 104(1)(h) of Public Finance Management Act, 2012;**
3. **the county executive puts in place measures to enhance own generated revenue in order to meet its revenue target and address revenue shortfalls that contribute to the challenge of pending bills;**
4. **Pending bills deemed ineligible should be forwarded to the Directorate of Criminal Investigation (DCI) for investigation proper legal action taken against those filing false claims;**
5. **County Government to take note of judgement in a Kitale High Court Constitutional Petition E003 of 2023 that declared formation of pending bills verification committees unconstitutional and engage Office of the OAG and strengthen the internal audit functions.;**
6. **All valid pending bills that have been reviewed by the Office of the Auditor General be paid and a payment plan be submitted to the county assembly for approval and progress report on implementation sent to the Senate and the Office of the Controller of Budget;**
7. **the KRA should cease imposing penalties on counties for late statutory deductions remittances as it is caused by late exchequer releases from the National Treasury; and**

8. **the County CEO to undertake administrative action against responsible officer(s) who failed to remit the statutory deductions and Sacco dues in accordance with Section 156 of the Public Finance Management Act, 2012 and provide a status update to the Office of the Auditor General within 60 days of adoption of this Report.**

Other Matter

1.0 Budgetary Control and Performance

The summary statement of appropriation - recurrent and development combined for the year ended 30 June, 2020 reflects final receipts budget and actual on comparable basis totalling Kshs.8,881,773,924 and Kshs.6,133,453,887 respectively, resulting to an underfunding of Kshs.2,748,320,038 or 31% of the budget. Similarly, the County Executive spent Kshs.6, 117,545,831 against an approved budget of Kshs.8, 881,773,924 resulting to an under-expenditure of Kshs.2, 764,228,093 or 31% of the budget. The underfunding and underperformance constrained execution of planned activities and delivery of services to the residents of Siaya County.

Management Response

The under-funding and under-expenditure is attributed to under collection of own source revenue, under receipt of donor funds and late release of exchequer by the National Treasury.

Committee Observation

The Committee noted that delays in receiving exchequer releases from the National Treasury and under-collection of own source revenue hindered optimal Program implementation and budget execution.

Committee Recommendations

The Committee recommends that:

1) The National Treasury should ensure timely release of funds to county Governments in line with the cash disbursement schedules approved by the Senate; and

2) The County executive puts in place measures to enhance its own generated

Revenue in order to meet its revenue target and address revenue shortfalls.

2.0 Late Exchequer Releases

Note 1 to the financial statements reflects total Exchequer releases of Kshs. 5,688,553,543, out of which an amount of Kshs. 1,129,430,250 or 20% was received by the County Government from the National Treasury during the month of June as detailed below:

Date Funds Received in the Bank Account	Amount (Kshs.)

15- Jun- 20	608,154,750
24- Jun- 20	521,275,500
Total	**1,129,430,250**

As a result of the delayed receipts of funds, the County Executive did not have sufficient time to absorb its total budget for the year.

Management Response

Management stated that the National Treasury did not release exchequer on time hence affecting the budget performance.

Committee Observation

The Committee noted that delays in receiving exchequer releases from the National Treasury and under-collection of own source revenue hindered optimal Program implementation and budget execution.

Committee Recommendations

The Committee recommends that:

1) The National Treasury should ensure timely release of funds to county Governments in line with the cash disbursement schedules approved by the Senate; and

2) The County executive puts in place measures to enhance its own generated

Revenue in order to meet its revenue target and address revenue shortfalls.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

1.0 Irregular Expenditure on Council of Governors

The statement of receipts and payments reflects an expenditure of Kshs.1, 554,295,908 under use of goods and services which, as disclosed in Note 12 to the financial statements, includes an amount of Kshs.254, 206,997 relating to operating expenses. The latter balance includes an amount of Kshs.1, 250,000 incurred on Council of Governors during the year under review. However, Section 37 of the Inter-Governmental Relations Act, 2012 states that all operational expenses of the Council of Governors should be met by the National Government. In the circumstances, the propriety and legality of the expenditure of Kshs.1, 250,000 on the Council of Governors could not be confirmed.

Management Response

Management stated that the Expenditure of Kshs.1, 250,000 was as result of a resolution of the Council of Governors letter dated 29th August 2019. Siaya County being a member of the Council of Governors was obliged to support the initiative.

Committee Observation
The Committee noted that payments made to the Council were irregular and unlawful.

Committee Recommendation
The Committee recommends that;-

1. **the irregular payments to the Council of Governors (COG) be stopped and further recommends the surcharge of any Governor, in their capacity as Chief Executive Officer, who continues to make the irregular contribution; and**
2. **The EACC should oversee the recovery of all the public funds irregularly transferred to the Council of Governors (COG) by the Governor. This is in line with the Resolution of the Senate.**

2.0 Outstanding Imprests
As disclosed in Note 24 to the financial statements, the statement of financial assets and liabilities reflects a balance of Kshs.37, 907,238 as at 30 June, 2020 in respect of accounts receivables-outstanding imprests. However, imprest totaling Kshs.7, 035,768 issued in 2018/2019 financial year had not been surrendered as at 30 June, 2020. This is contrary to Section 93(5) of the Public Finance Management (County Governments) Regulations, 2015 which requires a holder of a temporary imprest to surrender the imprest within 7 working days after returning to duty station. Further, Section 6 of the Regulations requires that in the event the imprest holder fails to account for and surrender the imprest on the due dates, the Accounting Officer shall recover the amount fully from the salary of the defaulting officer with an interest at the prevailing CBK rates. In addition, some officers were issued with more than one imprest against Section 93(8) of the Public Finance Management (County Governments) Regulations, 2015 which requires the Accounting Officer to 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 circumstance, the Management was in breach of the law and recoverability of outstanding imprest of Kshs.7, 035,768 as at 30 June, 2020 is doubtful.
Management Response
Management stated that;

1. The imprest of Ksh37, 907,238.00 which included Kshs. 7,035,768.00 issued in 2018/2019 had since been accounted for/surrendered.
2. In order to ensure that no officer is issued with more than one imprest, the County Treasury has centralized management of imprest i.e. authorization, issuance, and surrender of imprest.

Committee Observations
The Committee noted that;

1. The County Executive had failed to submit relevant documents on time to the Auditor General during the audit exercise contrary to Section 62 of the Public Audit Act, 2015;

2. Kshs.7,035,768.00 issued in 2018/2019 was accounted for/surrendered, as per the attached summary annex 6, but no evidence was adduced to show how the amounts were accounted for;
3. the executive had several outstanding imprests not surrendered within 7 days of returning to duty station in violation of Section 93(5) of the PFM Act (County Governments) Regulations, 2015 and stated that the responsible officers should be surcharged with an interest at the prevailing Central bank rates.

Committee Recommendations

The Committee recommends that;

1) **the officers who failed to surrender the imprest within 7 days of returning to duty station in violation of Section 93(5) of the PFM Act (County Governments) Regulations, 2015 be surcharged with an interest at the prevailing Central bank rates;**
2) **the EACC to expedite their investigation on imprest mismanagement in Siaya County and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report.**

3.0 Irregular Salary Payment to Employees

Review of the personnel emoluments, payroll and personal files revealed that an officer was transferred from Siaya County to Bungoma County on 11 May, 2012 but the officer continued to draw salary from Siaya County Government up to October, 2019 totaling to Kshs.4, 545,641 which had not been recovered. Further, an officer who retired in December, 2019 was paid an amount of Kshs.94, 400 being salary up to January, 2020. Management did not provide explanations for the anomalies. Consequently, the propriety of the total expenditure of Kshs.4, 640,041 could not be confirmed as a proper charge to public funds for the year ended 30 June, 2020.

Management Response

Management stated that;

i) An officer whose details is stated below was transferred from Siaya to Bungoma on **11th May, 2012.**

Name: Betty Namuku Makonjio

Pf No. 2009075874

The staff continued to draw salary up to **October, 2019** upon which the salary was stopped immediately. Upon discovery of the irregular payment of salary to the staff totaling **Ksh.4, 545,641.75**, steps were taken to recover the amount from Bungoma County. Please find attached copies of letters, cheque and receipt as evidence of recovery of the money by Siaya County.

(ii).Name: Elijah Umidha

P/F No: 1982042046

The officer is a Person Living with Disability (PLWD), No. 20130715/2260 and was due for retirement in the year 2023. He was a devolved staff from the National Government and his pension handled at that level. Through a letter dated **23th September, 2019**, the officer wrote to the Principal Secretary, Ministry of Agriculture, Livestock and Fisheries, requesting for early retirement on medical grounds. The Ministry acknowledged the letter through their letter dated **16th December, 2019.** The officer was granted early retirement and was to be paid up to and including **November, 2019.**

However, the County Government of Siaya received the letter on **16th January, 2020** after payment of **December , 2019** salary and processing of **January, 2020 salary**.

Steps taken to recover the overpayments

A letter was written to the Ministry of Agriculture notifying them of the two months overpayment and with an instruction to recovery the amount in question from the officer's pension.

The County Executive are yet to receive any response from the Ministry on whether they effected the recovery

The overpayment in the months of December, 2019 and January, 2020 was brought to the attention of the Ministry, vide a letter dated **19th February, 2020,** for purposes of recovery from the officer's pension benefits.

Committee Observations

The Committee noted that;

1. that the officer who retired in December, 2019 and was paid an amount of Kshs.94, 400 being salary up to January 2020 the funds are yet to be recovered.
2. The officer was devolved from the National Government and had requested for early retirement through the Principal Secretary, Ministry of Agriculture, Livestock and Fisheries through a letter dated **23th September, 2019**.
3. there was correspondence between the county and the Ministry of Agriculture to help recover the amount of Kshs.94,000.

Committee Recommendations

The Committee recommends that the county continues engaging the Ministry of Agriculture, Livestock and Fisheries in a bid to recover the amount of Kshs.94,000

4.0 Non-Compliance with Regional Diversity Requirement

Examination of personnel records indicated that the County Executive had a total of 1,883 employees, out of which 86% of the workforce were from the dominant ethnic community in the County contrary to Section 7(2) of the National Cohesion and Integration Act, 2008. The law requires the County Government 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. Consequently, the Management was in breach of the law.

Management Response

A report on Ethnic and Diversity audit of the County Public Service by the National Cohesion and Integration Commission and Published in 2015 established that the Siaya County Public Service inherited 1,666 staff from both defunct local authority and the National Government comprising of 78.9% Luo ethnic majority against 21.1% from the non-dominant Ethnic communities. Therefore, the Ethnic composition of County employees from the onset of Devolution contravened section 65(1) of the County Government Act, which demands that at least 30% of the vacancies should be accorded to non-dominant ethnic communities. Inheritance of staff by the County public service has therefore contributed to non-compliance.

The County Public Service Board has taken deliberate and bold steps including affirmative action in new recruitments progressively address the problem of non-compliance. Despite the bold steps the following challenges continue to erode compliance efforts being undertaken by the board.

Every election cycle there is perceived fear for post-election violence and most employees from the non-dominant ethnic communities opt either to resign or request for an inter county transfer to their home counties,

i. The board has been strict on such requests for transfer and that has stalled the mass exodus of employees.
ii. Only about an average of5% of applicants' form the non-dominant communities applies for the available job vacancies in the county public service. About 95% of all applicants are from the Luo community.
iii. Most job offer declinations are from the minority ethnic communities since the jobs are mostly at entry level and the remuneration packages not so attractive to non-locals

Despite the above cited challenges, the Board will continue to be innovative in order to progressively comply with the law.

Committee Observation

The Committee observed that;

1. there was no ethnic diversity among the County Executive employees;
2. due to the homogeneous ethnographic population in most counties, it may not be feasible for them to attain the threshold provided under Section 7(1) and 7(2) of the National Cohesion and Integration Act, 2008 which states that *no public establishment shall have more than one third of the staff from the same ethnic community.*

Committee Recommendations

The Committee recommends that-

1. **The county executive should work progressively towards attaining the requirement of the provisions of Section 65(1) (e) of County Government Act on ethnic inclusivity.**

2. **The County Executive and CPSB should provide to the Auditor General a five-year strategy of measures it will put in place to ensure compliance is achieved within sixty (60) days of the adoption of this report.**

5.0 Failure to Comply with One Third Basic Salary Rule

Review of the County Executive's payroll revealed that thirty-seven (37) employees earned net salaries which were below a third of their basic pay. This was contrary to Section 19(3) of the Employment Act, 2007 which states that the total amount of deduction of the wages of an employee should not exceed two third of such wages. The Management was therefore in breach of the law.

Management Response

The Management submitted that that the affected employees were those who had disciplinary cases. Some of them were serving on suspension and were therefore entitled to earn house allowance only. Others were serving on interdiction and were entitled to half basic salary and house allowance only. The disciplinary measures were taken against the said employees when they had committed their salaries on loans. Please find copies of pay slips of sampled officers whose disciplinary process were dispensed with. Also note that; copies of pay slips during the period the officers were undergoing disciplinary procedures and after the period. From the sample pay slips, the salaries are within the Third Rule.

Committee Observation

The Committee observed that some of the county staff were earning less than a third of their basic pay contrary to Section 19 (3) of the Employment Act 2007.

Committee recommendations

The Committee therefore recommends that -

(1) The County Executive should provide to the Auditor General within sixty (60) Days after the adoption of this report a plan of the measures put in Place to mitigate on the issue as well as comply with the requirements of Law;

(2) The county should configure their IPPD system such that it is able to lock out commitments beyond the accepted thresholds;

(3) The Auditor General should continue monitoring the issue in subsequent financial years.

6.0 Excessive Expenditure on Personnel Emoluments

Examination of revenue and expenditure records indicated that compensation of employee's expenditure for the year under review totaled Kshs.2, 326,451,400 equivalent to 38% of the revenue of the County Executive totaling Kshs.6, 133,453,887. The expenditure therefore exceeded the threshold of 35% prescribed under Regulation 25 (1) (b) of the Public Finance Management (County Governments) Regulations, 2015. The high wage bill is an indication that most of the County's resources are spent on staff salaries at the expense of development projects and thus impacting negatively on service delivery to the residents of Siaya County.

Management Response

Management stated that the employee compensation is 38% but the County Government of Siaya had made an improvement by reducing the percentage from 42% in FY 2017/2018 to 38% in FY 2019/2020.

However, County Government of Siaya had put measures to maintain employee compensation below 35% by;

i. The County Government of Siaya through the cabinet resolved to freeze employment to replace the exited staff from service.
ii. There has been reorganization of staff in the departments, directorate and sections to take the responsibilities of the staff who have exited the service

Committee Observation

The Committee observed that the County Executive's wage bill during the FY 2019/2020 stood at 38% of the its total receipts. This affected the budgetary allocations available for development projects.

Committee Recommendation

The Committee recommends-

1) **That the County Executive to strictly adhere to the provision of paragraph 25(1)(b) of the PFM Act (county government) regulations, 2015 which stipulate that the county wage bill should not exceed 35 per cent of the county total revenue; The Committee recommends that;**
2) **The County Executive should engage the State Department of Public Service to fast-track the issuance of personal numbers to enable them onboard all employees on the Integrated Personnel and Payroll Database (IPPD) System and the Auditor General to monitor the matter in subsequent audit cycle; and**
3) **That County Executive to provide to the Auditor General the measures put in place to contain the county higher wage bill within sixty (60) days from the adoption of this report.**

7.0 Acquisition of Assets

As disclosed in Note 17 to the financial statements, the statement of receipts and payments reflects an expenditure of Kshs.1, 377,164,209 under acquisition of assets. Review of the expenditure revealed the following observations:

7.1 Grounded Serviceable Tractors

Included in the expenditure of Kshs.1, 377,164,209 under acquisition of assets is an amount of Kshs.29, 088,974 in respect of purchase of specialized plant, equipment and machineries. The latter balance includes an amount of Kshs.15, 383,574 for purchase of tractors in the year 2014. However, physical verification revealed that 22 tractors were supplied but only 8 tractors were operational leaving 14 serviceable tractors grounded and lying idle. Under the circumstance, value for money was not obtained from the 14 grounded tractors procured during the year ended 30 June, 2014.

Management Response

The Department acknowledged that only 8 tractors were in operation out of a fleet size of 22 at the time of audit. The Department carried out mechanical inspections of 22 tractors at the beginning of the financial year 2020/2021 with a view to repair all the tractors in readiness for the ploughing season.
The department had initiated the necessary legislative framework to enable sustainable funding for the project. The legislative framework would lead to the operationalization of the revolving fund for the tractors. In this regard the department has developed the Siaya County Agriculture Input Grants and Subsidies Bill

This is a legislative framework to guide the identification of beneficiaries, as well as informing the criteria for operationalization of Subsidies. This has been presented to the County Executive Committee and approved. It is awaiting enactment by the Siaya County Assembly. The Department is also finalizing the Siaya County Agriculture Mechanization Policy which will guide the County in sustainable Agricultural mechanization.

The Management of the department has always strived to adhere to laid down regulations

Committee Observation

The Committee observed that only 8 tractors were in operation out of a fleet size of 22 at the time of audit.

Committee Recommendation

The Committee recommends that the county government takes immediate action to service and repair the grounded tractors and provide a status update to the OAG within 60 days from the adoption of this report.

7.2 Renovation of Agricultural Training Centre (ATC) Siaya

The expenditure of Kshs.1, 377,164,209 under acquisition of assets includes an amount of Kshs.10, 882,731 incurred on refurbishment of building which further includes Kshs.2, 161,460 for renovation works at the Agricultural Training Centre (ATC) Siaya. However, physical verification in November, 2020 revealed that the pre-cast concrete paving slab around the building had fallen off while the painting works was poorly done. The renovations were not therefore carried out to the required standards. In the circumstance, the propriety and value for money on the expenditure of Kshs.2, 161,460 could not be confirmed.

Management Response

Management stated that the paving slabs were intact and there was no pre-cast concrete slab around the building.

On the painting works, as per the site visits with auditors, the area in question is the hostel. The cause of paint peeling off is due to dampness caused by plumbing works, in

addition the contractor has not been fully paid and retention money for this particular project has not been cleared hence the contractor has been instructed to attend to the defects. The contractor corrected the defects as per the instructions and ATC is currently in use as a college of Agriculture under Jaramogi Oginga Odinga University of Science and Technology.

Committee Observation
The Committee noted that the matter has since been addressed.

Committee Recommendation
The committee recommends that the matter be marked as resolved.

7.3 Fencing and Construction of Two Door Pit Latrines and Bathrooms at the Nyaudenge Beach

The expenditure of Kshs.10, 882,731 on refurbishment of buildings also includes an amount of Kshs.891, 924 for fencing and construction of two door pit latrines and bathrooms at the Nyaudenge Beach during the year under. However, physical verification in November, 2020 revealed that the main gate was broken, and the supporting columns of the main gates were leaning on the sides. In the circumstance, the propriety and value for money on the expenditure of Kshs.891, 924 could not be confirmed.

Management Response

Management stated that the main gate that was broken had been repaired and supporting columns that were leaning on the sides had been made good.

Committee Observation

The Committee noted that the matter has since been addressed.

Committee Recommendation

The committee recommends that the matter be marked as resolved.

7.4 Rehabilitation of Miruka Water Pan

The expenditure of Kshs.1, 377,164,209 under acquisition of assets includes an amount of Kshs.358, 648,199 for construction and civil works which further includes an amount of Kshs.8, 959,022 incurred on rehabilitation of Miruka Water Pan in North Sakwa Ward. The latter balance included amounts of Kshs.933, 600, Kshs.2, 632,600 and Kshs.1,024,200 allocated for installation of solar water pump, site clearance-earthworks and washrooms, respectively. Physical verifications in November, 2020 revealed that the solar accessories were not installed. Further the site was bushy, and the toilets and

bathrooms could not be accessed. In the circumstance, the propriety and value for money on the expenditure of Kshs.4, 590,400 could not be confirmed.

Management Response

The audit was done 8 months after the contractor had handed over the site to the Project Management Committee (PMC). The contractor did the work as per the BOQ specifications. The works office inspected and issued a certificate of completion (certificate of completion). The PMC were satisfied with the work of the contractor as being complete and authorized the contractor be paid his dues (inspection and Acceptance). Inspection and Acceptance further proves that site clearance, earth works, solar water pump and its accessories were installed, tested and the works accepted by PMC as having been achieved 100%. Despite the 100% achievement, it is important to note that bush clearance at the site will remain a continuous activity every rainy season throughout the project period.

The minutes of the site meeting held on 25/2/20 approved the handing over of the project from the contractor to the PMC (Site Meeting minutes).The locks and keys were also handed over during the exercise. The site meeting of 25/2/20 further resolved that the PMC takes over the security matters of the project.

We wish further to state that the solar accessories were installed as per the specification detailed in the Bill of Quantities (BQs) and certified by the Project Manager as shown in to engineer's certificate. There were also photos taken after the installation of the solar accessories as shown in the attachment. The PMC later uninstalled the accessories for safe custody as they organized for the site security. A new committee was also elected to ensure proper usage of the facility.

Committee Observation

The Committee noted that the site was abandoned by the contractor and therefore there was no value for money.

Committee Recommendations

The Committee recommends that;
(1) The county government takes immediate action to ensure opening up and utilization of complete projects and provide a status update within 60 days from the adoption of this report;
(2)The Auditor General should audit the projects to ascertain the utilization of the said projects in line with this recommendation.

7.5 Supply of Heifers to Farmers

Included in the expenditure of Kshs.1, 377,164,209 under acquisition of assets is an amount of Kshs.25, 351,675 incurred on purchase of certified seeds, breeding stock and live animals which further includes an amount of Kshs.2, 448,000 for supply and delivery of 19 dairy cows in calf to Yimbo East, Sigomere, and North Ugenya ward during the year under review. However, physical verification in November, 2020

revealed that more than half of the animals delivered died but the death reports issued by the Veterinary Department were not provided to confirm the death of the animals.

In the circumstances, the propriety and value for money on the expenditure of Kshs.2, 448,000 could not be confirmed.

Management Response

Management stated that the animals died and the veterinary officer could not perform the post-mortem since the farmers did not give a report in real-time for the vet offices and livestock officers to carry out post-mortem and they went ahead to dispose of the carcass. The officers only get to know about the death during routine follow-ups. However, management stated that currently, the county government had adopted to improve the locally available cattle by performing fixed-time artificial insemination. This enables farmers to take ownership of the calf born from their cows, secondly, the cow's breed gets adapted to the local climate condition thus improving productivity and reducing the mortality rate of animals. The department is currently carrying out a pilot demonstration on fixed-time artificial insemination in the East Yimbo ward.

In addition, the county is carrying out training and follow-up on dairy management

Committee Observation

The Committee noted that there was no due diligence before the county undertook the project of heifer farming.

Committee Recommendation

The Committee recommends that the county CEO to take administrative action against responsible officer(s) who failed to undertake due diligence in the conception of the heifer farming project in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report.

7.6 Supply of Poultry to Farmers

The expenditure of Kshs.25,351,675 incurred on purchase of certified seeds, breeding stock and live animals further includes an amount of Kshs.4,780,500 for supply and delivery of 15,965 one-month old chicks to Yala township, Alego Usonga, Bondo, Rarieda, Ukwala, Ugunja, Wagai, Asembo and Sidindi wards during the year under review. However, physical verification in November, 2020 revealed that more than half of the chicks delivered died but the death reports issued by the Veterinary Department were not provided to confirm the death of the chicks. In the circumstances, the propriety and value for money on the expenditure of Kshs.4, 780,500 could not be confirmed.

Management Response

Management stated that in the year under review, the birds died without post-mortem being carried out, however, the county had made strides in ensuring that proper training is carried out to improve the survival of the birds through timely vaccination and other

good husbandry practices, secondly training in observing vaccine cold chain, feeding management, and feeds production before the birds are distributed to the beneficiary. The training is being done in collaboration with The Agricultural Sector Development Support Program (ASDSP) and Kenya climate smart Siaya (KSCAP). The department has also intensified the follow-up on farmers to ensure the survival rate of birds is improved and the objectivity achieved

In addition, the county is in the process of reintroducing an agricultural and subsidies bill to the county assembly, through the cabinet. This help in grants management.

Committee Observation

The Committee noted that there was no due diligence before the county undertook the project of poultry farming.

Committee Recommendation

The Committee recommends that the county to take administrative action against responsible officer(s) who failed to undertake due diligence in the conception of the poultry in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report.

7.7 Renovation Works at Moi University Odera Akang'o Campus College

The expenditure of Kshs.1, 377,164,209 under acquisition of assets includes an amount of Kshs.271, 038,787 incurred on construction of buildings which further includes an amount of Kshs.15, 881,796 for renovation works at the Moi University Odera Akang'o campus in Yala Township during the year under review. However, physical verification and review of the records in November, 2020 revealed the following anomalies:

i) a local Service Order (LSO) had a sum of Kshs.32, 602,554 for the renovations works while the contract agreement indicated that the works were to cost a sum of Kshs.36, 653,220 thus a variance of Kshs.4, 050,666 which was not explained.
ii) The contractor's performance bond of Kshs.1, 832,661 from an insurance company dated 26 February, 2018 had expired on 25 October, 2018 and no evidence of its renewal was provided for our audit review.
iii) On 7 January, 2020, the contractor requested for time extension for ninety (90) days up to 7 April, 2020 for the completion of the works. The time extension was granted on 5 February, 2020. However, the Tender Committee Evaluation minutes were not provided for our audit review to confirm that the request was approved.
iv) Works totaling Kshs.5, 352,886 were paid for but not supported with documentary evidence as to how the funds were utilized. Further, the Tender Committee Evaluation minutes were not provided to confirm authorization for the use of contingency sum of Kshs.3, 500,000 for the works.

v) A sum of Kshs. 2,070,020 was utilized for the renovation of the Director's office. However, physical verification of the project on 11 November, 2020 revealed that the Director's office had not been renovated.
vi) No monthly reports from the Head of the Procurement section to the Accounting Officer for the project were provided for our audit review.

Consequently, the value for money and the propriety of Kshs.11, 473,572 out of a total of Kshs.15, 881,769 spent for the year ended 30 June, 2020 could not be confirmed.

Management Response

Management submitted that;

i) The works consisted of renovation works awarded to one contractor at Kshs.36,653,220.40 being the lowest evaluated bidder and specialist's works (Generator Installation and commissioning) awarded to another contractor at Kshs. 2,397,148.00. Also being the lowest evaluated bidder on a separate contract. The available budget as at the time of award was Kshs 35,000,000. The LSO was drawn for the available budgetary provision with Kshs 32,602,554 for the
ii) Renovation works and the balance drawn in favor of specialist works contractor (Davis and Shirtliff).
iii) The performance bond was renewed and is valid till 9/10/2020. The evaluation Committee met on the 22/01/2020 and approved the extension of time as required by the Law.
iv) Attached the approved breakdown of contingency and electrical works and evaluation report of the same.
v) The director's office had NOT been done and funds meant for it have NOT been expended. Please see the discussions on Minutes attached.
vi) Attached the monthly report for the period. Please note that the Monthly reports from the head of procurement have been in place and copies sent to the Accounting Officer.
vii) The works had been completed and completion certificate Issued as attached.

Committee Observation

The Committee noted that to date, the director's office has not been done and money meant for this was directed to erecting a fence. However, this was not regularized for competitive procurement.

Committee Recommendation

The Committee recommends that the County Executive should adhere to the Public Procurement and Asset Disposal Act, 2015 in project implementation and variation.

7.8 Purchase of Land for State Officers Residence

Included in the expenditure of Kshs.1, 377,164,209 under acquisition of assets is an amount of Kshs.21, 200,000 incurred on acquisition of land. The latter balance includes an amount of Kshs.9, 500,000 for the purchase of parcels of land for state officer's residence. However, the following anomalies were noted:

i) The purchased parcels of land were not in the approved budget and procurement plan during the year of audit review.
ii) There was no public participation before the parcels of land were purchased as the procurement was funded by the savings made from road constructions.
iii) No title deeds for the parcels were produced for audit verifications.
iv) Physical verification in November, 2020 revealed that the parcels have not been fenced.

In the circumstances, the propriety and value for money on the expenditure of Kshs.9, 500,000 could not be confirmed.

Management Response

Management stated that there was a budget and a procurement plan for the construction of the state officers' residence in the department of roads. The process was initiated by dept of roads via IFMIS (IFMIS requisition no 784). Online IFMIS requisition ascertains that there was a budget and a procurement plan which was pulled to generate the above IFMIS requisition no). Public participation was done during budget making process both by the executive and county Assembly. As at the time of audit, the titles were not ready. The title deeds had been attached.

Fencing of the parcel was not in the budget of Financial Year 2019/2020 and has been proposed in the supplementary budget of Financial Year 2021/2022 under the department of Roads and Public works.

Committee Observations

The Committee noted that;

1. the purchased parcels of land were not in the approved budget and procurement plan during the year of audit review.
2. There was no public participation before the parcels of land were purchased as the procurement was funded by the savings made from road constructions.

Committee Recommendation

The Committee recommends that the County CEO undertakes administrative action against the responsible officer(s) for expending money on a project not in the procurement plan in violation of the provisions of the Public Procurement and Asset Disposal Act, 2015 in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report.

7.9 Supply and Delivery of Student Lecture Chairs

The expenditure of Kshs.1, 377,164,209 under acquisition of assets includes an amount of Kshs.10, 025,172 relating to acquisition of other inventory which includes Kshs.5, 532,968 for the supply and delivery of 700 student lecture chairs to Agricultural Training Centre (ATC) in Siaya Town. Physical verification confirmed that, although the student lecture chairs were delivered, notification of the award of the contract was issued on 14 February, 2020, the same date the Inspection and Acceptance Report was also issued. However, delivery of the items was done on 05 March, 2020 after the Inspection and Acceptance Report had been issued.

Management response

The inspection date pointed out in No. 5 as 14/2/2020 is the date of notification of award. The date for inspection and acceptance was 5/5/2020 as spelt out on the inspection and acceptance form.

Management stated that inspection and acceptance certificate was designed to indicate the reference number of the notification of award and the date of award which is 14 Th February 2020. The date of inspection and acceptance, and actual delivery of the Chairs was 5th May 2020.

Committee Observation

The Committee noted that the matter has since been addressed.

Committee Recommendation

The Committee recommends that the matter be marked as resolved.

7.10 Construction of ECD Blocks and Two Door Pit Latrines to Primary Schools

The expenditure of Kshs.1, 377,164,209 under acquisition of assets includes an amount of Kshs. 271,038,787 relating to construction of buildings. The latter balance includes an amount of Kshs.18, 452,061 for construction of a total of eight (8) Early Childhood Development (ECD) classes, and two door pit latrines per every school in various primary schools during the year under review. However, physical verification on November, 2020 established that six (6) classes out of eight had cracks on the floors, walls, and ramps were poorly done. Further, it was also noted that the construction of two classes, and two door pit latrines per school at Migono and Kodongo primary schools had stalled after payment of Kshs.4, 923,291. In the circumstances, the propriety and value for money on the expenditure of Kshs.18, 452,061 could not be confirmed.

Management Response

i) Ndira Vocational Training Centre: Contractor Wachiam, construction of two Classrooms, payment kshs. 1,301,485.20, the defects have been corrected and is in use.
ii) Rakombe ECD in Rarieda Sub County: Contractor Beneli Engineering Services, Construction of ECD Classrooms and two pit latrine, payment Kshs. 3,310,490.

Beneli Engineering Services has been instructed to make good the defects on the Ramps.

iii) Tanga ECD in Rarieda Sub County: Contractor – Nemad Enterprises Limited, Construction of ECD classrooms, and 2 door pit latrine paid Kshs. 1,464,038. The Defects have been corrected and the floor tiled.

iv) Migono Primary ECD: Contractor – Winam Contractors Limited, Construction of ECD classrooms and 2 – door pit latrine, paid kshs. 2,449,483. It is true that the Project has stalled. This was caused by inadequate funding. The County is committed to put more money in budget for the next Financial Year so that the project could be completed

v) Sudhe Primary ECD: Contractor – Monaki Better Deals Limited, payment of kshs. 1,208,483 for the construction of ECD 3 classrooms and 2- door pit latrine. The defects have been corrected and is in use.

vi) Radundi Primary ECD: Contractor: - Frajoe Limited, construction of ECD classrooms and 2 door pit latrine, payment of kshs 1,626,041 the defects have been corrected and is in use.

vii) Kotoo Primary ECD: Beneli Engineering Services, construction of classrooms and 2 door pit latrine, paid kshs 3,000,000. The project has been completed and is in use.

viii) Kodongo Primary ECD: Contractor – Nas International Holding Limited, construction of Kodongo ECD classrooms and 2 door pit latrine, payment of Kshs.2,423,807.82. The project has been completed and is in use.

Committee Observation

The Committee noted that the matter has since been addressed.

Committee Recommendation

The committee recommends that the matter be marked as resolved.

7.11 Unsupported Payments for Preparation of County Spatial Plan

Included in the expenditure of Kshs.1,377,164,209 under acquisition of assets is also an amount of Kshs.135,288,099 incurred on research, studies, project preparations, design and supervision. The latter balance includes an amount of Kshs.10,000,000 paid for preparation of the County spatial plan during the year under review. The contract price of the plan was Kshs.105,328,000 with 15% or Kshs.15,799,200 payable on approval of the final draft report by the County Assembly as provided under clause 1 of the amended contract signed on 25 May, 2019. However, the payment of Kshs.10,000,000 was made before approval of the final draft report by the County Assembly and no explanation has been provided for the anomaly. Consequently, the propriety of the expenditure of Kshs.10,000,000 for the year ended 30 June, 2020 could not be confirmed.

Management Response

Management stated that the kshs.10, 000,000.00 was made upon contractor's request after submission of final spatial plan report, clarified that the ksh.10, 000,000.00 did not expose the County Government to any risk of loss of funds.

Committee Observations

The Committee noted that;

1. the final spatial plan report has since been approved by the county assembly.
2. there was a contravention of the law since the payment of Kshs.10,000,000 was made before approval of the final draft report by the County Assembly.

Committee Recommendations

The Committee recommends that the County CEO undertakes administrative action against the responsible officer(s) for making the payment of Kshs.10 million before approval of the final draft report by the County Assembly in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report.

7.12 Implementation of Nyalnawi Water Pan

The expenditure of Kshs.1, 377,164,209 under acquisition of assets also includes an amount of Kshs.358, 648,199 relating to construction and civil works, which further includes of an amount of Kshs.8, 406,250 for fencing of community water point livestock trough and distilling works at Nyalnawi water pan. However, physical verification in November, 2020 revealed that the project had been vandalized. The flush water toilets were clogged, the fence and toilets doors were vandalized and the water pan had no gates to secure the projects. In the circumstances, the propriety and value for money on the expenditure of Kshs.8, 406,250 spent on the project could not be confirmed.

Management Response

The water pan was vandalized by a rogue group of community members. This was reported to Siaya Police Station under OB31/17/07/2019 and the case is still active.

On its part, the Department realized that there was a weakness on the Water Pan Management Committee and has carried out a number of activities aimed at strengthening the Committee, as well as improving the acceptability of the community-based project;

1. The department has held meeting with the local leadership which included political leadership, chiefs and Assistant chief together with the community on how to strengthen community policing and security of the water pan infrastructure.
2. Training the Water Pan Management Committee on organizational development. The management committee is composed of the various leaders of the Agriculture

Value Chain groups in the community. This includes horticulture, fishing, poultry and livestock.

This was aimed to improve the organizational capacity of Management committee.

3. The Department has also conducted training for the farmers on income generation for sustainability of the project with the continued training and follow-up visits by the department, the situation will continue improving in order to achieve the benefits envisaged.

The Department observed during the meetings with the community and local leadership that the water pan was being used by two different communities namely Usenge and Urim which were in two different wards of Siaya Township and Central Alego Wards, However due to limitation of funds the livestock trough and community water points were constructed on one side and this was the source of conflict. The department in consultation with the two members of County Assembly has agreed to construct additional facilities on the other ward to solve the conflict.

Committee Observations

The Committee observed that the water pan had been vandalized and is yet to be repaired.

Committee Recommendations

The Committee recommends that;

1) **The county government takes immediate action to repair the vandalized water pan;**
2) **The Auditor General should audit the project and report to the Committee in the next audit cycle.**

7.13 Inventory not Taken on Charge- Assorted Sports Item

Assorted Sports Items Included in the expenditure of Kshs.1,377,164,209 under acquisition of assets is an amount of Kshs.10,025,172 relating to acquisition of other inventory which further includes an amount of Kshs.5,605,438 for the supply of assorted sports items. However, the assorted sports items were not taken on charge in the store's ledger. This is contrary to Section 162(1) of the Public Procurement and Asset Disposal Act, 2015 which states that an Accounting Officer of a procuring entity should ensure that all inventory, stores and assets purchased are received, but should not be used until taken on charge as a basis for ensuring that all procured items are properly accounted for and put in proper use as intended by the procuring entity. The Management was therefore in breach of the law.

Management Response

Management confirmed that the items were duly received and taken on charge in our stores and a copy of S13 and S3 cards was attached for verification.

Committee Observation

The Committee noted that the county did not provide evidence for purchase of the sports item and a schedule listing the beneficiaries of the sports item.

Committee Recommendation

The Committee recommends that the county CEO takes administrative action against the responsible officer(s) who failed to take charge in the store's ledger in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report.

CHAPTER THIRTEEN

REPORT OF THE SENATE COUNTY PUBLIC ACCOUNTS COMMITTEE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF VIHIGA COUNTY EXECUTIVE REPORT FOR THE FINANCIAL YEAR 2019/2020

The Governor of Vihiga County Executive Hon. (Dr.) Wilber Ottichilo appeared before the Committee on Wednesday 15th February, 2023 to respond (under oath) to audit queries raised in the Report of the Auditor General on Financial Statements for Vihiga County Executive for the Financial Year 2019/2020.

Adverse Opinion

EXECUTIVE SUMMARY OF THE UNRESOLVED QUERIES				
S/NO	**AUDIT QUERY**	**COMMITTEE RECOMMENDATION**	**ACTORS**	**TIMELINE**
1.	**3.Unsupported Community Empowerment Fund** The propriety of the transfer to the community empowerment fund balance of Kshs.1,700,000 could not be confirmed.	The Committee recommends the matter be considered by the Senate County Public Investment and Special Funds Committee.	County Public Investments and Special Funds Committee	Immediately upon adoption of this report
2.	**1.Pending Bills** Pending bills amounting to Kshs.219,703,685 were not adequately	The Committee recommends that;- 1. the National Treasury should ensure timely release of funds to	The Chief Executive Officer The Auditor General	Continous

	supported with delivery notes, invoices and procurement records. 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.	county governments in line with the cash disbursement schedules approved by the Senate so as to enable county entities settle their obligations on time; 2. the County Executive should disclose all pending bills in the format prescribed by the Public Sector Accounting Standards Board as stipulated under Section 104(1)(h) of Public Finance Management Act, 2012; 3. the county executive puts in place measures to enhance own generated revenue in order to meet its revenue target and address revenue shortfalls that contribute to the challenge of pending bills; 4. Pending bills deemed ineligible should be forwarded to the Directorate of Criminal Investigation (DCI) for investigation proper legal action taken against those filing false claims; 5. County Government to take note of judgement in a Kitale High Court	The National Treasury The DCI	

		Constitutional Petition E003 of 2023 that declared formation of pending bills verification committees unconstitutional and engage Office of the OAG and strengthen the internal audit functions.; 6. All valid pending bills that have been reviewed by the Office of the Auditor General be paid and a payment plan be submitted to the county assembly for approval and progress report on implementation sent to the Senate and the Office of the Controller of Budget.		
3.	**2. Budgetary Control and Performance** The underfunding and underperformance affected the planned activities and may have impacted negatively on service delivery to the people of Vihiga County.	The Committee recommends that- 1. The National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate; 2. The County Executive should put in place measures to improve their local revenue collection capacity in order to meet their revenue collections target.	1.The County Chief Executive Officer 2.The National Treasury	60 days from the date of adoption of this report

4.	**3.Unresolved Prior Year Matters** 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 and The National Treasury's Circular.	The Committee recommends that the County Executive complies with section 53 of the Public Audit Act, 2015 by taking action on the issues raised by the Auditor General and submits a report to the Office of the Auditor General within sixty (60) days of the adoption of this report.	The County Chief Executive Officer	60 days from the date of adoption of this report
REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES				
5.	**2. Irregular Acquisition of Land** No ownership documents were provided for audit verification to account for the amount expended. Consequently, the County did not get value for money and ownership of the land could not be confirmed	The Committee recommends that the County Executive should fast-track acquisition of the title deed for the land and submit a copy to the Auditor General for verification within sixty (60) days from the adoption of this report. Further, the Committee recommends that the County Executive provides to the Auditor General a plan of the measures they will put in place to ensure that the waste management project is completed and put to use.	1.The County Chief Executive Officer	60 Days from the date of adoption of this report
6.	**3. Supply of Assorted Hospital Items** Delivery and inspection of procured items were made on 17	The County CEO undertakes administrative action against the responsible officer(s) who failed to provide the documents to the auditors in accordance with	1.The County Chief Executive Officer	WIthin 60 days from the date of adoption of this report

	June, 2019 and 11 October, 2019 respectively, four hundred and eighty (480) days after the LPO had been issued. This was contrary to the terms specified in the invitation for tender that specified that the tenders shall remain valid for 90 days.	section 156 of the Public Finance Management Act, 2012 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report		
7.	**4.1 Unsupported Project Expenditure** The Community Driven Development Committees (CDDCs) project had not accounted for Kshs.11,246,111 out of the total amount of Kshs.212,034, 566 received by the project.	The Committee recommends that: 1. the County Executive should adhere to the Public Finance Management Act, 2012 and the Public Procurement and Asset Disposal Act in project implementation. 2. the Senate should be reviewing all memorandums pertaining donor funding to County governments before they are approved in the County Government Allocations of Revenue Bill in accordance with the Senate mandate stipulated in Article 96 of the Constitution.	1.The County Chief Executive Officer	60 days from the date of adoption of this report
8.	**4.2 Agricultural Sector Development Support Programme**	The Committee recommends that: 1. the County Executive should adhere to the Public Finance	1.The County Chief Executive Officer	60 days from the date of adoption of this report

	Section C of the Memorandum of Understanding for the Agriculture Sector Development Support Project (ASDSP) stipulates that the programme will provide reports to development partners, external auditors and stakeholders in accordance with agreed formats and reporting periods. The programme reports have not been submitted to the Auditor-General's Office for the year under review.	Management Act, 2012 and the Public Procurement and Asset Disposal Act in project implementation. 2. the Senate should review all donor-based memorandums pertaining donor funding to County governments before they are approved in the County Government Allocations of Revenue Bill in accordance with the Senate mandate stipulated in Article 96 of the Constitution.		
9.	**7. Compliance with the National Cohesion and Integration Act, 2008 - Ethnic Staff Composition** During the year under review, an analysis of the payroll revealed that the County Executive had a total work force of one thousand seven hundred and seventy-four (1,774) employees as at 30 June, 2020 out of which,	The Committee recommends that- the county entity should work progressively towards attaining the requirement of the provisions of Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 the County Executive and CPSB should give a work plan on how they will ensure compliance is achieved, to the Auditor General within sixty (60) days from the adoption of this report.	1.The County Chief Executive Officer	60 days from the date of adoption of this report

	one thousand six hundred and fifteen (1,615) were from the dominant local community representing 91% of total work force contrary to Section 7(1) and (2) of the National Cohesion and Integration Act, 2008			
REPORT ON INTERNAL CONTROLS EFFECTIVENESS, RISK MANAGEMENT AND GOVERNANCE				
10.	**1. Poor Management of Fixed Assets Register** The fixed assets register had not been updated and the additions during the year under review were not reflected in the register. In addition, the fixed assets register does not include assets taken over by the County from the defunct local authorities.	The Committee recommends that the- a) County Executive should update and present their Fixed Assets Register in the format prescribed by the Public Sector Accounting Standards Board; b) County Executive should adopt and implement the report of the Inter-Governmental Technical Relations Committee (IGTRC) on assets and liabilities from defunct Local Authorities and provide a status update to the Office of the Auditor General within 90 days of adoption of this Report; and	1.The County Chief Executive Officer 2. The Auditor General	60 days from the date of adoption of this report

		c) Office of the Auditor General should progressively review and report on the matter in the subsequent Financial Years.		
11.	**2.Failure to Assign Personnel Numbers** A total of 60 employees serving on contract terms and on permanent terms who had not been assigned personnel numbers. Further they not paid their salary through IPPD payroll but instead are paid through manual payroll.	The Committee recommends that the County Executive should liaise with State Department of Public Service to expedite the Human Resource Audit exercise so as to pave way for issuance of personnel numbers to staff. The Committee further recommends that the accounting officer submits a status report on the matter to the OAG within sixty (60) days from the adoption of this report.	1.The County Chief Executive Officer 2. The Office of the Auditor General	sixty (60) days from the date of adoption of this report.
12.	**3. Failure to Automate the Revenue Collection** The County Executive had not automated all its revenue collection sources of internally generated revenue. Consequently, detecting revenue collection frauds and achieving real-time payments and	The Committee recommends that the County Executive should automate revenue collection across all revenue streams to reduce leakages. The Committee further recommends that the Auditor General keeps the matter in view in the subsequent audit cycle.	The County Chief Executive Officer	Sixty (60) days from the adoption of this report.

	reporting within the county government cannot be realized.			

Adverse Opinion
1. Cash and Cash Equivalent

As disclosed in Note 21A to the financial statements, the statement of financial position reflects bank accounts balances amounting to Kshs.675,875,158. The balance includes Vihiga County KUSP (UDG) CBK account of Kshs.179,489,676 while the respective bank confirmation certificate reflected nil balance. In addition, the County Devolution Support Programme CBK Account reflected Kshs.30,000,000 as per bank reconciliation while the bank confirmation certificate reflected nil balance. Management has not reconciled or explained the total difference of Kshs.209,489,676 between the bank balances and the bank records.
Further, the balance includes an account in a commercial bank with a balance of Kshs.707,164 which differs with the cash book balance of Kshs.28,387,897, resulting to unexplained difference of Kshs.27,680,733.

In addition, review of the bank listing indicated that the County Executive operated ninety-six (96) bank accounts that had not been disclosed in the financial statements as at 30 June, 2020. However, Management did not provide the bank accounts register detailing the account name, purpose and signatories.
In the circumstance, the accuracy, validity and completeness of cash and cash equivalent balance of Kshs.675,875,158 could not be confirmed.

Management Response

The management responded as follows:
Vihiga County KUSP (UDG) CBK Account No.1000388037 – Kshs.179,489,676 and Vihiga County Kenya Devolution Support Programme (KDSP) CBK Account No.1000440511 – Kshs.30,000,000.
The CARA, 2019 allocated Kshs.250,950,700 and Kshs.30,000,000 to Vihiga County under the Kenya Urban Support Programme – KUSP (UDG) and the Kenya Devolution Support Programme (KDSP) Grants respectively. Due to the effects of Covid-19 pandemic, the World Bank through the National Treasury was unable to disburse the funds to the County on time.

Early July 2020, after the closure of the Financial Year 2019/2020, the World Bank through the National Treasury released Kshs.209,489,676 (that is, Kshs.179,489,676 for KUSP (UDG) Grant on 02.07.2020 and Kshs.30,000,000 for KDSP Grant on 02.07.2020) to Vihiga County as part of the allocation for the financial year in question. The two receipts were captured in the respective Cash Books in the year under review and as reconciling items in the respective Bank Reconciliation Statements as guided by

the National Treasury Circular referenced AG.3/88/VOL.7(II) dated 13/05/2020 on the closure of the Financial Year 2019/2020 procedures and the Exchequer Release disbursement schedule.
As a standard practice, government institutions in preparation for the annual audit, do request their bankers to confirm bank balances as at 30th June of every year. Vihiga County Executive did the same and the Central Bank of Kenya released a Certificate of Bank Balances as at 30th June, 2020 reflecting nil balances in the Vihiga County KUSP (UDG) and Vihiga County KDSP Accounts since the above grants had not been received in the County's CRF Account and subsequently into the two Special Purpose Accounts in question.

However, the funds were properly captured in the County's books as guided by the National Treasury and thus the cash and cash equivalent balance of kshs.675,875,158 was fairly stated.

Unexplained difference of Kshs.27,680,733 on Vihiga County Salary Control Account No.01141471295000 held at the Co-operative Bank of Kenya – Mbale Branch

The initial adjusted cash book balance of kshs.28,387,897 did not capture June 2019 staff net salaries of Kshs.27,516,048.40 paid in the month of July 2019 whose transactions had been omitted on the bank statement by the Co-operative Bank of Kenya. The Management wrote to the bank concerning this omission and the bank rectified the error. The figure of Ksh. 164,684.60 was an error of original entry in the cash book which has since been corrected. The cashbook closing balance was adjusted accordingly to reflect the correct figure of Kshs.707,164 as reported in the financial statements.

Non-Disclosure of the Ninety-Six (96) Bank Accounts

Further, the County Executive has incorporated the bank balances for all accounts that have an effect on Cash and Cash Equivalent as reported in the financial statements. However, the ninety-six (96) accounts listed in the query comprise of Health facilities, Trade Enterprise/Empowerment Fund, Ward Bursary Fund and Vocational Training Centre Accounts.
Vihiga County Education/Bursary Fund and Trade Enterprise/Empowerment Funds are independent entities, reporting and being audited by the Office of the Auditor General independently. The transfers to these funds are expensed fully at the county executive at the time of transfer and reported under transfers to other County Government entities. Incorporating bank balances for the Funds will amount to double reporting in the Books.

Accounts maintained by Health Facilities and the Vocational Training Centres are meant for transfer of Danida, Compensation for User Fees Foregone, and the Rehabilitation of Village Polytechnic Grants as per the provisions of the Financing Agreements with the respective National Government Ministries.
These transfers are expensed fully at the time of transfer therefore incorporating the bank balances will amount to double reporting.

The County Executive provided a register of all bank Accounts showing account name, purpose and signatories to the auditor at the management letter response level.

Committee Observation

The Committee noted that the matter has since been addressed.

Committee Recommendation

The committee recommends that the matter be marked as resolved.

2. Unsupported Expenditure

As disclosed in Note 12 to the financial statements, the statement of receipts and payments reflect a balance of Kshs.820,054,976 in respect of use of goods and services which includes other operating expenses balance of Kshs.116,416,448. However, examination of records on the expenditure revealed that a total of Kshs.3,838,675 was paid as legal fee to three law firms. However, case files from the legal department and the fee note from the legal firm were not also provided for audit review. The nature of the cases could not therefore be ascertained.
Consequently, the propriety of the expenditure on other operating expenses amounting to Kshs.3,838,675 could not be confirmed.

Management Response
The management responded to the Auditor's query on the above matter as follows:
Nature of the Cases, Case Files and Fee Notes
The three law firms in question were:

i) M/S Khayega Chivai & Co. Advocates who defended the County Government against a civil case No.62 of 2018 filed at Kakamega High Court filed by a contractor-Tuff Contractors Ltd. The firm raised a fee note of Kshs.2,553,215.45 for the work done. The firm was paid Kshs.2,552,215.45.

ii) M/s Onsando Getanda & Co. Advocates provided legal services to a petitioner Mr. Edgar Kadenyi who had filed a petition against the County Government of Vihiga: Petition No.13 of 2017 at the Kakamega Law Courts for award of damages resulting from damage done to his gate as a result of opening and widening of Shamakhokho- Shivembe Road by the County Government. The court ruled in his favour and awarded him damages of Kshs.626,460 which the County Paid based on the Court Order.

iii) M/S J.O Juma & Co. Advocates who defended the County Government against a civil case Kisumu CMCC No.222 of 2016 filed at Kisumu High Court filed by a contractor-Firewall Africa Co. Ltd. The firm raised a fee note of Kshs.660,000 for part of the work in progress which the County paid.

The case files, fee notes and court order to the above cases were availed to the Auditors at the management letter response level and were still available for further audit review.

Committee Observation

The Committee noted that the matter has since been addressed.

Committee Recommendation

The Committee recommends that the matter be marked as resolved.

3. Unsupported Community Empowerment Fund

As disclosed in Note 14 to the financial statements, the statement of receipts and payments reflect transfer to other Government units balance of Kshs.764,184,826 which includes Community Empowerment Fund of Kshs.1,700,000. However, the supporting documents for the Fund balance were not provided for audit verification.
Consequently, the propriety of the transfer to the community empowerment fund balance of Kshs.1,700,000 could not be confirmed.

Management Response
The County Executive transferred Kshs.1,700,000 to the Community Empowerment Fund through various departments, i.e., Finance and Economic Planning Kshs.1,000,000, Agriculture, Livestock, Fisheries and Co-operatives Kshs.350,000, Transport and infrastructure Kshs.350,000.
The bank statement for the Community Empowerment Fund and the transfer vouchers to support the fund balance were availed to the auditors at the management letter response level and were still available for further audit review.

Committee Observation
The Committee noted that the matter falls under the mandate of the County Public Investment and Special Funds Committee.

Committee Recommendation
The Committee recommends the matter be considered by the Senate County Public Investment and Special Funds Committee.

4. Unreconciled Balances
The statement of receipts and payments reflects various balances which differ significantly with the underlying supporting schedule as tabulated below: -

Item of Expenditure	**Financial Statements Balances**	**Balances in the Supporting Records/Ledger**	**Variance**
	Ksh.	Ksh.	Ksh.
Training Expenses	27,466,988	27,693,848	(226,860)

Utilities, Supplies and Services	58,828,319	58,987,498	(159,179)
Hospitality, Supplies and Services	118,178,191	119,478,102	(1,299,911)
Office and General Supplies and Services	18,879,433	20,572,103	(1,692,670)
Other Grants and Transfers	414,189,696	446,507,156	(32,317,460)
Other Infrastructure and Civil Works	174,381,355	184,877,418	(10,496,063)
Total	811,923,982	858,116,125	(46,192,143)

Management has not given reconciliations or explanations for any of the differences between the financial statements and the underlying records leading to an understatement of the reported expenditure by Kshs.46,192,143.
Consequently, the propriety and accuracy of the expenditure for the year ended 30 June, 2020 could not be confirmed.

Management Response

The management responded as follows;

i) Training Expenses

The County Government of Vihiga is mapped in IFMIS as vote 4860 and has thirteen (13) departmental votes that run from vote 4861 to 4873. These vote heads as mapped in IFMIS are for twelve departments under County Executive and one for the County Assembly.
The auditors extracted the consolidated IFMIS ledger on training expenses which included the County Assembly expenditure of Kshs.226,860 which led to the said variance. This expenditure is reported separately in the County Assembly Financial statements.
The supporting schedule on training expenses as provided to the auditors reflected a total expenditure of Kshs.27,466,988 as reflected in the financial statement and not Kshs.27,693,848.

ii) Utilities Supplies and services

The County Government of Vihiga is mapped in IFMIS as vote 4860 and has thirteen (13) departmental votes that run from vote 4861 to 4873. These vote heads as mapped in IFMIS are for twelve departments under County Executive and one for the County Assembly.
The auditors extracted the consolidated IFMIS ledger on utilities, supplies and services which included the County Assembly expenditure of Kshs.159,179 which led to the said variance. This expenditure is reported separately in the County Assembly Financial statements.

The supporting schedule on utilities, supplies and services as provided to the auditors reflected a total expenditure of Kshs.58,828,319 as reflected in the financial statement and not Kshs.58,987,498.

iii) Hospitality, Supplies and services

The County Government of Vihiga is mapped in IFMIS as vote 4860 and has thirteen (13) departmental votes that run from vote 4861 to 4873. These vote heads as mapped in IFMIS are for twelve departments under County Executive and one for the County Assembly.

The auditors extracted the consolidated IFMIS ledger on hospitality, supplies and services which included the County Assembly expenditure of Kshs.1,299,911 which led to the said variance.

This expenditure is reported separately in the County Assembly Financial statements.

The supporting schedule on hospitality, supplies and services as provided to the auditors reflected a total expenditure of Kshs.118,178,191 as reflected in the financial statement and not Kshs.119,478,102.

iv) Office and general supplies and services

The County Government of Vihiga is mapped in IFMIS as vote 4860 and has thirteen (13) departmental votes that run from vote 4861 to 4873. These vote heads as mapped in IFMIS are for twelve departments under County Executive and one for the County Assembly.

The auditors extracted the consolidated IFMIS ledger on office and general supplies and services which included the County Assembly expenditure of Kshs.1,692,670 which led to the said variance. This expenditure is reported separately in the County Assembly Financial statements.

The supporting schedule on office and general supplies and services as provided to the auditors reflected a total expenditure of Kshs.18,879,433 as reflected in the financial statement and not Kshs.20,572,103.

v) Other grants and transfers

The variance of Kshs.32,317,460 in the figure of Other Grants and Transfers was as a result of including transfers to other government units totalling Kshs.31,840,436 and a payment to Roddys Eco Cover of Kshs.477,024 captured twice in the schedule supporting expenditure on Other Grants and Transfers of Kshs.446,507,156. Note that these transfers had already been included in the expenditure item; Transfers to Other Government Units totaling Kshs.764,184,826 as per the financial statements. To avoid double reporting, the error was corrected by excluding the transfers from the first supporting schedule to get the final schedule of kshs.414,189,696.

vi) Other infrastructure and civil works

The correct schedule for other infrastructure and civil works is Kshs.174,381,355. At the time of preparation of first draft Financial Statement, KUSP project had not submitted its payment vouchers for capturing in IFMIS. Thus, a provision of kshs.36,034,253 was made.

However, when the actual payment vouchers were submitted, they totaled Kshs.25,538,190 resulting to a difference of kshs.10,496,063.

Committee Observation

The Committee noted that the matter has since been addressed.

Committee Recommendation
The committee recommends that the matter be marked as resolved.

5. Unsupported Expenditure - Acquisition of Assets
As disclosed in Note 17 to the financial statements, the statement of receipts and payments reflect acquisition of assets balance of Kshs.1,219,698,299 which includes expenditure on works, renovation and construction on four (4) health facilities and Sub Counties amounting to Kshs.20,666,872 and whose procurement documents were not provided for audit verification.
Consequently, the propriety of the expenditure amounting to Kshs.20,666,872 could not be confirmed.

Management Response
The management submitted that the correct expenditure in question was Kshs.20,666,422 and not Kshs.20,666,872 as indicated by the Auditor. This was incurred on the following projects:

(i) Renovation of Mbale Rural Health Centre by Kisasa Construction & General Supplies Ltd.
(ii) Branding works in all health facilities in Sabatia and Hamisi Sub Counties by Guhaad Company Limited.
(iii) Construction of Viyalo Health Centre in Chavakali ward by Sava Construction Limited.
(iv) Renovation of Vihiga County Referral Hospital by Tuff Contractors Limited.

These were part payments for historical pending bills which were audited, verified and approved as eligible for payment by the office of the Auditor General as at 30th June 2018. At the time of the special audit, the auditors were given the contractor files having all the procurement documents. The auditors further went to the specific sites to verify the existence of the projects.
At the time of the annual audit, the auditors were also given these files for a second re-audit. Thus, the propriety of the expenditure amounting to Kshs.20,666,422 can be confirmed.

Committee Observation
The Committee noted that the matter has since been addressed as the County Executive has availed the relevant procurement documents supporting the expenditure.

Committee Recommendation
The Committee recommends that the matter be marked as resolved.

6. Unauthorized Expenditure
As disclosed in Note 11 to the financial statements, the statement of receipts and payments reflect compensation of employees' balance of Kshs.2,064,161,611 which includes basic wages of temporary employees amounting to Kshs.322,920,095 against the budgeted amount of Kshs.30,739,346, leading to over expenditure of Kshs.292,180,749, The amount was not appropriated by the County Assembly contrary to Section 42(1)(b) of the Public Finance Management (County Governments)

Regulations, 2015, which stipulates that the Accounting Officer should 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.
Consequently, the propriety and value for money on the expenditure amounting to Kshs.322,920,095 could not be ascertained and the Management is in breach of the law.

Management Response
The County Executive reported an amount of Kshs.2,064,161,611 as compensation of employees during the financial year 2019/2020. This figure comprised of Basic pay to permanent employees Kshs.883,312,404, Basic Pay to temporary employees Kshs.322,920,095 and Personal Allowances paid as part of salary Kshs.857,929,112 as tabulated in note 11 of the Financial Statements. IPPD forms about 84.4% of this expenditure. However, during the financial year, the County Executive also maintained manual payrolls for those employees who are yet to be assigned IPPD payroll numbers.

This manual payroll accounted for the Kshs.322,920,095 which translates to 15.6% of the compensation to employee's expenditure.
When budgeting for personnel emoluments, allocations on salary are spread out on all personnel emolument sub votes under the major category vote head 2110000 (Compensation of Employees).
The budgeted amount of Kshs.30,739,346 was as per the personnel emolument sub vote 2110200-2110299 (Basic Wages – Temporary Employees). The difference of Kshs.292,180,749 was budgeted for under personnel emolument sub votes 2110100-2110199 (Basic Salaries – Permanent Employees) and 2110300-2110399 (Personal Allowances paid as part of Salary).

Further, the statement of appropriation combined as reported in the financial statements shows that the overall budget for compensation to employees was Kshs.2,088,897,119 against the actual expenditure of Kshs.2,064,161,611 which translates to an overall utilisation rate of 99%. Hence the County Executive did not incur any over expenditure on personnel emoluments. The entire expenditure of Kshs.2,064,161,611 spent on personnel emoluments was rightly appropriated by the County Assembly of Vihiga.
Given the above facts, the management acted within the law in incurring this expenditure.

Committee Observation
The Committee noted that the matter has since been addressed.

Committee Recommendation
The committee recommends that the matter be marked as resolved.

Other Matter
1. Pending Bills

According to Annex 1 – Summary to the financial statements, the County Executive recorded pending accounts payables totalling Kshs.1,207,356,052 as at 30 June, 2020.

A review of the records indicates that the amount includes pending bills amounting to Kshs.219,703,685 which were not adequately supported with delivery notes, invoices and procurement records. Further, available information indicates that the Ministry of Health (MOH) paid health workers salaries amounting to Kshs.209,312,955 on behalf of the County Executive in 2013/2014 financial year. An amount Kshs.93,376,411 was recovered leaving a balance of Kshs.115,936,545. The outstanding amount had not been disclosed as pending bills for the year under review. Management has not explained why the bills were not settled during the year they occurred and the County Executive risks incurring additional losses in form of interest and penalties arising from continued delay in the settlement.

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.

Management Response

The management responded to the Auditor's observations as follows:

Unsupported pending bills figure of Kshs.219,703,685

The County Executive provided full details of the pending bills figure of Kshs.219,703,685 to the auditors at the management letter responses level. The same was still available for further audit verification.

Wage bill liability of Kshs.209,312,955 to the Ministry of Health – National Government

The County Executive was not aware of the above liability. The County Executive did not have records showing owing the Ministry of Health Kshs.115,936,545, which is a balance outstanding on the above liability. The National Treasury instructed the Office of the Auditor General to carry out a special audit of pending bills in Counties in the year 2018. All suppliers and contractors were notified through print media to submit their claim documents for verification. The Ministry of Health never submitted any document to the auditors claiming any payment from Vihiga County.

Further, the National Treasury and Controller of Budget directed the Counties to form Pending Bills Resolution Committees to relook into the pending bills that were classified as ineligible by the Office of the Auditor General and those that were omitted in the earlier special audit. The county did constitute a committee on ineligible pending bills through a gazette notice number 11018 dated 16th October 2019, whose mandate was to look into issues of ineligible pending bills in the report of Auditor General and any other omissions. The committee chairman through a public notice in the Standard newspaper of 3rd December, 2019 invited all parties aggrieved by the audit report on historical pending bills to make submissions. The MOH did not give any submission to this committee nor did it table any document.

The Intergovernmental Relations Technical Committee of the Inter-governmental Budget and Economic Council (IBEC) through gazette notice 2701 of 24th March, 2017 made a resolution to form a County Assets and Liabilities Committee (CALC). Later

on, IGRTC again made another resolution to form the Intergovernmental County Committee on Assets and Liabilities of the Devolved Ministries (IGCC). These committees were mandated to identify, verify and validate the assets and liabilities of the defunct Local Authorities and those of the devolved ministries.

Vihiga county formed the above-mentioned two committees which completed their reports and submitted them to IGRTC for approval.

Possible Causes of Pending Bills

The major causes of pending bills and why they were not settled in the year in which they occurred include but not limited to the following:

i) Delay or failure by the National Treasury to release funds on time.
ii) Delays in budget and supplementary estimates approval occasioning delay in budget implementation.
iii) Failure to re-budget for the ongoing projects or pending bills in the subsequent financial year and instead emphasis put on new projects.
iv) Underperformance in own source revenue leaving a deficit on the budget to pay for already implemented projects.
v) Implementation of un-budgeted for projects and activities.

Committee Observations

The Committee observed that-

i. the management had not settled pending bills at the time of the audit;
ii. the management had not provided a status report on the pending bills; and
iii. there was poor record keeping of pending bills that could lead to ineligible bills and litigations.

Committee Recommendations

The Committee recommends that;-

1. **the National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate so as to enable county entities settle their obligations on time;**
2. **the County Executive should disclose all pending bills in the format prescribed by the Public Sector Accounting Standards Board as stipulated under Section 104(1)(h) of Public Finance Management Act, 2012;**
3. **the county executive puts in place measures to enhance own generated revenue in order to meet its revenue target and address revenue shortfalls that contribute to the challenge of pending bills;**
4. **Pending bills deemed ineligible should be forwarded to the Directorate of Criminal Investigation (DCI) for investigation proper legal action taken against those filing false claims;**
5. **County Government to take note of judgement in a Kitale High Court Constitutional Petition E003 of 2023 that declared formation of pending bills**

verification committees unconstitutional and engage Office of the OAG and strengthen the internal audit functions.;

6. **All valid pending bills that have been reviewed by the Office of the Auditor General be paid and a payment plan be submitted to the county assembly for approval and progress report on implementation sent to the Senate and the Office of the Controller of Budget;**

2. Budgetary Control and Performance

The statement of comparative budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.6,955,030,778 and Kshs.5,641,108,094 respectively, resulting to an under-funding of Kshs.1,313,922,684 or 19% of the budget. Similarly, the County Executive expended Kshs.5,386,947,459 against an approved budget of Kshs.6,955,030,778 resulting to an under-expenditure of Kshs.1,568,083,319 or 22.5% of the budget. Further analysis of receipts and expenditure items revealed that the County Executive received an amount of Kshs.907,247,250 in the month of June, 2020 and therefore did not have enough time to fully utilize the amount before the end of the financial year. The underfunding and underperformance affected the planned activities and may have impacted negatively on service delivery to the people of Vihiga County.

Consequently, the citizens of Vihiga County were denied planned development opportunity and economic empowerment and delayed funds implementation of programmes for the work plan the County had promised.

Management Response

Budget Under-funding of Kshs.1,313,922,684 or 19% of the Budget

The County expected to receive Kshs.4,652,550 as sharable revenue raised nationally. As at the closure of the FY 2019/2020, the National Treasury had released a total of Kshs.4,252,430,700 leading to under-funding of Kshs.400,119,300 being Equitable Share allocation for the Month of June, 2020. The County expected to receive Kshs.1,371,541,887 from domestic and foreign grants.

At the closure of the financial year, the County had received Kshs.596,914,710 leading to underfunding of Kshs.774,627,177 on receipts from Domestic and Foreign Grants. The County expected to receive Kshs.315,114,263 from Other Government Entities. At the closure of the financial year, the County had only received Kshs.221,474,719 leading to underfunding of Kshs.93,639,544. The County Executive had budgeted for own source revenue of Kshs.193,735,799 and only managed to collected Kshs.148,199,136 due to the effects of Covid – 19 pandemic. All the underfunding above combined resulted in the total under funding for the year of Kshs.1,313,922,684 which was 19% of the budget.

Under-expenditure of Kshs.1,568,083,319 or 22.5% of the Budget

The County Executive had a budget of Kshs.6,955,030,778 while the actual expenditure was Kshs.5,386,947,459. This translated to 77% budget utilization. The underutilization of 22.5% was as a result of underfunding from the National Treasury, Domestic and

Foreign donors as explained above. Late exchequer release of by the National Treasury also contributed to the under expenditure. The County received a share of its equitable revenue of Kshs.907,247,250 at the end June 2020 and therefore management could not spend the funds as required since the financial year under review had ended.

Committee Observation
The Committee noted that the delays in receiving exchequer releases from the National Treasury coupled with under-collection of own source revenue hampered the entity's budget execution.

Committee Recommendations
The Committee recommends that-

1. **the National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate; and**
2. **the County Executive should put in place measures to improve their local revenue collection capacity in order to meet their revenue collections target.**

3. 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 Public Sector Accounting Standards Board templates and The National Treasury's Circular.

Management Response
Most of the issues raised in the prior year audit report were resolved except Construction of the Governor and Deputy Governor residences. In addressing the matter, the management had written to SRC seeking guidance on the same and the commission only acknowledged the receipt. The County Executive was still waiting for their guidance.

Committee Observation
The Committee observed that the report of the Auditor-General for the financial year 2018/2019 for the County Executive was adopted by the Senate.

Committee Recommendation
The Committee recommends that the County Executive should implement the Senate recommendations in the report on the Auditor General's report for the Financial Year 2018/19 adopted by the Senate.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

1. Non-Compliance with the Public Procurement and Asset Disposal Act, 2015
As disclosed in Note 12 to the financial statements, the statement of receipts and payments reflects a balance of Kshs.820,054,976 under use of goods and services which includes specialized materials and services amounting to Kshs.128,439,226 out of which Kshs.5,000,000 was paid to a firm for the supply of fertilizer through the Department of Agriculture, Livestock and Fisheries. However, there was no evidence that the firm was competitively identified as required by section 91(1) of the Public Procurement and Asset Disposal Act, 2015.
Consequently, the Management was in breach of the law.

Management Response

The expenditure in question was part payment to Jamarat Apartments Ltd (Jamarat Cereals and Supplies Ltd) being a historical pending bill for supply and delivery of planting and top-dressing fertilizer in the Department of Agriculture, Livestock, Fisheries and Co-operative Development.
This historical pending bill was audited, verified and approved as eligible for payment by the Office of the Auditor General and captured in their Special Audit Report dated 30th June, 2018.
From the procurement documents available on file (which were provided to the auditors who carried out the special audit on pending bills and those who carried out the annual audit under review), it was evident that the procurement of the fertilizer was subjected to an open tender through a standard newspaper advert of Friday November 14th, 2014 since the contract sum was Kshs.24,183,630. The procurement file was availed to the two sets of auditors and was available for further audit verification.

Committee Observation

The Committee noted the failure of the County entity to submit relevant documents on time to the Auditor General during the audit exercise contrary to Section 62 of the Public Audit Act, 2015.

Committee Recommendation

The Committee recommends that the matter be marked as resolved.

2. Irregular Acquisition of Land
As disclosed in Note 17 to the financial statements, the statement of receipts and payments reflects a balance of Kshs.1,219,698,299 under acquisition of assets which includes acquisition of a parcel of land at a price of Kshs.9,168,720. During the year under review, an amount of Kshs.2,500,000 was paid while Kshs.6,000,000 had been paid during the previous financial year through the Department of Environment, Water and Natural Resources. The land was 2.76 hectares as per the agreement at a price of Kshs.12,655,000. However, examination of supporting records indicated that the

advertisement was done on 15 April, 2014 for expressions of interest to offer sale of land yet the seller offered his interest on 24 January, 2018 four years later. Only one person was selected and no documentations showing how the person was identified were provided for audit review. Further, the tender opening, evaluation and award minutes were not provided for audit review and no ownership documents were provided for audit verification to account for the amount expended.
Consequently, the County did not get value for money and ownership of the land could not be confirmed.

Management Response
The management clarified that the amount of Ksh 9,168,720 was the aggregate amount for acquisition of land in the year under review as was reported in the financial statements and not as indicated by the Auditor as a price of a parcel of land in question.

Advertisement was done in 2014, interest expressed in 2018, Four years later.
The advertisement was for the purchase of land that was to be used to construct a waste management plant to improve on environmental conservation.
The first advertisement was done in 2014 to which there was no bidder. In line with the Manifesto of the new government on environmental conservation, the County Executive had to Re-advertise the same in 2018.

One vendor selected and lack of documentation showing how he was selected
This was an open tender considering the amount involved. There were four bidders who expressed interest in selling their land. Apart from the successful bidder, Mr. Sama Oguk, Mr. Mark Muhambe Ehete, Mr. Peter Musalagani Mudave and Mr. Edward Madilane Mukila as reflected on the tender register, tender opening minutes and tender evaluation report. All these procurement records were on file and were provided to the auditors at the management letter response level for verification.

No ownership documents were provided for the audit verification
At the time of audit, the management had not fully paid for the Land and therefore could not avail the ownership title to the auditors. Nevertheless, the successful vendor had surrendered the original title which was provided to the auditors. The County still owed the vendor Kshs.600,000. This had been processed for payment awaiting exchequer releases for the month of February 2023.

Committee Observations
The Committee noted that the county could not have realized value for money from the purchase of land for the following reasons:

1. the land had not been put to use thus denying the county residents services they could derive from the land; and
2. the county executive had not acquired the ownership documents for the land thus exposing them to risk of loss.

Committee Recommendations

The Committee recommends that the County Executive should fast-track acquisition of the title deed for the land and submit a copy to the Auditor General for verification within sixty (60) days from the adoption of this report. Further, the Committee recommends that the County Executive provides to the Auditor General a plan of the measures they will put in place to ensure that the project is completed and put to use.

3. Supply of Assorted Hospital Items

On 18 June, 2018, the Department of Health Services entered into a contract with a firm for the supply of hospital beddings/ linen and patients' uniforms for a contract price of Kshs.4,126,000.

Delivery and inspection of procured items were made on 17 June, 2019 and 11 October, 2019 respectively, four hundred and eighty (480) days after the LPO had been issued. This was contrary to the terms specified in the invitation for tender that specified that the tenders shall remain valid for 90 days.

Consequently, the Management was in breach of the law and the citizens of Vihiga County may not have obtained value for money on the expenditure.

Management Response

The management issued a Local Purchase Order No.3142167 to Grageo Company Limited for the supply and delivery of Hospital Linen and Uniforms on 18th June, 2018. The supplier had not supplied nor delivered the goods.

Guided by Section 136(1) of the Public Finance Management Act 2012, management issued a notice of cancellation of the local purchase order to the supplier towards the end of the financial year.

The supplier responded through a letter dated 29th June, 2018 pointed out to the management the challenges she was facing in supplying the items due to changes in import regulations which required importation of homogeneous goods in one single container for ease of taxation. She pleaded that her case was unique as the delay was caused by circumstances beyond her control.

At the same time, the goods had been secured by the importer and even branded with the county logo, and that she had nowhere to dispose them if the county could not accept delivery once the import restrictions were lifted.

The management through a letter dated 30th June, 2018 to the supplier extended the contract delivery period in line with section 139(2)(a) of public procurement and asset disposal act, 2015. The management was within the timeframes stated in the procurement law at the time the local purchase order was issued. The cancellation and extension based on the reasons given by the supplier was also within the law, and thus the local purchase order issued was not invalid.

The items were delivered and taken on charge as was correctly observed by the Auditor. Given the above facts and the prevailing circumstances then, the management acted

within the law and the citizens of Vihiga County got value for their money on the expenditure.

Committee Observation
The Committee observed that the County Executive did not provide to the Auditor General the recommendation of the Evaluation Committee for variation of the contract as provided in Section 139 (2) (a) of the PPADA 2015.

Committee Recommendation
The County CEO undertakes administrative action against the responsible officer(s) who failed to provide the documents to the auditors in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report.

4. Unsupported Donor Funds Released as per CARA
As disclosed in Note 1C to the financial statements, the statement of receipts and payments reflects donor funds released as per CARA amounting to Kshs.596,914,710. Examination of records revealed the following unsatisfactory matters: -

4.1 Unsupported Project Expenditure
The balance constitutes expenditure amounting to Kshs.212,034,566 under the National Agricultural and Rural Inclusive Growth Project (NARIGP) which includes an amount of Kshs.144,183,303, being project's expenditure under Category 1: Sub-project Grants and Training under part A of the Project. The amount is indicated to have been disbursed to Community Driven Development Committees (CDDCs) who have the responsibility to procure farm products and equipment for various famers groups.
However, examination of sampled CDDC's documents revealed that most of the CDDCs were yet to understand the Public Procurement and Assets Disposal Act, 2015 and the Public Procurement and Assets Disposal Regulations, 2016 as there is no segregation of duties and tender opening, evaluation and awarding is done by the same people and did not maintain primary records such as cash books despite the county having spent Kshs.11,689,432 on training of farmers.
Physical verifications carried on sampling basis revealed that a number of groups that benefited by receiving approximately Kshs.500,000 worth of farm inputs had nothing to show on the ground and the irrigation equipment such as water tanks, pumps and pipes were yet to be utilized. The ownership of land documents on which the crops are planted was not provided for audit review while the project had not accounted for Kshs.11,246,111 out of the total amount of Kshs.212,034, 566 received by the project. Consequently, the ownership and value for money and the propriety of Kshs.11,246,111could not be confirmed.

Management Response
Public Finance Management Act, 2012, Public Procurement and Assets Disposal Act, 2015 and regulations thereof

The management submitted that most of the CDDCs were yet to understand the Public Finance Management Act, 2012, Public Procurement and Assets Disposal Act, 2015 and regulations thereof. No segregation of duties as tender opening, evaluation and award was done by the same people.

National Agriculture and Rural Inclusive Growth Project is a World Bank funded project. The operations of this project are mainly guided by the Intergovernmental Participation Agreement, the Project Implementation Manual, the Project Appraisal Document and the World Bank Procurement and Accounting Manual and not the Public Finance Management Act, 2012 and the Public Procurement and Assets Disposal Act, 2015 and regulations thereof.

The above project documents provide for who should take part in tender opening, evaluation and award. The documents give the procurement sub-committee of the Community Driven Development Committee (CDDC) mandate to do all those functions. The procurement sub- committee is made up of three members and two co-opted members mandated by the provisions of the above documents to carry out the procurement function of the project. That is why there is no segregation of duties under this project.

Primary records such as cash books were not maintained despite the project having spent Kshs.11,689,432 on training of farmers

NARIGP targets the rural community and vulnerable people in the society. The project has invested heavily in training 400 CDDCs in 20 NARIGP wards within the county. Due to the fact that the target people are laymen in matters of finance and procurement, it takes time for the trainings to impact positively. Note also that the total amount spent on training of Kshs.11,689,432 was not only meant for record keeping but part was spent on training farmers on management of four value chains, that's growing of African Leafy Vegetables, Banana Farming, Dairy Keeping and chicken Farming.

The groups are being hand held by the fiduciary teams. Some have picked up quickly and had kept well documented cashbooks while others were slow in adopting the training concepts. The process of coaching and mentoring is now complete and the groups are now able to independently carry out their activities according to the project guidelines.

Groups that benefited with African Leafy Vegetables (ALV) proposals receiving approximately Kshs.500,000 of farm inputs had nothing to show on the ground

Procurement for most groups funded under cluster 3 had not been done by the time the auditors were on site and their money was still intact in the CDDCs accounts. However, the CDDCs later procured their goods and materials for the cluster 3 Common Interest Groups (CIGs).

Irrigation equipment e.g., Water tanks, pumps and pipes were yet to be utilized

At the time of the audit, irrigation equipment was not being utilized due to availability of rainfall. The equipment was mainly put to use during dry seasons to ensure continuity of the value chains.

Ownership of land on which the crops are planted was not clear

The land on which the crops are planted is contributed by the community. The Common Interest Groups (CIGs) agree with the owner of the land through a signed MOU over the use of such land.

The accountable documents for Kshs.11,246,111 were provided to the auditors at the management letter response level.

Committee Observation

The Committee observed that in implementing the project, the Vihiga County Executive did not comply with the Public Finance Management Act, 2012 and the Public Procurement and Asset Disposal Act.

Committee Recommendations

The Committee recommends that:

1. **the County Executive should adhere to the Public Finance Management Act, 2012 and the Public Procurement and Asset Disposal Act in project implementation.**
2. **the Senate should be reviewing all memorandums pertaining to County governments before they are approved in the County Government Additional Allocations Bill in accordance with Senate mandate stipulated in Article 96 of the Constitution.**

4.2 Agricultural Sector Development Support Programme

Further, the balance constitutes an amount of Kshs.15,520,219 received under Agriculture Sector Development Support Project (ASDSP) out of a budgeted total amount of Kshs.29,520,219.

However, Section C of the Memorandum of Understanding stipulates that the Programme will provide reports to development partners, external auditors and stakeholders in accordance with agreed formats and reporting periods. The Programme reports have not been submitted to the Auditor-General's Office for the year under review.

Consequently, the project management is in breach of the memorandum.

Management Response

Section C of the ASDSP II Programme MOU details the obligations of the County Government in respect to this Programme. Section C 4 provides that the County Programme Coordinator shall prepare Programme financial reports twice a year (January and July) and submit them to the National Treasury and subsequently share with the National Programme Secretariat (NPS).

It provides further that the County Programme Coordinator shall submit monthly programme financial reports/SOEs to the National Treasury through the County Treasury and subsequently share with the National Programme Secretariat.

The National Programme Secretariat consolidates the ASDSP II programme financial reports for all the counties and forwards the same to the Auditor General. The National Government Ministry of Agriculture, Livestock and Fisheries jointly with OAG carries

out external audit of the programme and procures a private auditor to perform biannual rolling audits of the programme in line with section B 5 of the ASDSP II MOU.
Section C of the MOU did not confer any direct responsibility to the County Government to submit the Programme reports to the Office of the Auditor General. The Programme reports are submitted to the National Treasury and subsequently to the National Programme Secretariat. The auditors were supplied with expenditure reports and vouchers while undertaking the annual audit in question and hence, the project management was not in breach of the Memorandum.

Committee Observation
The Committee observed that in implementing the project, the Vihiga County Executive did not comply with the Public Finance Management Act, 2012 and the Public Procurement and Asset Disposal Act.

Committee Recommendations
The Committee recommends that:

1. **the County Executive should adhere to the Public Finance Management Act, 2012 and the Public Procurement and Asset Disposal Act in project implementation.**
2. **the Senate should be reviewing all memorandums pertaining to County governments before they are approved in the County Government Additional Allocations Bill in accordance with Senate mandate stipulated in Article 96 of the Constitution.**

5. Rehabilitation of Gaga Water Project
As disclosed in Note 17 to the financial statements, the statement of receipts and payments reflect an amount of Kshs.1,219,698,299 under acquisition of assets which includes purchase of specialized plant, equipment and machinery valued at Kshs.12,860,937. The Department of Water through the County Executive contracted an engineering firm for completion and construction of overhead tanks at Gaga Water Project at a contract sum of Kshs.8,741,208. The contract was to take three month starting 25 March, 2020 ending 25 June, 2020. During the year under review, the contractor was paid Kshs.6,794,339 as part payment. Examination of support documents and project verification revealed that the project was not operational 5 months after the completion date and the contractor was not on site. There was no report from the site engineer on reason for the project stalling.
Consequently, the citizens of Vihiga County did not get value for money on the project.

Management Response
The management submitted that the project was operational but due to construction works on Gisambai-Hamisi-Shamakhokho Road to bitumen standard, pipes taking water to the main tank were damaged but have since been repaired. The project was serving its intended purpose and hence value for money to the Citizens of Vihiga County.

Committee Observation
The Committee noted that the matter has since been addressed.

Committee Recommendation
The committee recommends that the matter be marked as resolved.

6. Covid-19 Expenditure
The Department of Health Services contracted a firm to supply Grand beds, blankets and sheets at contract sum of Kshs.5,400,000. The goods were confirmed received vide counter receipt voucher. However, the contractor was not prequalified in the category of non-pharmaceuticals and the professional opinion was not signed contrary to Section 4(f) of Public Finance Management (County Governments) Regulations, 2015 which states that the object and purpose of these regulations is to ensure accountability, transparency and effective, economic and efficient collection and utilization of public resources.
Consequently, the Management is in breach of the law.

Management Response
The management responded as follows:

i) Contractor not prequalified

The procurement in question was above the maximum threshold of Kshs.3,000,000 applied when using the request for quotations method of procurement which is subjected to the list of prequalified suppliers. This procurement was done through open tender method and hence open to all eligible suppliers both prequalified and those not prequalified as it is in this case and in line with Section 71 of the PPADA, 2015.

ii) Professional Opinion Not signed

The professional opinion was signed and was provided to the auditors at the management letter response level and was still available for further audit verification. The management therefore was not in breach of the law.

Committee Observation
The Committee noted that the matter has since been addressed.

Committee Recommendation
The committee recommends that the matter be marked as resolved.

7. Compliance with the National Cohesion and Integration Act, 2008 - Ethnic Staff Composition
During the year under review, an analysis of the payroll revealed that the County Executive had a total work force of one thousand seven hundred and seventy-four (1,774) employees as at 30 June, 2020 out of which, one thousand six hundred and fifteen (1,615) were from the dominant local community representing 91% of total work force 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".
Further, it was noted that the County Executive had no staff establishment in place and recruitment of staff in different positions is not informed or based on any standard document(s). This is contrary to section A.13 (i) of Human Resource Policies and procedure manual for the public service which has been adopted by the County Government to ensure effective human resource management. Although the policy provides that each Ministry /State Department shall constitute a Ministerial Advisory Committee and a Ministerial Performance Management Committee, no explanation was provided on how the County Executive manage overall human resource planning.

Management Response
The management responded as follows:

i) 91% of staff being from the Local Community

Majority of the employees were employed before Section 65(1) of the County Governments Act 2012 came into operation and they were later on inherited from the defunct Local Authorities and Devolved Ministries by the County Government.
The staff turnover and the attrition rates have been relatively low since inception of devolution. However, the County Public Service Board was now considering Section 65(1) of the County Government Act 2012 in current recruitments.

ii) Staff establishment

In May 2014, the Ministry of Devolution and National Planning under the National Government commissioned collaborative design and implementation of the Capacity Assessment and Rationalization of Public Service (CARPS) Programme. The program's main objective was to provide well organized structures to inform requisite numbers of employees for effective and quality service delivery at the Counties.
Vihiga County CARPS report outlined Vihiga County Staff Establishment with 14 key units, among them ten departments.
This was contained in the respective executive orders No. 1 of 2017, 2019 and 2022. These orders contain a clause which states that recruitment and fulfilment of staff roles will be done according to available resources and taking into consideration other requisite regulation. The County Public Service was guided by the aforementioned CARPS report, Vihiga County JDAC Report, the revised Organization Structure and subsequent Executive Orders issued by H.E from time to time.

Committee Observation
The Committee observed that there was no ethnic diversity among the County Executive employees contrary to Section 7(1) and (2) of the National Cohesion and Integration Act, 2008.

Committee Recommendations
The Committee recommends that the county executive should work progressively towards attaining the requirement of the provisions of Section 65(1)(e) of County Government Act on ethnic inclusivity.

8. Irregular Issuance and Management of Imprests

Unsupported Imprests

As disclosed in Note 22 to the financial statements, the statement of assets and liabilities reflects an accounts receivable balance of Kshs.43,478,318 which includes an imprest balance of Kshs.15,046,780. However, examination of the schedule provided in support of the imprests revealed that three officers were issued with additional imprest totaling Ksh. 5,966,780 before they surrendered the initial one contrary to Regulation 93 of the Public Finance Management (County Governments) Regulations, 2015.

Further, an analysis of the recurrent cash book and subsequent posting to IPPD payroll by- product revealed that the imprest recovery from the three (3) officers amounting to Kshs.8,979,100 had been stopped before full recovery. However, the supporting surrender vouchers were also not provided for audit.

Consequently, the County is in breach of the law.

Management Response

PAYEE	DEPARTMENT	AMOUNT	PURPOSE
Mark Alulu	Health	966,500.00	Facilitate recruitment of Covid-19 UHC Staff
Mark Alulu	CPSB	1,880,600.00	Facilitate recruitment of ECDE Teachers
David Odero	Agriculture - NARIGP	842,800.00	Annual review of NARIGP project seminar
David Odero	Agriculture - NARIGP	150,000.00	Cleared by refund.
David Odero	Agriculture - NARIGP	567,700.00	Training of the CPCU on NARIGP grievance redress mechanism and web-based GRM
Brigid Cheloti	Agriculture - NARIGP	937,700.00	Training of NARIGP SCTT and SP on TIMPS
Brigid Cheloti	Agriculture - NARIGP	622,400.00	Training of NARIGP SCTT and SP on developed modules/value chains
TOTAL		**5,967,700.00**	
Auditor's Total		**5,966,780.00**	
Variance		**920.00**	

The Management submitted the following;

The variance of Kshs.920 was as a result of the auditor capturing imprest issued to Mark Alulu of Kshs.1,880,600 and David Odero of Kshs.842,800 as Kshs.1,880,680 and Kshs.841,800 respectively.

Mark Alulu Siro

Mark Alulu is a member of the County Public Service Board and the imprest relates to two activities of the Board which were undertaken in the Department of Health Services and County Public Service Board respectively. The imprest of Kshs.1,880,600 was meant to facilitate recruitment process of ECDE teachers while the kshs.966,500 was to facilitate the process of recruiting Universal Health Care workers to support covid - 19 response. The later activity was very urgent and Mark Alulu was the only Commissioner with a Personal File Number at the County Public Service Board by that time.

Brigid Cheloti and David Odero

The imprest for Brigid Cheloti and David Odero falls under the NARIGP project that is being implemented in Vihiga County with funding from the World Bank. The project is managed and coordinated at the County level by the County Project Coordinating Unit (CPCU). The CPCU comprises of eight members. The project is structured into components with each component having a component lead. The component leads are mandated to ensure that activities under their components are running efficiently and on time. Due to the limited number of CPCU members, the lead components are sometimes forced to take more than one imprest to facilitate activities that run concurrently.

Brigid Cheloti who is the component one lead (Supporting Community Driven Development) took the imprest to facilitate activities of component one that were running concurrently. David Odero who is the component four lead (Environmental and Social Safeguards) similarly took imprest under his docket for activities that were running concurrently. Both imprest were fully surrendered.

Imprest payroll stoppage

PAYEE	DEPARTMENT	AMOUNT
Praxidia Voreza	Health - THS-UHC Grant	3,007,656.00
Renson Teka Oluchiri	Health - THS-UHC Grant	3,962,046.00
Florah Khaleha Mwashi	PSA-Normal	2,009,498.00
TOTAL		**8,979,200.00**

Supporting vouchers for the above imprest were provided to the auditors at the management letter response level.

Committee Observation

The Committee noted that there was breach of Regulation 93 of the Public Finance Management (County Governments) Regulations, 2015.

Committee Recommendation

The Committee therefore recommends;—

1) **That the accounting officer surcharges and recover in full monies paid to the officers as imprest in breach of regulation 93(3) of the Public Finance management (County Governments) Regulations, 2015 with an interest at the prevailing Central bank rates; and**

2) **sanctions and surcharge of Accounting Officer who fails to recover outstanding imprests in line with Regulation 93(7) of the PFM (County Government) Regulations, 2015.**

REPORT ON INTERNAL CONTROLS EFFECTIVENESS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

Basis for Conclusion

1. Poor Management of Fixed Assets Register

According to Annex 5 and Disclosure 6 to the financial statements, a balance of Kshs.701,882,099 is reflected as the closing value of assets. However, the fixed assets register reflects a balance of Kshs.700,509,767 resulting to an unexplained difference of Kshs.1,372,332 between the two set of records. Further, the fixed assets register had not been updated and the additions during the year under review were not reflected in the register. In addition, the fixed assets register does not include assets taken over by the County from the defunct local authorities.

Consequently, I'm unable to confirm the existence of effective and efficient controls in safeguarding public resources against the risk of theft, misuse or abuse.

Management Response

The management submitted as follows:

The variance of Kshs.1,372,332 between Annex 5 and Disclosure 6 to the financial Statements

The County acquired fixed asset register software towards the end of the financial year under review and was in the process of updating the register to tally with the reported closing balance disclosed in the financial statements at the time of audit. The management completed updating the system register and now the balance of Fixed Assets as disclosed in the Financial Statement equaled the balance in the installed system reference being made to the latest sets of the two annexures in the first draft financial statements submitted to the Auditor General for the FY2021/2022.

Assets from Defunct Local Authority were not captured on the Fixed Assets Register

The assets of the defunct local Authorities have never been handed over to the County Government. This had made it difficult for the County to recognize assets from the defunct local authorities in their books.

The Intergovernmental Relations Technical Committee of the Inter-governmental Budget and Economic Council (IBEC) through gazette notice 2701 of 24th March, 2017 made a resolution to form a County Assets and Liabilities Committee (CALC). This committee was mandated to identify, verify and validate the assets and liabilities of the defunct Local Authorities. The Vihiga CALC committee completed its report and submitted it to IGRTC for approval. The management was still waiting for the approval from IGRTC. The County will disclose these assets in the subsequent Years once the report is approved.

Committee Observations

The Committee observed that

i. the County Executive lacked an updated Fixed Asset Register; and
ii. the delay in completion of the exercise of valuation of assets and liabilities from the defunct local authorities has affected the correct statement of assets and liabilities that county governments inherited.

Committee Recommendations

The Committee recommends that the-

1. **County Executive should update and present their Fixed Assets Register in the format prescribed by the Public Sector Accounting Standards Board;**
2. **County Executive should adopt and implement the report of the Inter-Governmental Technical Relations Committee (IGTRC) on assets and liabilities from defunct Local Authorities and provide a status update to the Office of the Auditor General within 90 days of adoption of this Report; and**
3. **Office of the Auditor General should progressively review and report on the matter in the subsequent Financial Years.**

2. Failure to Assign Personnel Numbers

The County Government of Vihiga had a total of 60 employees serving on contract terms and on permanent terms who had not been assigned personnel numbers. Some of the employees had been engaged as far back as 2017. It was further observed that employees without personnel numbers are not paid their salary through IPPD payroll but instead are paid through manual payroll. No explanation was given why the employees had not been assigned personnel numbers.

Consequently, lack of staff personnel number identifier may lead to overstaffing and hence increase in wage bill without approval.

Management Response

The Management submitted that at the time of audit, the County had stopped the process of acquiring staff personnel numbers because of Staff Human Resource audit and payroll cleansing exercise that was being done in collaboration with the IPPD unit of the State Department of Public Service. The county was continuously and closely working with the Directorate of Public Service Management to ensure all staff have unified Personnel numbers.

Committee Observation

The Committee noted that some County Executive employees lacked personnel numbers thus their salaries were processed manually rather than on the IPPD system.

Committee Recommendations

The Committee recommends that;

1. **the County Executive should liaise with State Department of Public Service to expedite the Human Resource Audit exercise so as to pave way for issuance of personnel numbers to staff; and**
2. **the accounting officer submits a status report on the matter to the OAG within sixty (60) days from the adoption of this report.**

3. Failure to Automate the Revenue Collection

During the year under review, it was noted that the County Executive had not automated all its revenue collection sources of internally generated revenue in single business permits fees, land rates, slaughter fees and building plan approval fees sections. This compromised its objective of meeting the budgeted target due to possible leakage in the revenue collection through manual methods.

Consequently, detecting revenue collection frauds and achieving real-time payments and reporting within the county government cannot be realized.

Management Response

The County budgeted for revenue automation in FY 2018/2019. The same was advertised and several bids received. However, the vendors indicated that the County had inadequate ICT infrastructure which needed to be upgraded. The County therefore embarked on building a data centre which was to serve the revenue automated system and other ICT systems in the County.

However, the project stalled due to litigation. Consequently, the County had partially automated revenue collection by introducing Mpesa Paybill numbers 003838 and 4044643 which were being used for revenue collection across the County. This partial automation had seen the own revenue collection increase as documented in the Controller of budget report for financial year 2021/2022. Further, the County had allocated funds in the 2022/2023 financial year budget for revenue automation.

Committee Observation

The Committee observed that the County Executive had not automated all the Revenue streams, thus exposing them to revenue leakages.

Committee Recommendations

The Committee recommends that;

1. **the County Executive should automate revenue collection across all revenue streams to reduce leakages and provides a status report to the Office of the Auditor General within 60 days from the adoption of this report; and**
2. **the Auditor General keeps the matter in view in the subsequent audit cycle.**

4. Lack of Data Backups

During the year under review, it was observed that the county government had no mechanism of storing revenue collection system backups data off-site. The county does not have an IT continuity plan and disaster recovery plan in place. Further, the Management had not established an IT Steering Committee and IT Strategic Committee which could result in lack of direction to Management regarding ICT

affairs, advise to the cabinets and proper budgeting. The ICT department may not therefore, meet the business requirements of the County Executive.
Consequently, the integrity and validity of the ICT Data is compromised and may not be reliable.

Management Response
The management responded that the County Executive had a directorate of ICT that is domiciled in the department of Public Service and Management. Their sector working group came up with an elaborate sectoral plan that covered an ICT strategy, master plan and key activities as detailed in the CIDP of 2018-2022. The ICT Directorate had also implemented backup strategies that include but not limited to backing up data using Microsoft One Drive Accounts, data back on discs, tapes and cloud hosted servers of the county's various systems e.g. the hospital management system, the human resource information management system, email exchange among others.
Consequently, a new County ICT Steering Committee had been set up and was reviewing the county ICT needs and would come up with a sectoral plan that would be factored in the CIDP 2022-2027.

Committee Observation
The Committee noted that the matter has since been addressed.

Committee Recommendation
The committee recommends that the matter be marked as resolved.

CHAPTER FOURTEEN

REPORT OF THE SENATE COUNTY PUBLIC ACCOUNTS COMMITTEE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF WAJIR COUNTY EXECUTIVE FOR FINANCIAL YEAR 2019/2020

The Governor of Wajir County Executive Hon. FCPA Ahmed Abdullahi appeared before the Committee on Thursday 18th May 2023 to respond (under oath) to audit queries raised in the Report of the Auditor General on Financial Statements for Wajir County Executive for the Financial Year 2019/2020.

Qualified Opinion

EXECUTIVE SUMMARY OF THE UNRESOLVED ISSUES				
S/NO	**AUDIT QUERY**	**COMMITTEE RECOMMENDATIONS**	**ACTORS**	**TIMELINE**
1.	**1. Cash and Cash Equivalents** Cash and cash equivalents balances for two fund accounts and two revenue collection accounts have no separate books of accounts and separate financial statements prepared and therefore their balances are to be reported separate from the financial statements of the County Executive	1) The County CEO undertakes administrative action against the responsible officer(s) who failed to prepare a financial statement for the two (2) funds accounts in accordance with section 167(1) of the Public Finance Management Act, 2012 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report. 2) The County CEO to appoint an administrator of the two (2) funds accounts and submit separate financial statements for the funds to the Auditor General within sixty (60) days from the adoption of this report.	i. The County Chief Executive Officer ii. The Auditor General.	60 days from the date of adoption of this report
2.	**4. Unsupported Expenditure - Use of Goods and Services** **4.1. Processing of Payments Outside**	The Committee recommends that; 1) the Accounting Officer recover the outstanding imprests with interest as per provisions Regulation	i. The County Chief Executive Officer	60 days from the date of adoption of this report

	IFMIS- payment schedules in support of the expenditure revealed that payments totalling Kshs.113,952,153 were made outside IFMIS. The payments were made from imprest account through cheques issued to individuals.	93 (6) of the Public Finance Management (County Governments) Regulations, 2015; 2) sanction and surcharge of Accounting Officers who fail to recover outstanding imprests in line with Regulation 93(7) of the PFM (County Government) Regulations, 2015; 3) sanctions against the responsible officer(s) who failed to provide the documents to the auditors in accordance with section 62(2) of the Public Audit Act, 2015 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report; and 4) the EACC causes an investigation on the unaccounted imprest of Kshs. 113,952,153 to ascertain if there was an intent to defraud the county and provide a status update within sixty (60) days from the adoption of this report.	ii. The Auditor General. iii. EACC	
3.	**4.2. Domestic Travel and Subsistence-** Examination of payment vouchers and other supporting documents revealed that an amount of Kshs.6,450,500 was paid to officers who were attending	The Committee recommends that; 1) the Accounting Officer recover the outstanding imprests with interest as per provisions Regulation 93 (6) of the Public Finance Management (County Governments) Regulations, 2015;	i. County Chief Executive Officer ii. CECM Finance iii. EACC	60 days from the date of adoption of this report

	workshops, trainings and other official duties outside the County. However, the Report of the Auditor-General on County Executive of Wajir for the year ended 30 June, 2020 3 payment vouchers were not supported with invitation letters, pre-travel approvals and training programs for the trainings attended. There was no workshop attendance register, reports of activities carried out and travel evidence such as vehicles' work tickets.	2) sanction and surcharge of Accounting Officers who fail to recover outstanding imprests in line with Regulation 93(7) of the PFM (County Government) Regulations, 2015; 3) The Committee recommends sanctions against the responsible officer(s) who failed to provide the documents to the auditors in accordance with section 62(2) of the Public Audit Act, 2015 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report.		
OTHER MATTER				
4.	**2. Unsupported Pending bills-** audit review of the pending bills revealed that important information such as contract number, local purchase order/local supply order numbers, sum contract, date contracted, amount paid to date and balances for the financial year were not provided.	The Committee recommends that;- 1. the National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate so as to enable county entities settle their obligations on time; 2. the County Executive should disclose all pending bills in the format prescribed by the Public Sector Accounting Standards Board as stipulated under Section 104(1)(h) of Public Finance Management Act, 2012;	The County CEO The National Treasury The DCI	Continuous

		3. the county executive puts in place measures to enhance own generated revenue in order to meet its revenue target and address revenue shortfalls that contribute to the challenge of pending bills; 4. Pending bills deemed ineligible should be forwarded to the Directorate of Criminal Investigation (DCI) for investigation proper legal action taken against those filing false claims; 5. County Government to take note of judgement in a Kitale High Court Constitutional Petition E003 of 2023 that declared formation of pending bills verification committees unconstitutional and engage Office of the OAG and strengthen the internal audit functions.; 6. All valid pending bills that have been reviewed by the Office of the Auditor General be paid and a payment plan be submitted to the county assembly for approval and progress report on implementation sent to the Senate and the Office of the Controller of Budget.		
5.	**3. Unresolved Prior Year Matters** In the audit report of the previous year, several issues were	The Committee recommends that the County executive complies with section 53 of the Public Audit Act, 2015 by taking action on the issues	i. County Chief Executive Officer	60 days from the date of adoption of this report

	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 and The National Treasury's Circular.	raises by the Auditor General and submits a report to the Auditor General.	ii. Auditor General	
6.	4. **Non-Remittance of Statutory Deductions-** Kshs.260,666,736 for statutory deductions had not been remitted as at 30 June, 2020.	The Committee recommends that 1) The County CEO undertakes administrative action against officer(s) responsible for non-remittance of statutory deductions and Sacco dues in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report; and 2) the County Executive to provide a status report on remittance of deductions to the Office of the Auditor General within sixty (60)	i. The County CEO ii. Auditor General	60 days from the date of adoption of this report

		days from the adoption of this report.		
7.	**5. Irregular Contribution to Council of Governors-** Management paid Kshs.5,936,280 to the Council of Governors as membership fees. This is contrary to the provisions of section 37 of the Intergovernmental Relations Act, 2012	The Committee recommends that;- 1. the irregular payments to the Council of Governors (COG) be stopped and further recommends the surcharge of any Governor, in their capacity as Chief Executive Officer, who continues to make the irregular contribution; and 2. The EACC should oversee the recovery of all the public funds irregularly transferred to the Council of Governors (COG) by the Governor. This is in line with the Resolution of the Senate.	i. The County Executive Officer ii. EACC	Immediate
8.	**10. Irregularities in Procurement of Legal Fees-** examination of payment records and other supporting documents revealed that an amount of Kshs.17,659,000 was paid to one (1) company. This therefore implies that most of the legal cases were handled by one (1) firm although there were twenty (20) law firms prequalified.	The committee recommends that;- 1) County Executive to make a provision in its budget for contingency liability in respect of legal fees pursuant to regulation 25(2)(e) of the Public Finance Management (County Government) Regulations, 2015; and 2) the county executive to build the capacity of its legal department to avert risk of incurring high cost on outsourced legal services; and 3) The County Executive utilizes the Office of the County Attorney to provide legal advice and court	i. County Chief Executive Officer	Within 60 days of adoption of this report

		representation. The county should provide evidence of compliance with the County Attorneys Act within 60 days of adoption of this report.		
9.	**14. Delayed Completion of Roads Projects** The County Executive initiated contracts for improvement of three (3) roads within Wajir Town to bitumen standards at a contract sum of Kshs.320,264,053. The project commencement orders were issued on 24 January, 2017 and were expected to be completed by 24 September, 2017. Physical verification of the project carried out on 19 December, 2020 revealed that the projects were incomplete and there was no sign of work in progress.	The Committee recommends that: 1) the management provides a status report on the delayed completion of projects within 60 days of adoption of this report. 2) The County executive should undertake proper project conceptualization, planning and execution to ensure timely completion of the projects as well as realization of value for money; and, 3) OAG to follow up on this matter in its subsequent audit cycle.	i. The County CEO ii. The Auditor General.	60 days from the date of adoption of this report
REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE				
10.	**1. Decline in Own Generated Revenue** Management did not provide satisfactory explanations on why it continued to retain	1) the County Executive should put in place measures to improve their own source revenue collection capacity in order to meet their targets	i. The County CEO ii. CECM Finance	Continuous

	high revenue targets despite the fact that the actual revenue collected was far below the budgeted targets.	2) the County Executive should adopt realistic revenue targets based on their mapped revenue streams; and 3) the County Executive should revise their budget to a realistic level based on past experience.		
11.	**2. Poor Management of Assets** The register did not reflect sufficient details on the assets as required by the International Public Sector Accounting Standard (IPSAS) 17 and the reporting format prescribed by the Public Sector Accounting Standards Board. The register did not disclose information including serial numbers of the assets, their dates of acquisition, descriptions, location, class, cost of acquisition, accumulated depreciation and net book value and identification codes.	1) The County Executive should ensure that all assets are presented in the format prescribed by the National Treasury. 2) the Inter-Governmental Relations Technical Committee should fast-track valuation of assets and liabilities from defunct local authorities to enable county governments recognize them in their books of accounts. 3) the county government should acquire ownership documents for all assets under its custody and submit to the Auditor-General for verification within sixty (60) days from the adoption of this report. 4) the Office of the Auditor General should review the matter in the subsequent Financial Years. 5) the county government should acquire ownership documents for all assets under its custody and submit to the Auditor-General for verification within sixty (60) days from the adoption of this report.	i. CECM Finance ii. IGTRC iii. Auditor General	60 days from the date of adoption of this report
12.	**3. Weakness in Internal Controls**	1) The Committee recommends that the County establishes an	i. County Treasury	60 days from the date of

	Examination of sampled payment vouchers revealed weaknesses in enforcement of internal controls designed for ensuring effective administration of public funds.	independent audit department with financial autonomy within sixty (60) days from the adoption of the report. 2) the Auditor General to review the matter in the subsequent audit period.	ii. Auditor General	adoption of this report
13.	**4. Lack of Disaster Recovery Plan** Management did not carry out risk assessment and the impact of an outage or disruption to the ICT system. There was also no IT disaster recovery plan, hence a significant delay or disruptions of activities may occur	1) The Committee recommends the County to put in place a Disaster Recovery Plan within sixty (60) days from the adoption of this report; and **2)** The committee further recommends the Auditor General to review this matter at the next audit cycle.	i. County Chief Executive Officer ii. Auditor General	60 days from the date of adoption of this report
14.	**5. Lack of Audit Committee** The Management had not established an Audit Committee to monitor the entities' governance processes, accountability processes and control systems	The County should ensure the County Audit Committee in place be operationalized and given adequate funding to discharge its functions within sixty (60) days from the Adoption of this report	County Chief Executive Officer	60 days from the date of adoption of this report
15.	**6.1. Failure to Maintain Staff Establishment** Management did not maintain an approved staff establishment that indicates the optimal number of staff for each category, the	The Committee recommends that;- a) That the County should submit to the Office of the Auditor General the approved staff establishment and measures taken to rationalize the staff establishment within 60	County Public Service Board	60 days from the date of adoption of this report

	number in post and the variance.	days of adoption of this Report.		
16.	**6.2. Irregular Engagement of Casual Employees** anomalies in casual employee's engagements	The Committee recommends that; 1) The County Executive should engage the State Department of Public Service to fast-track the issuance of personal numbers to enable them onboard all employees on the Integrated Personnel and Payroll Database (IPPD) System; and 2) the Auditor General to monitor the matter in subsequent audit cycle.	County Public Service Board	60 days from the date of adoption of this report
17.	**6.3. Irregular Engagement of Employees on Interim Basis** The County Public Service Board did not maintain an approved staff establishment	The Committee recommends that;- 1) That the County should submit to the Office of the Auditor General the approved staff establishment and measures taken to rationalize the staff establishment within 60 days of adoption of this Report.	County Public Service Board	60 days from the date of adoption of this report
18.	**6.4. Manual Payroll** The County Executive maintained both IPPD payroll with a total of 3,260 employees and the manual payroll (excel sheet) with a total of 1,357 employees.	The Committee recommends that; 1) The County Executive should engage the State Department of Public Service to fast-track the issuance of personal numbers to enable them onboard all employees on the Integrated Personnel and Payroll Database (IPPD) System; 2) the County Public Service	County Chief Executive Officer CPSB Auditor General	60 days from the date of adoption of this report

		Board to develop a framework of regularizing the casual workers and provide a status update to the Office of the Auditor General within 60 days of adoption of this report; and 3) the Auditor General to review the matter in subsequent audit cycle.		

Qualified Opinion

1. Cash and Cash Equivalents

As disclosed in Note 12 to the financial statements, the statement of assets and liabilities reflects a balance of Kshs.767,501,817 in respect of cash and cash equivalents which includes an amount of Kshs.26,214,434 for two fund accounts and two revenue collection accounts listed below:

Account	**Account Type**	**Balance as at 30 June, 2020 Kshs.**
Emergency Fund	Fund account	229,004
Revolving Fund	Fund account	15,368,065
Wajir County Local Revenue	Revenue collection account	9,575,815
Wajir County health Local Revenue Account	Revenue collection account	1,041,550
Total		**26,214,434**

The two fund accounts should have separate books of accounts and separate financial statements prepared and therefore their balances are to be reported separate from the financial statements of the County Executive. Consequently, the accuracy and completeness of the bank balance for the year ended 30 June, 2020 has not been confirmed.

Management Response

Management submitted that the County Executive prepared consolidated Financial Statements for the County Executive, County Funds, and other county public entities. The County Executive had implemented the auditor's recommendations and had since prepared separate Financial Statement for each of the funds.

Committee Observations

The Committee noted that the County Executive did not have separate accounts on the Emergency and revolving funds.

Committee Recommendations

The Committee recommends that;

1) **The County CEO undertakes administrative action against the responsible officer(s) who failed to prepare a financial statement for the two (2) funds accounts in accordance with section 167(1) of the Public Finance**

Management Act, 2012 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report.

2) **The County CEO to appoint an administrator of the two (2) funds accounts and submit separate financial statements for the funds to the Auditor General within sixty (60) days from the adoption of this report.**

2. Un-Receipted Exchequer Releases

As disclosed in Note 1 to the financial statements, the statement of receipts and payments reflects a balance of Kshs.8,982,940,388 under Exchequer releases. However, examination of IFMIS reports revealed that receipts amounting to Kshs.3,950,486,126 were not receipted in IFMIS.

Consequently, the accuracy and completeness of Exchequer receipts captured in the financial statements of Kshs.3,950,486,126 could not be confirmed.

Management Response

Management stated that the Exchequer Releases were not updated in the Account Receivable Module in IFMIS, since the Account Receivable AR Module was not active. The County Executive had since updated the IFMIS records on receipts and payment ledgers.

Committee Observation
The Committee noted that the matter has since been addressed.

Committee Recommendation
The Committee recommends that the matter be marked as resolved.

3. Failure to Disclose Own Source Revenue

As disclosed in Note 7.9 – Other important disclosures at 7.9.4 under disclosure of balances in the revenue collection accounts on the financial statements, the Wajir County Health Local Revenue Account had a balance of Kshs.1,041,550 and Wajir County Local Revenue account had a balance of Kshs.9,575,815 as at 30 June, 2020 making revenue collection totalling Kshs.10,617,365 for both accounts. However, the revenue monies were not recognized as part of the own source revenue for the year under review.

In the circumstances, County's own source revenue is understated by Kshs.10,617,365 and the accuracy of the receipts reflected in the statement of receipts and payments cannot be ascertained.

Management Response

Management stated that the Bank balances as at 30th June, 2020 was Kshs.1,041,550 and Kshs.9,575,815 for Wajir County Health Local Revenue Account and Wajir County Local Revenue Account respectively. The amount was not swiped to the County Revenue Fund (CRF) as at 30th June, 2020 but disclosed as Bank Balances in the Statement of Financial Position. The cash balances in these two bank accounts were

part of the revenue reported for the period in the statement of financial performance (FY 2019/2020).

Committee Observation
The Committee noted that the matter has since been addressed.

Committee Recommendation
The Committee recommends that the matter be marked as resolved.

4. Unsupported Expenditure - Use of Goods and Services

As disclosed in Note 6 to the financial statements, the statement of receipts and payments reflects use of goods and services expenditure totaling Kshs.1, 310,997,532. However, examination of records revealed the following unsatisfactory observations: -

4.1. Processing of Payments outside IFMIS

The balance includes an amount of Kshs.152,314,851, Kshs.68,124,618 and Kshs.14,259,978 on domestic travel, training expenses and utilities supplies and services, respectively. However, examination of the payment schedules in support of the expenditure revealed that payments totaling Kshs.113,952,153 were made outside IFMIS. The payments were made from imprest account through cheques issued to individuals.

Management Response

Management submitted that the County did not process and pay expenditure outside IFMIS system only that it used Chq number as voucher number for ease of identification. There were two methods of payments which were, cash and electronic modes. These payments are all processed through IFMIS systems.

Committee Observations

The Committee noted that;

1) the payments totalling to Kshs.113,952,153 were made outside IFMIS.
2) The Committee noted that the management did not submit all the relevant documents and information to the Auditor General at the time of audit contrary to section 62 of the Public Audit Act, 2015.

Committee Recommendations

The Committee recommends that;

1) **the Accounting Officer(s) recover the outstanding imprests with interest as per provisions Regulation 93 (6) of the Public Finance Management (County Governments) Regulations, 2015;**
2) **sanction and surcharge of Accounting Officers who fail to recover outstanding imprests in line with Regulation 93(7) of the PFM (County Government) Regulations, 2015;**

3) **The Committee recommends sanctions against the responsible officer(s) who failed to provide the documents to the auditors in accordance with section 62(2) of the Public Audit Act, 2015 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report; and**
4) **the EACC causes an investigation on the unaccounted imprest of Kshs. 113,952,153 to ascertain if there was an intent to defraud the county and provide a status update within sixty (60) days from the adoption of this report.**

4.2. Domestic Travel and Subsistence

Further, the balance includes an amount of Kshs.152,314,851 paid as domestic travel and subsistence allowances. Examination of payment vouchers and other supporting documents revealed that an amount of Kshs.6,450,500 was paid to officers who were attending workshops, trainings and other official duties outside the County. However, the payment vouchers were not supported with invitation letters, pre-travel approvals and training programs for the trainings attended. There was no workshop attendance register, reports of activities carried out and travel evidence such as vehicles' work tickets.

Management Response

Management submitted that the County Executive had retrieved the relevant supporting documents i.e. invitation letters, pre-travel approvals, training programs, reports of activities carried out and vehicle work tickets. These supporting documents were submitted for audit review and verification.

Committee Observation
The Committee noted that the matter was still outstanding as Kshs. 3,183,100 was not adequately supported and therefore amounts to probable loss of public funds.

Committee Recommendations
The Committee recommends that;

1) **the Accounting Officer(s) recover the outstanding imprests with interest as per provisions Regulation 93 (6) of the Public Finance Management (County Governments) Regulations, 2015;**
2) **sanction and surcharge of Accounting Officers who fail to recover outstanding imprests in line with Regulation 93(7) of the PFM (County Government) Regulations, 2015;**
3) **The Committee recommends sanctions against the responsible officer(s) who failed to provide the documents to the auditors in accordance with section 62(2) of the Public Audit Act, 2015 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report; and**

4.3. Fuel Oil and Lubricants

In addition, the balance includes an amount of Kshs.92,630,276 incurred on fuel, oil and lubricants. However, examination of payment vouchers and other records revealed that diesel worth Ksh.27,438,318 was not supported with relevant documents. The fuel registers maintained did not indicate the date fuel was drawn and registration numbers of the vehicles fueled. It was also noted that some of the vehicles that were fueled had defective speedometer hence it was not possible to confirm whether the vehicles were operational and were used for official assignments.

In view of the above anomalies, the accuracy, completeness and validity of expenditure amounting to Kshs.147,840,971 included in the statement of receipts and payments for the year ended 30 June, 2020 could not be confirmed.

Management Response

Management submitted that the County Government of Wajir procured fuel, oil and lubricants from various suppliers within County for the financial year 2019/2020. The fuel, oil and lubricants in question related to departments of Health, Municipality and Water. The Payment vouchers listed above, and their respective supporting documents were submitted for audit review and verification.

Committee Observation
The Committee noted that the matter has since been addressed.

Committee Recommendation
The Committee recommends that the matter be marked as resolved.

Other Matter

1. Budget Control and Performance

The summary statement of appropriation recurrent and development combined reflects actual expenditure of Kshs.10,881,990,623 against approved budget of Kshs.11,483,329,248 resulting to under-collection of Kshs.601,338,625 or 5% of the approved budget. Similarly, the County Executive expended an amount of Kshs.10,114,488,806 against the approved budget of Kshs.4,102,179,444 against an approved of Kshs.11,483,329,248 resulting to under-expenditure of Kshs.1,368,840,442 representing 14% of the approved budget. It was however noted that recurrent exchequer receipts and proceeds from domestic and foreign grants amounting to Kshs.1,153,126,614 were received in June and July, 2020. Due to late remittances by National Treasury, the County Government could not undertake the planned and budgeted for programmes and thereby adversely impacting on service delivery. The under absorption of funds meant that some of the planned activities were not executed which in turn hindered economic activity and service delivery to the residents of Wajir County.

Management Response

The County Executive stated that the county total actual expenditure for the period was 86% of the approved budget for the financial year 2019/2020 amounting to Ksh 9,666,416,132. However, 14% was not spent due to late/non-release of funds by

National Treasury. The unspent balance was carried forward to the subsequent financial year as balance brought forward.

Committee Observations

The Committee observed that;

1) there was under-utilization of appropriated funds by the county executive as a result of delay in exchequer releases by the National Treasury; and
2) the county did not meet its own-source revenue targets.

Committee Recommendations

The Committee therefore recommends that:

1) the National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate and comply with Article 219 of the Constitution and Section 17(6) of the Public Finance Management Act, 2012.

2) the County executive puts in place measures to enhance its own generated revenue in order to meet its revenue target and address revenue shortfalls.

2. Unsupported Pending bills

The financial statements reflects pending accounts payables balance of Kshs.995,766,591 as at 30 June, 2020. However, audit review of the pending bills revealed that important information such as contract number, local purchase order/local supply order numbers, sum contract, date contracted, amount paid to date and balances for the financial year were not provided. Further, verification of the pending bills revealed that bills amounting to Kshs.79,819,745 but supporting documents such as delivery notes and completion of works certificates, inspection and acceptance certificates and Counter Receipt Vouchers (S13) were not in the files. Further the subject files for pending bills amounting to Kshs.131,783,105 were not provided for audit verification. In addition, an analysis of the pending bills revealed that an amount of Kshs.241,176,587 related to the financial year ended 30 June, 2019. However, the Management did not settle this pending bill contrary to the Presidential Directive issued on 1 June, 2019 which required all accounting officers of public entities to ensure that all pending bills were settled before the end of 30 June, 2019.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.

Management Response

Management stated that the absorption of funds was slow due to the late release of funds by National Treasury and under collection of Own Source Revenue (in the last eight years) were the major reasons why the County's pending bills had unsteadily been increasing over the years. Due to consistent slow/late release of funds by the National Treasury at the end of every financial year, the County had always had its monthly exchequer releases in arrears for one or two months (May or June or both, of previous Financial years). The County had over the years been under collecting own revenue, due to consistent and harsh drought situation. The revenue under collection over the years had affected the County's liquidity position to pay pending bills incurred for the

previous and current financial year (s). The County Executive had initiated a Special Audit on Pending Bills for the Financial Years 2013/2014 to 2021/2022 to establish the accuracy and authenticity of the County's pending bills.

Committee Observations

The Committee observed that-

1) the County Executive had not settled all its pending bills at the time of the audit;
2) the County Executive did not provide a status report of all its pending bills as prescribed by the Public Sector Accounting Standards Board. This could lead to inadequate disclosures of the pending bills; and
3) there was poor record keeping of pending bills that could lead to ineligible bills and litigations.

Committee Recommendations

The Committee recommends that;-

1. **the National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate so as to enable county entities settle their obligations on time;**
2. **the County Executive should disclose all pending bills in the format prescribed by the Public Sector Accounting Standards Board as stipulated under Section 104(1)(h) of Public Finance Management Act, 2012;**
3. **the county executive puts in place measures to enhance own generated revenue in order to meet its revenue target and address revenue shortfalls that contribute to the challenge of pending bills;**
4. **Pending bills deemed ineligible should be forwarded to the Directorate of Criminal Investigation (DCI) for investigation proper legal action taken against those filing false claims;**
5. **County Government to take note of judgement in a Kitale High Court Constitutional Petition E003 of 2023 that declared formation of pending bills verification committees unconstitutional and engage Office of the OAG and strengthen the internal audit functions.;**
6. **All valid pending bills that have been reviewed by the Office of the Auditor General be paid and a payment plan be submitted to the county assembly for approval and progress report on implementation sent to the Senate and the Office of the Controller of Budget.**

3. 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 and The National Treasury's Circular.

Management Response

Management stated that the County Executive had resolved some prior audit matters through disclosures as provided by the Public Sector Accounting Standards Board Templates and The National Treasury's Circular.

Committee Observation
The Committee observed that the County Executive did not take action on the issues raised in the Report of the Auditor General for the financial year 2018/2019.

Committee Recommendation
The Committee recommends that the County executive complies with section 53 of the Public Audit Act, 2015 by taking action on the issues raises by the Auditor General and submits a report to the Auditor General within 60 days of the adoption of this report.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

1. Non-Submission of Financial Statements

As disclosed under other important disclosures in the financial statements, the County Executive had established several corporate bodies which include the Wajir Water and Sewerage Company, the County Executive of Wajir Bursary Board, the Wajir Climate Change Adaptation Fund, and the County Executive Revolving Fund. However, Management did not prepare and avail separate financial statements to account for the operations of the entities contrary to Section 167 of the Public Financial (County Governments) Management Act, 2012 which requires County entities to prepare and submit financial statements in the format prescribed by the PSASB. Consequently, Management is therefore in breach of the law.

Management Response

Management stated that the County Executive prepared consolidated Financial Statements for the County Executive, County Funds and other county public entities. The County Executive had implemented the auditor's recommendations and had since prepared separate Financial Statement for each of the funds. The Financial Statements had been audited by the auditor.

Committee Observation
The Committee noted that the matter has since been addressed.

Committee Recommendation
The Committee recommends that the matter be marked as resolved.

2. Unauthorized Expenditure

During the year under review, the approved budget for compensation of employees was Kshs.3,316,038,030 and social security benefits had nil budget. However, the Management incurred total expenditure of Kshs.3,565,920,499 for compensation of

employees and Kshs.143,937,716 and social security benefits resulting to total over expenditure of Kshs.381,800,981 on the two components without authority. This was contrary to regulation 42(1)(b) of the Public Finance Management (County Governments) Regulations, 2015 which provides that an Accounting Officer shall 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. Consequently, Management is therefore in breach of the law.

Management Response

Management submitted that The County Executive had initiated a human resources audit on suitability, placement and competence of the workforce to reduce the wage bill.

Committee Observation
The Committee noted that the matter has since been addressed.

Committee Recommendation
The Committee recommends that the matter be marked as resolved.

3. Unapproved Collection of Revenue

During the year under review, the County Executive collected revenue amounting to Kshs.60,417,086 from own sources. However, it was noted that the County Finance Bill, 2020 submitted to the County Assembly setting out the revenue raising measures for the County government for the 2019/2020 was not approved by the County Assembly. Consequently, Management is therefore in breach of the law.

Management Response

Management stated that the County Assembly did not approve the Finance Bill for the financial year 2019/2020. The County Executive had been submitting the Finance Bills regularly to the County Assembly for consideration and approval. The County Assembly had consistently failed to debate and approve Finance Bills despite the County Executive's regular reminders to the Assembly for their passage. The County Executive had been collecting revenue from the public since it's allowed to collect revenue based on estimates in the previous Finance Act.

Committee Observation
The Committee noted that the matter has since been addressed.

Committee Recommendation
The Committee recommends that the matter be marked as resolved.

4. Non-Remittance of Statutory Deductions

During the year under review, the Management made deductions amounting to Kshs.451,425,060 from staff salaries inform of Pay As You Earn, National Social Security Fund and other pension deductions but remitted a total of Kshs.190,758,324 only to the respective organizations. The difference of Kshs.260,666,736 had not been remitted as at 30 June, 2020. Failure to remit deductions exposes the County Executive

to additional costs in form of penalties and interests while compromising the welfare of staff upon retirement. Consequently, Management is therefore in breach of the law.

Management Response

Management stated that Executive did not remit the statutory deductions within the statutory deadline. The County Executive had reached an agreement with statutory agencies, particularly pension funds to pay in instalment the huge statutory deduction arrears over a certain period of time. The County had paid 7.3 million statutory deduction arrears to County Workers Union and staff gratuity so far. Furthermore, the County had under taken to provide a budgetary to pay these statutory deductions in arrears.

Committee Observation

The Committee noted that the County Executive did not remit the full statutory deductions of the employees to the various bodies.

Committee Recommendations

The Committee recommends that

1) **The County CEO undertakes administrative action against officer(s) responsible for non-remittance of statutory deductions and Sacco dues in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report; and**
2) **the County Executive to provide a status report on remittance of deductions to the Office of the Auditor General within sixty (60) days from the adoption of this report.**

5. Irregular Contribution to Council of Governors

During the year under review, Management paid Kshs.5,936,280 to the Council of Governors as membership fees. This is contrary to the provisions of 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. Consequently, the Management is in breach of the law.

Management Response

Management stated that the County Government of Wajir paid Kshs 5,936,280 to the Council of Governors. This was payment made as contribution for intergovernmental relations as per the resolution of the Council.

Committee Observation

The Committee noted that payments made to the Council of Governors from County Revenue Funds were irregular and unlawful since the Intergovernmental Relations Act specifies that funding for the COG shall be drawn from the Consolidated Fund.

Committee Recommendation

The Committee recommends that;-

1. **the irregular payments to the Council of Governors (COG) be stopped and further recommends the surcharge of any Governor, in their capacity as Chief Executive Officer, who continues to make the irregular contribution; and**
2. **The EACC should oversee the recovery of all the public funds irregularly transferred to the Council of Governors (COG) by the Governor. This is in line with the Resolution of the Senate.**

6. Non-Compliance with Public Procurement and Assets Disposal (Amendment) Regulations, 2015

During the year under review, Management spent an amount of Kshs.3,998,689.65 on supply and delivery of a backup generator through request for quotation. This contrary to the requirements of Legal Notice No.106 of 18 June, 2013, on the amendments of the Public Procurement and Assets Disposal Regulations, 2016 which provides a new threshold matrix requiring value of goods and services above Kshs.2,000,000 to be procured through open tender. However, some of the mandatory requirements such as valid business permits and valid tax compliance certificates required for evaluation of the tenders were not met. Further, the procurement processes and transactions for the 2019/20 financial year revealed that Management did not procure goods, works and services through the e- procurement platform. Consequently, the Management is in breach of the law.

Management Response

Management stated that the County Executive in the financial year under review procured construction of power house, installation and delivery of a backup generator. Therefore, the amount in question is within the quotation threshold matrix civil works of Kshs.4,000,000. In this respect, the County Executive was not in breach of the law.
They further added that consideration of mandatory requirements is an item in the mandatory evaluation criteria for projects. The Evaluation Committee considered the mandatory requirements for the project and awarded the company that was found to be the most responsive evaluated bidder. Therefore, the mandatory requirements such as valid business permits and valid tax compliance certificates required for evaluation of the tenders were met, and submitted for audit review and verification.
Management stated that the county government of Wajir is using IFMIS modules for the procurement of goods, works and services and all the payment are processed through the system.

Committee Observation

The committee observed that the issue has been addressed.

Committee Recommendation

The committee recommends the matter be marked as resolved.

7. Non-Compliance with Public Procurement and Assets Disposal Act, 2015

Management awarded contracts worth Kshs.182,044,780 to suppliers and contractors using quotations. However, the contractors were not among the list of prequalified suppliers under the respective categories of goods and works supplied. It was not clear how the contractors were identified for the contracts awarded. Consequently, the Management is in breach of the law.

Management Response

Management stated that there was an error in the statement above. The actual figure as per the audit certificate schedule was Kshs.18,204,780 as opposed to Kshs.182,044,780. The list was periodically updated upon receipt of the supplier profile in line with section 57 (2) and 71 of Public Procurement and Asset Disposal Act (PPADA) 2015 and Regulation 44(1) of PPDR, 2020 that allows the Head of Procurement function to maintain and update list of registered suppliers, contractors and Consultants. The County Executive confirmed that the above companies were in the pre-qualified list and it had submitted updated pre-qualified list to the auditors for audit review and verification.

Committee Observation

The committee observed that the issue has since been addressed.

Committee Recommendation

The committee recommends the matter be marked as resolved

8. Non-Compliance with Withholding Tax and VAT Act, 2013

During the year under review, Management awarded a contract for the proposed rehabilitation of Wajir town roads to bitumen standard vide tender No.WCG/T/RT/56/2018-2019 at a contract price of Kshs.43,805,208. Examination of payment records and tender documents revealed that the works were completed and full payment made to the contractor. However, it was noted that 3% withholding tax and 6% VAT amounting to Kshs.3,579,942 was not deducted from the payments.

Consequently, the Management is in breach of the law.

Management Response

The Management submitted that the actual contract sum of tender No. WCG/T/RT/56/2018-2019 was Ksh 45,191,048. The county government withheld the relevant taxes and the contractor was paid the net amount as stated above.

Committee Observation

The committee observed that the issue has since been addressed

Committee Recommendation

The committee recommends the matter be marked as resolved

9. Supply and Delivery of Emergency Relief Food

Examination of payment records for the year under review revealed that Management procured relief food worth Kshs.265,427,300 for distribution to the draught stricken families in various parts of the County. However, Management through tender No: WCG/SP/OT/2019-2020 entered into a framework contract for the supply and delivery of relief food and assorted items with four companies, contrary to provisions of Section 114(c) of the Public Procurement and Assets Disposal Act, 2015 which requires a minimum of seven alternative vendors to be included for each category.

Further, the number of household's beneficiaries and distribution schedules showing the date and specific venue where food was distributed, identity cards of beneficiaries and quantity of food given out were not provided for audit review. It was therefore not possible to confirm whether the food stuffs procured were received and distributed to the intended beneficiaries. In addition, there was no evidence that the County Executive Committee member for finance sought approval from the County Assembly after making payments from the Emergency Fund as required by Section 114(1) of the Public Finance Management Act, 2012.

Consequently, the Management is in breach of the law.

Management Response

Management stated that the tender for the above project were procured using open tender, tender number WCG/SP/OT/2019-2020 for supply and delivery of relief food and assorted items for relief & humanitarian aid, leading to two years' framework contract pursuant section 141 of PPDA 2015. "Subject to any prescribed restriction an accounting officer of a procuring entity may apply framework contracting arrangements by making awards of indefinite-delivery contracts and multiple awards of indefinite-quantity contracts for procurements under this Act". Hence the tender was above board since it was advertised in line with section 96(1) in one of the local dailies (Standard Newspaper) on 10th September, 2019 and further uploaded in the county website as per section 98(1) the tender document provided sufficient information to allow fair competition among those wished to submit the tender document.

The Management wished to confirm that the household's beneficiaries and distribution schedules showing beneficiaries and quantity of goods distributed were submitted for audit review and verification.

Committee Observation

The Committee noted that the matter has since been addressed.

Committee Recommendation

The Committee recommends that the matter be marked as resolved.

10. Irregularities in Procurement of Legal Fees

During the year under review the County Executive paid Kshs.21,139,000 as legal fees to law firms. However, examination of payment records and other supporting documents revealed that an amount of Kshs.17,659,000 was paid to one (1) company. This therefore implies that most of the legal cases were handled by one (1) firm although there were twenty (20) law firms prequalified. It was noted that the firm was established in 2016 trading under a different business name. Further, a firm which was not in the prequalified list under provision of legal services was directly engaged and paid Kshs.3,480,000.

Under the circumstances, it was not possible to ascertain whether the law firm met the eligibility and capability criteria as provided under Section 71(2) of the Public Procurement and Asset Disposal Act, 2015.

Management Response

Management stated that the payments for legal fees of Kshs. 17 million related to two law firms (HASSAN OSMAN and ASSOCIATES ADVOCATES and Yunis Osman and Mwiti Advocates). These two law firms were handling different court cases. Ms Hassan Osman and Associates advocates were handling 4 cases out the six court cases. Ms Yunis Osman and Mwiti Advocates were handling two cases out the six cases from the High Court to the Court of Appeal. The County Executive considered this law firm for reliability, continuity, and willingness to pursue the subject matter. The legal firm under reference above was paid Kshs.3,480,000, was a prequalified bidder and was in the updated prequalification list submitted to the auditors for review and verification.

Committee Observation

The committee noted that there is lack of capacity at the county legal department that necessitated the county to outsource legal services.

Committee Recommendation

The committee recommends that;-

1) **County Executive to make a provision in its budget for contingency liability in respect of legal fees pursuant to regulation 25(2)(e) of the Public Finance Management (County Government) Regulations, 2015; and**
2) **the county executive to build the capacity of its legal department to avert risk of incurring high cost on outsourced legal services.**

11. Irregular Procurement on Covid-19 Allocation

During the year ended 30 June, 2020, Management spent Kshs.105,250,000 on procurement of medical supplies under the Covid-19 Response Plan through direct procurement method. A review of the payment records, tender documents and other records revealed the following anomalies: -

(i) The budget for Covid-19 provided for audit did not indicate the specific details of the items, projects planned for implementation and cost estimates for the projects.

Therefore, it was difficult to link the implementation of the Covid-19 programmes with the budget.

(ii) Two of the companies awarded the contracts were less than one-year-old since incorporation and one (1) company was one year and three months old, a clear indication that the suppliers had no qualification and experience to supply the stores.

(iii) The tenders were awarded to private companies for supply of drugs and medical supplies instead of KEMSA contrary to the requirements of Section 4(3) of the Kenya Medical Supplies Authority Act, 2013 which provides that a national or county public health facility shall, in the procurement and distribution of drugs and medical supplies, obtain all such drugs and medical supplies from the Authority subject to (a) the drug being duly registered by the Board; and (b) the drugs and medical supplies meet the standards of quality and are efficacious as authorized by the Board.

(iv) Examination of tender evaluation minutes, revealed that three (3) companies were given a score of 10/10 for past experience. However, a review of their company profiles, the bidders had not done similar works before, but were given maximum score by the evaluation committee.

(v) One of the companies engaged by the Management was given a score of ten (10) marks for having power of attorney and sworn affidavit in its tender documents. However, a review of its company profile revealed that the power of attorney was not filled and signed before commissioner of oath as required. It was further noted that the contractor had no past experience contrary to the evaluation criteria for the tender.

(vi) There was no evidence of market survey conducted to inform the placing of orders or adjudication by the relevant award committee. One of the companies supplied 6250 boxes of surgical face masks at Kshs.3,992 per box. Based on market price index survey published by Public Procurement Regulatory Authority in October, 2020, the average price of surgical face masks in Nairobi was Kshs.2,100. The Management would have saved Kshs.11,825,000 had the masks been procured using the prevailing market prices.

(vii) The Management did not report the use of direct procurement to Public Procurement and Regulatory Authority within fourteen (14) days after notification of award of contract as required under Section 62(3) of Public Procurement Regulations, 2006.

(viii) Further examination of the Covid-19 expenditure revealed that relief food worth Kshs.23,588,700 was procured under the Covid-19 emergency budget instead of using the allocation for emergency relief included in the annual budget.

(ix) Examination of payments vouchers, tender documents and other records relating to Covid-19 renovation works for the year under review revealed that the management awarded contract of Kshs.8,953,706 for fencing the isolation area, renovation of dormitory and ablution block for coronavirus male and

female isolation unit at Wajir Girls Secondary School. However, the contracts were split into three contracts and awarded to the same contractor through request for quotation instead of other alternative procurement methods. No plausible explanation was provided by Management for slitting the works and the use of quotation.

(x) Management awarded a tender for supply and delivery of 2,000 packs of N95 face mask each at unit price of Kshs.995 for the department of health vide local purchase order No: 009840. A review of stores records and discussion with the stores man revealed that only 200 packs of N95 face mask were delivered vide S13 No: 8790710 and taken on charge in store ledger. The balance of 1,800 packs worth Kshs.1,796,690 were not delivered although payment was made for the supplies.

(xi) A company supplied 1210 packs of N95 respiratory face masks at Kshs.1,500 per pack, while another different company supplied similar supplies at Kshs.600 per pack during the same period and therefore a clear indication that no market survey was carried out before the quotations were floated to ensure the prices of the commodities were reasonable and value for money is derived from procurement of the masks.

Consequently, the Management is in breach of the law and it has not been possible to confirm if citizens of the Wajir County got value for money from the allocated Covid-19 Fund.

Management Response

The Management submitted that;

(i) the County Executive had an approved Supplementary Budget amounting to Kenya Shillings 194,820,000 that linked implementation of Covid-19 programmes with the budget.

(ii) the Evaluation committee was guided by the evaluation criteria in the tender document, the consideration of experience was done at the tender evaluation committee in line with Section 46(4) of the PPADA 2015, that considers the technical and financial aspects of procurement including the evaluation of bids, proposals for prequalification, registration lists, expression of Interests and any other roles assigned to it. Experience was an item in the technical evaluation criteria for the project. The evaluation committee considered the mandatory, technical and financial requirements for the project and awarded the most responsive evaluated bidder. The two companies had the prerequisite documentations that led the Evaluation Committee to award the tender to the respective bidders and could deliver the goods as per the specification.

(iii) the County Executive did not procure drugs but rather procured Personal Protective Equipment (PPE) and Infections Protection Commodities (IPC's).

(iv) in line with Section 46(4) of the PPADA 2015, States "the consideration by the technical and financial aspects of procurement including the evaluation of bids, proposals for prequalification, registration lists, expression of Interests and any other roles assigned to it". Experience was an item in the technical evaluation criteria for the project. The evaluation committee

considered the mandatory, technical and financial requirements for the project and awarded the most responsive evaluated bidder. The company had updated company profiles, the bidders had done similar works before and other prerequisite documentations were submitted to the auditor for review and verification.

(v) in line with Section 46(4) of the PPADA 2015, States "the consideration by the technical and financial aspects of procurement including the evaluation of bids, proposals for prequalification, registration lists, expression of Interests and any other roles assigned to it". Experience was an item in the technical evaluation criteria for the project. The evaluation committee considers the mandatory, technical and financial requirements for the project and awarded the most responsive evaluated bidder. The company had power of attorney filled and signed before commissioner of oath submitted to the auditor for audit review and verification.

(vi) the Presidential Directive on lockdown came into effect in March 2020. Due to the prevailing market situation caused by Covid-19 pandemic and lockdowns in the country, the prices of essential and infections protection items (IPC) went up. It was difficult to conduct a market survey at that moment in time. Public Procurement Regulatory Authority (PPRA) had conducted a market survey in October 2020, seven (7) months into the Covid-19 pandemic. The supply and delivery of these items were done in March 2020 therefore, the company quoted 3,992 per box, each surgical mask costing Kshs. 80 which was within the prevailing market as at that time.

(vii) the County Government of Wajir used the Direct Procurement method for supply and delivery of Infection Prevention Commodities (IPC) for Wajir County Referral Hospital in line with section 103(2) (b) & (c) and 104 (a) (b), (c) and (d) of Public Procurement & Disposal Act, 2015. However, the County Executive notified PPRA within the stipulated time as a result of work interruption occasioned by the Covid-19 pandemic. The PPDA section 69(2) states that "no procurement approval shall be made to operate retrospectively to any date earlier than the date on which it is made except on procurements in response to an urgent need". Thus, this was an emergency procurement under the said section. The County Executive retrospectively reported the contracts awards to the authority vide email address to reports @ ppra.go.ke on October 2020.

(viii) the food aid procured by the County was distributed to the vulnerable people affected by the Covid-19 pandemic and some were further distributed to designated Covid-19 isolation centres.

(ix) these emergency projects were implemented on different dates and on need basis hence not split of procurement.

(x) the County ordered for 2,000 Packs of N95 Face masks for the department of health Covid Centres and the same was received in two batches vide S13 Nos. 8790710 and 8790749 for quantities of 200 and 1,800 packs respectively. The same was taken on charge on the store ledger Folio No. 48.The face masks were subsequently distributed to four sub-counties Covid centres (Wajir West, Bute, Habaswein and Tarbaj) via S11.

(xi) the county government used PPRA's Price market index to ensure the prices of the commodities were reasonable and within the market price.

Committee Observation

The committee noted that the issue has been addressed

Committee Recommendation

The committee recommends the matter be marked as resolved.

12. Splitting of Contracts for Procurement of Works, Goods and Services

During the period under review, the Management awarded contracts worth Kshs.247,643,871 through request for quotation. Examination of the contract documents revealed that contracts were structured in a manner to ensure that the procurement falls within the request for quotations threshold in order to defeat competition for the contracts. It was noted that works of similar nature within the same project locality were split and awarded to different contractors and in some instances to the same contractor. Further, medical equipment worth Kshs.29,875,500 were procured through request for quotations. However, the contracts for the medical equipment were split to defeat use of open tender as a choice of procurement. Verification of the prices charged for some of the items revealed that the prices were highly inflated compared to the prevailing market prices. There was no evidence that any market survey was carried to establish the prevailing market prices before awarding the contract. Consequently, the Management is in breach of the law.

Management Response

The Management stated that Wajir County covers 56,501 Km2 is spread over six (6) constituencies, thirty (30) wards and over 300 locations. One of the mandates of the County Government is to reach and deliver services in all the locations in an equitable manner. The projects under reference above are not split tenders since there is a difference in project locality and description. Therefore, in order to enhance equity and fair distribution of resources at grassroot level these projects were captured separately in the departmental budgets, procurement and work plans. This was in line with the constitutional requirements of Article 227(1) and statutory requirements of the Public Procurement and Asset Disposal Act, 2015 Section 54 of the PPAD has An exemption under the PPADA regulations 2020 regulation 154(1) that provides that despite the provisions of Section 54(1) of the Act, a procuring entity may for the purpose of ensuring maximum participation of citizen contractors, disadvantaged groups, small, micro and medium enterprises in public procurement, unbundle a category of goods, works and services in practicable quantities.

Committee Observation

The committee noted the matter has been addressed

Committee Recommendation

The committee recommends the matter be marked as resolved.

13. Contract Agreements Signed Before Lapse of Mandatory Period

A review of procurement records for a sample of contracts revealed that Management entered into seventy-nine (79) agreements for contracts worth Kshs.286,277,748. The contracts were signed between the Accounting Officer and the contractors before lapse of the mandatory fourteen (14) days after the notification of award as required by Section 35(3) of the Public Procurement and Asset Disposal Act, 2015.Further, a review of project files for projects worth Kshs.436,480,211 indicated that notification letters of regrets were not sent to unsuccessful bidders as required by Section 87(3) and Section 126(4) of Public Procurement and Asset Disposal Act, 2015. Consequently, the Management is in breach of the law.

Management Response

Management submitted that the signed Contract agreement by Accounting Officer within the mandatory period and notification of award as required by Section 35(3) of the Public Procurement and Asset Disposal Act, 2015 were availed for audit review and verification. The unsuccessful bidders were contacted as stipulated in line with Section 87(3) and 126(4) of Public Procurement and Asset Disposal Act, 2015.Regret Letters were issued accordingly and submitted for audit review and verification.

Committee Observation

The committee noted the matter has been addressed

Committee Recommendation

The Committee recommends the matter be marked as resolved.

14. Delayed Completion of Roads Projects

During the period under review, the County Executive initiated contracts for improvement of three (3) roads within Wajir Town to bitumen standards at a contract sum of Kshs.320,264,053. The project commencement orders were issued on 24 January, 2017 and were expected to be completed by 24 September, 2017. The contractors requested for an extension of contract period and were granted extension of seven (7) months to July, 2018. The total payments made to the contractors as at 19 December, 2020 was Kshs.236,695,497.

However, physical verification of the project carried out on 19 December, 2020 revealed that the projects were incomplete and there was no sign of work in progress. The performance security bond for the projects had long expired and the Management did not request the contractors to renew their performance bonds as required by Section 41(4) and (5) of the Public Procurement and Disposal Regulations, 2006. No plausible explanation was provided by Management for the stalled works. In addition, the plans, if any, set to revive and complete the projects, were not disclosed.

In the circumstances, the value for money to the residents of Wajir County from the expenditure amounting to Kshs.236,695,497 could not be confirmed.

Management Response

The County Executive confirmed that four (4) out of the five (5) projects were completed. The works for one project was 90% complete. The status report and certificates of completion of works done was annexed for audit review and verification.

ANNEX 14

S/NO	TENDER NO.	DESCRIPTION	STATUS	PENDING BILLS	STATUS
1	WCG/T/367/2016- 2017	Improvement of Hilton Road to bitumen standard	Nihal and Kalson Construction Co Ltd	12,545,106.10	Completed
2	WCG/T/370/2016- 2017	Improvement of Wajir Girls to Surai Market to bitumen standard	Malka General Contractors Limited	25,536,541.00	Completed
3	WCG/T/371/2016- 2017	Improvement of Surai market to county assembly to bitumen standard	Kubri Road Works Limited	48,800,325.00	70% Completed

Committee Observation

The Committee observed that there were delays in the completion of road projects in the county.

Committee Recommendations

The Committee recommends that:

1) **the management provides a status report on the delayed completion of projects within 60 days of adoption of this report.**

2) **The County executive should undertake proper project conceptualization, planning and execution to ensure timely completion of the projects as well as realization of value for money; and,**
3) **OAG to follow up on this matter in its subsequent audit cycle.**

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

1. Decline in Own Generated Revenue

During the year under review, Management had budgeted to collect local revenues totaling Kshs.150,000,000. However, an audit review of revenue records and bank statements revealed collection of only Kshs.60,417,068 resulting to a shortfall of Kshs.89,582,914 or 60% of the budgeted amount. A review of performance for the past four (4) years has indicated a declining trend in local revenue against the budget as shown in the table below: -

Year	Budgeted Revenue Kshs.	Actual Revenue Kshs.	Variance Kshs.	Percentage (%) Variance
2019-2020	150,000,000	60,417,086	89,582,914	60%
2018-2019	200,000,000	60,123,112	139,876,888	70%
2017-2018	150,000,000	56,599,351	93,400,649	62%
2016-2017	230,119,550	75,150,051	154,969,499	67%

Management did not provide satisfactory explanations on why it continued to retain high revenue targets despite the fact that the actual revenue collected was far below the budgeted targets. In view of the foregoing, decline in revenue collection is an indication of ineffective and weak revenue collection strategies and adversely affects the provision of services to the residents of Wajir County.

Management Response

The Management stated that the revenue for the year under review decreased due to several factors, among which were the breakdown in livestock marketing caused by severe drought and livestock diseases. It was worth noting that the closure of livestock markets and the non-consumption of animal products were mainly due to Rift Valley Fever. This was coupled by the Covid19 restrictions within the country and the closure of Kenya Ethiopia and Somalia border. This affected trade across the border nearly grounding the revenue from cereals and livestock trade. As a result, Miraa market entry fee, Livestock auction fee and export cess and cereal cess were affected. These streams accounted for 60 percent of the Counties revenue collection.

Further, to address the issue of dwindling revenue collections, the County Government had implemented several strategies to improve its Own Source Revenue (OSR). One of the key initiatives is the establishment of an *ad hoc* Steering Committee on revenue

enhancement. This committee would be responsible for overseeing revenue mapping, revenue automation, land valuation roll, a robust inspectorate and enforcement team, as well as the enactment of necessary legal frameworks and regulations.

Committee Observations

The committee noted;

1) the declining trends of the county own generated revenue in Wajir County
2) that the decline in own source revenue affects planned expenditure as local revenues forms critical component of county budget.

Committee Recommendations

The Committee recommends that—

1) **the County executive should expedite updating of valuation roll in accordance with Section 3 of the Valuation for Rating Act CAP 266 so as to reflect current market values for optimal revenue collection and comply with the guidelines of the Public Sector Accounting Sector Boards of reporting in the FY 2023/2024;**
2) **the County Executive should put in place measures to improve their own source revenue collection capacity in order to meet their targets;**
3) **the County Executive should adopt realistic revenue targets based on their mapped revenue streams; and**
4) **the County Executive should revise their budget to a realistic level based on past experience.**

2. Poor Management of Assets

Annex 3 to the financial statements includes a summary of fixed assets which indicates that the County Executive owned assets valued at Kshs.12,452,875,974 as at 30 June, 2020. However, the register did not reflect sufficient details on the assets as required by the International Public Sector Accounting Standard (IPSAS) 17 and the reporting format prescribed by the Public Sector Accounting Standards Board. The register did not disclose information including serial numbers of the assets, their dates of acquisition, descriptions, location, class, cost of acquisition, accumulated depreciation and net book value and identification codes. Further, during the year under review, Management procured one (1) Land Cruiser Pick- Up (CKD) and two (2) Model Elcher pro 3009D Truck worth Kshs.15,539,482. The vehicles were procured through open tender, received and were in use. However, logbooks for the motor vehicles were not provided for audit verification. In the circumstances, it has not been possible to confirm the existence of a robust policy in the management of the county assets.

Management Response

The Management stated that the County Executive was currently compiling a Fixed Assets Register that complies with IPSAS 17 requirements from the existing departmental nominal assets register. The County was currently also working closely

with the Inter-Governmental Technical Committee on the Verification of physical assets with the sole intent of having a consolidated Fixed Assets Register.

The County Executive Procured 3 No. motor vehicles for the year under review. The motor vehicles were indeed supplied, received, inspected and accepted.

Committee Observations

The Committee observed that;

1) the County Executive lacks an updated Fixed Asset Register; and
2) the county lacks ownership documents to some of its assets.

Committee Recommendations

The Committee recommends that the-

a) **County Executive should update and present their Fixed Assets Register in the format prescribed by the Public Sector Accounting Standards Board;**
b) **County Executive should adopt and implement the report of the Inter-Governmental Technical Relations Committee (IGTRC) on assets and liabilities from defunct Local Authorities and provide a status update to the Office of the Auditor General within 90 days of adoption of this Report; and**
c) **Office of the Auditor General should progressively review and report on the matter in the subsequent Financial Years.**

3. Weakness in Internal Controls

Examination of sampled payment vouchers revealed weaknesses in enforcement of internal controls designed for ensuring effective administration of public funds. As a result of weaknesses in the enforcement of internal controls, payments totaling Kshs.21,659,263 were made without authorization by the accounting officers.

In view of the anomalies, the County Treasury operates without strong internal controls and could lead to fictitious expenditure.

Management Response

The County Executive acknowledged that there were lapses in internal controls that need strengthening of internal control systems. The payment vouchers were authorized and submitted for audit review and verification.

Committee Observation

The Committee noted that the county lacks internal audit mechanism to evaluate financial managements.

Committee Recommendations

The Committee recommends that

1) **the County establishes an independent audit department with financial autonomy within sixty (60) days from the adoption of the report.**

2) **the Auditor General to review the matter in the subsequent audit period.**

4. Lack of Disaster Recovery Plan

During the year under review, Management did not carry out risk assessment and the impact of an outage or disruption to the ICT system. There was also no IT disaster recovery plan, hence a significant delay or disruptions of activities may occur. Additionally, Management may not recover or restore critical infrastructure services and systems affecting all operations that rely on the information communication technology.

In the circumstances, it was not possible to confirm existence of measures to safeguard the ICT environment.

Management Response

The County Executive submitted that it would undertake measures to develop an IT infrastructure system as well as an appropriate Disaster Recovery Plan.

Committee Observation

The committee noted the county executive has not put in place a disaster recovery plan in place.

Committee Recommendations

The Committee recommends that;

1) **the County to put in place a Disaster Recovery Plan within sixty (60) days from the adoption of this report; and**
2) **the Auditor General to reviews this matter at the next audit cycle.**

5. Lack of Audit Committee

The Management had not established an Audit Committee to monitor the entities' governance processes, accountability processes and control systems, offer objective advice on issues concerning risk control and governance and associated assurance and also follow up on the implementation of the recommendations of internal and external auditors.

In the circumstances, I am unable to confirm existence of effective overall governance measures at the County.

Management Response

Management submitted that the Audit Committee had since been constituted and was currently in office.

Committee Observations

The Committee noted that;

1) the County has since established an audit committee;

2) that the county audit committee is not operational and lacks the required resources to discharge its mandates.

Committee Recommendation

The committee recommends that the county executive operationalizes the audit committee including adequate budgetary allocation within sixty (60) days from the adoption of this report.

6. Compensation of Employees

As disclosed in Note 5 to the financial statements, the statement of receipts and payments for the year ended 30 June, 2020 reflects compensation of employees' expenditure totaling to Kshs.3,565,920,499. However, audit review of the component revealed the following anomalies;

6.1. Failure to Maintain Staff Establishment

Management did not maintain an approved staff establishment that indicates the optimal number of staff for each category, the number in post and the variance. A review of the IPPD payroll and bank remittance schedules for the year under review revealed that two (2) employees were sharing bank accounts and they were paid salaries The officers are in different job groups with different names. However, the management paid them using one account but did not clarify the relation of the two (2) officers.

Management Response

Management submitted that the County Executive had a staff establishment in draft form. The draft had been forwarded to the County Public Service Board for review and approval. The draft establishment had provided for all cadre of staffs. Khadija Jellow Ahmed – P/NO. 1983078024 and Hassan Abdi Mohamed –P/NO. 20130041851 are a mother and her son who had a joint account. The officers were advised to open different accounts. Khadija Jellow Ahmed Account No. is 1108615430 while Mohamed Hassan Adan Account No. is 580177606279.

Committee Observations

The committee noted that;

1) the county executive lacks an approved staff establishment; and
2) the lack of staff establishment is likely to lead to a bloated wage bill representing 39% of the county total revenue.

Committee Recommendations

The Committee recommends that the County should submit to the Office of the Auditor General the approved staff establishment and measures taken to rationalize the staff establishment within 60 days of adoption of this Report.

6.2. Irregular Engagement of Casual Employees

During the year under review, Management spent Kshs.197,024,618 on payment of wages for temporary or casual employees. Examination of records for casual payments revealed the following;

(i) Muster rolls for the casuals were not provided for audit review.
(ii) Some casuals were assigned job groups such, H, K, L and N which ordinarily apply to employees appointed on contractual and permanent basis of employment.
(iii) Some casual employees shared Kenya Revenue Personal Identification Numbers. In the circumstances, it was not clear how the Pay As You Earn deducted from their salaries was transmitted to Kenya Revenue Authority.
(iv) According to the manual payroll for June, 2020, a total of 156 casuals who were in the payroll were engaged continuously for more than three months. It was further noted that they were not attached to any specific department or any specific area of deployment in the County Executive. It was therefore not possible to confirm whether they provided any services to the County. Even though the monthly deductions in respect of both the NHIF and NSSF were done on their wages, the manual payrolls did not indicate the KRA PIN, NHIF and NSSF registration numbers for some casual employees. It was not clear how the deductions were remitted to the respective statutory organizations.

Management Response

Management submitted that;

(i) the County maintained a Muster Roll and was hereby attached for audit review and verification.
(ii) the officers in question were appointed during the transition to devolved system of government on need-basis. The appointments were to be regularized by the County Public Service Board. However, this process took long because of budgetary issues and the county executive was working towards regularizing the same.
(iii) The auditor did not provide the specific officers who shared KRA PIN.
(iv) the County Executive had engaged the service of casuals. The contract of these casuals was renewed after the expiry of the appointment terms. These casuals were all attached to various county departments. Their duty departments were confirmed in their respective muster roll.
(v) some casual employees lack NHIF and NSSF numbers but their national identity card numbers was in the payroll. It had initiated the process of updating the personal records of these casual employees.

Committee Observation

The Committee noted that there were 429 employees being paid outside the IPPD system.

Committee Recommendations

The Committee recommends that;

1) **The County Executive should engage the State Department of Public Service to fast-track the issuance of personal numbers to enable them onboard all employees on the Integrated Personnel and Payroll Database (IPPD) System;**
2) **the County Public Service Board to develop a framework of regularizing the casual workers and provide a status update to the Office of the Auditor General within 60 days; and**
3) **the Auditor General to monitor the matter in subsequent audit.**

6.3. Irregular Engagement of Employees on Interim Basis

During the financial year under review, the County Executive engaged some employees on interim positions. A review of their appointments revealed the following anomalies: -

i. The County Public Service Board did not maintain an approved staff establishment. It was therefore not possible to confirm whether the interim positions were available to be filled.
ii. Management did not provide evidence to confirm that the positions were competitively filled by County Public Service Board as required.
iii. Some of the staffs appointed to the interim positions were in job groups H, K, L and N which would ordinarily be job groups for appointments on contract or permanent basis.
iv. Salaries paid to officers appointed on interim positions were not based on salary structure grading issued by the Salaries and Remuneration Commission.

Management Response

The County Executive had a staff establishment in draft form. The draft had been forwarded to the County Public Service Board for review and approval. The draft establishment has provided for all cadres of staffs. The officers in question were appointed during the transition to devolved system of government on need-basis. The appointments were to be regularized by the County Public Service Board. However, this process took long because of budgetary issues and the county executive is working towards regularizing the same.

Committee Observation

The committee noted that the county executive lacks an approved staff establishment.

Committee Recommendations

The Committee recommends that the County should submit to the Office of the Auditor General the approved staff establishment and measures taken to rationalize the staff establishment within 60 days of adoption of this Report.

6.4. Manual Payroll

A review of the payroll records established that the County Executive maintained both IPPD payroll with a total of 3,260 employees and the manual payroll (excel sheet) with

a total of 1,357 employees. No plausible explanation was provided by Management for maintaining the two (2) sets of payrolls.

In the circumstances, the existence of a strong Human Resource Policy Framework cannot be confirmed.

Management Response

Management submitted that the County Government of Wajir had two (2) sets of payrolls; The IPPD and the Manual Payroll. The County Manual payroll contained persons awaiting personal numbers, casual staff (with no personal numbers) and ECD teachers. The Manual Payroll was for transition purpose to the IPPD payroll. The Manual payroll was meant to process salary for staff before they receive their Personal Numbers. It took time from Personal Number request to DPSM and the time the same received. It took months. The County was forced to process salary for the affected employees. Immediately their personal numbers were received their details were transferred into the IPPD payroll. The other group of County staff who are in the Manual Payroll were the Early Childhood Education Teachers (ECD's) who were recruited by the County Public Service Board. The ECDE teachers had no personal numbers, scheme of services and no code numbers in the IPPD system.

Committee Observation

The committee noted that the county maintained manual payroll system in addition to IPPD system to process county employee's salary which is prone to errors and manipulation.

Committee Recommendations

The Committee recommends that;

1. **The County Executive should engage the State Department of Public Service to fast-track the issuance of personal numbers to enable them onboard all employees on the Integrated Personnel and Payroll Database (IPPD) System;**
2. **the County Public Service Board to develop a framework of regularizing the casual workers and provide a status update to the Office of the Auditor General within 60 days; and**
3. **the Auditor General to review the matter in subsequent audit cycle.**

CHAPTER FIFETEEN

REPORT OF THE SENATE COUNTY PUBLIC ACCOUNTS COMMITTEE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF SAMBURU COUNTY EXECUTIVE REPORT FOR THE FINANCIAL YEAR 2019/2020

The Governor of Samburu County Executive Hon. Lati Leletit appeared before the Committee on Thursday, 15th June, 2023 to respond (under oath) to audit queries raised in the Report of the Auditor General on Financial Statements for Samburu County Executive for the Financial Year 2019/2020.

Adverse Opinion

EXECUTIVE SUMMARY OF THE UNRESOLVED ISSUES				
S/NO	**AUDIT QUERY**	**COMMITTEE RECOMMENDATIONS**	**ACTORS**	**TIMELINE**
1.	**1.Discrepancies in Management Report and Financial Statements** - The Key Management Information Report and the financial statements contain numerous discrepancies	The Committee recommends that;- 1. The County CEO undertakes administrative action against the accounting officer, the Chief Officer Finance, the Head of County Treasury and any other officer(s) responsible for failure to undertake reconciliation of financial statements within the stipulated timelines and submit a report to the Committee within 60 days of adoption of this report; 2. The Institute of Certified Public Accountants (ICPAK) takes action(s) against the Head of Treasury for misrepresentation of financial statements which constitutes professional misconduct pursuant to Section 8 (a) and 30 of the Accountants Act CAP 531 and reports to the Committee within 60 days of adoption of this report; 3. County CEO must ensure strict adherence to the Public Audit Act, 2015 by providing	1) The County Chief Executive Officer 2) The National Treasury	60 days from the date of adoption of this report

		accurate and reliable reconciliations of the financial statements, payment details and the vote books during the audit cycle; The County Executive to identify training needs of its staff serving in the Finance Department and initiate capacity building and training in conjunction with the National Treasury within 60 days of adoption of this report.		
2.	**1.2 Inaccuracies and Misstatements -** The annual report and financial statements contain discrepancies and misstatement.	The Committee recommends that;- 1. The County CEO undertakes administrative action against the accounting officer, the Chief Officer Finance, the Head of County Treasury and any other officer(s) responsible for failure to undertake reconciliation of financial statements within the stipulated timelines and submit a report to the Committee within 60 days of adoption of this report; 2. The Institute of Certified Public Accountants (ICPAK) takes action(s) against the Head of Treasury for misrepresentation of financial statements which constitutes professional misconduct pursuant to Section 8 (a) and 30 of the Accountants Act CAP 531 and reports to the Committee within 60 days of adoption of this report; 3. County CEO must ensure strict adherence to the Public Audit Act, 2015 by providing accurate and reliable reconciliations of the financial statements, payment details and the vote books during the audit cycle; The County	1) The County Chief Executive Officer 2) Institute of Certified Public Accountants (ICPAK)	60 days from the date of adoption of this report

		Executive to identify training needs of its staff serving in the Finance Department and initiate capacity building and training in conjunction with the National Treasury within 60 days of adoption of this report.		
3.	**Unconfirmed Balances-Variances between Financial Statement and Ledger Balances** Fourteen large balances reflected in the financial statements differ with those reflected. in respect to identical accounts in the IFMIS ledger.	The Committee recommends that;- 1. The County CEO undertakes administrative action against the accounting officer, the Chief Officer Finance, the Head of County Treasury and any other officer(s) responsible for failure to undertake reconciliation of financial statements within the stipulated timelines and submit a report to the Committee within 60 days of adoption of this report; 2. The Institute of Certified Public Accountants (ICPAK) takes action(s) against the Head of Treasury for misrepresentation of financial statements which constitutes professional misconduct pursuant to Section 8 (a) and 30 of the Accountants Act CAP 531 and reports to the Committee within 60 days of adoption of this report; County CEO must ensure strict adherence to the Public Audit Act, 2015 by providing accurate and reliable reconciliations of the financial statements, payment details and the vote books during the audit cycle; and 3. The County Executive to identify training needs of its staff serving in the Finance Department and initiate capacity building and training	1) The County Chief Executive Officer 2) The National Treasury 3) The Auditor General	60 days from the date of adoption of this report

		in conjunction with the National Treasury within 60 days of adoption of this report.		
4.	**2.3 Compensation of Employees Costs** Unexplained variances totaling Kshs.110, 774,012 on basic salaries of permanent employees, personal allowances paid as part of salary, and pension and other social security contributions were noted.	The Committee recommends that;- 1. The County CEO undertakes administrative action against the accounting officer, the Chief Officer Finance, the Head of County Treasury and any other officer(s) responsible for failure to undertake reconciliation of financial statements within the stipulated timelines and submit a report to the Committee within 60 days of adoption of this report; 2. The Institute of Certified Public Accountants (ICPAK) takes action(s) against the Head of Treasury for misrepresentation of financial statements which constitutes professional misconduct pursuant to Section 8 (a) and 30 of the Accountants Act CAP 531 and reports to the Committee within 60 days of adoption of this report; 3. County CEO must ensure strict adherence to the Public Audit Act, 2015 by providing accurate and reliable reconciliations of the financial statements, payment details and the vote books during the audit cycle; and 4. The County Executive to identify training needs of its staff serving in the Finance Department and initiate capacity building and training in conjunction with the National Treasury within 60 days of adoption of this report.	1) The County Chief Executive Officer 2) The National Treasury	60 days from the date of adoption of this report

5.	**2.4 Misclassified Expenditure-** expenditures totaling Kshs.485, 767,075 on the two items are misclassified	The Committee recoemnds that;- 1. The County CEO undertakes administrative action against the accounting officer, the Chief Officer Finance, the Head of County Treasury and any other officer(s) responsible for failure to undertake reconciliation of financial statements within the stipulated timelines and submit a report to the Committee within 60 days of adoption of this report; 2. The Institute of Certified Public Accountants (ICPAK) takes action(s) against the Head of Treasury for misrepresentation of financial statements which constitutes professional misconduct pursuant to Section 8 (a) and 30 of the Accountants Act CAP 531 and reports to the Committee within 60 days of adoption of this report; 3. the EACC causes an investigation on to the expenditure of Kshs.485,767,075 to ascertain if there was an intent to defraud the county and provide a status update within sixty (60) days from the adoption of this report. 4. County CEO must ensure strict adherence to the Public Audit Act, 2015 by providing accurate and reliable reconciliations of the financial statements, payment details and the vote books during the audit cycle; and 5. The County Executive to identify training needs of its staff serving in the Finance	The EACC	60 days from the date of adoption of this report

		Department and initiate capacity building and training in conjunction with the National Treasury within 60 days of adoption of this report.		
6.	**2.6 Social Security Benefits** Records on the payments reflected unpaid mortgage deductions totaling Kshs.6, 102,145 expensed under compensation of employees.	1) The Committee recommends that the county provides financial statements of the mortgage fund, schedule of those who received the mortgages; name, amount and designation, security offered, repayments that have been made to date and measures the county is taking to ensure recovery to the auditor general within sixty (60) days from the adoption of this report; and 2) The Committee recommends that the EACC investigates the mortgage matter in the county to ascertain prudence in the use of county revolving funds and provide a status report to the Senate within 90 days of adoption of this report.	1) The County Chief Executive Officer 2) The EACC	60 days from the date of adoption of this report
7.	**2.8 Bank Accounts-** six (6) bank accounts. However, the accounts were not supported with cash book records, or bank balance certificates.	1) The County CEO undertakes administrative action against the responsible accounting officers, the County Executive Committee Member (CECM) in charge of Finance and Economic Planning, who failed to provide the documents to the auditors in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report.	The County Chief Executive Officer	60 days from the date of adoption of this report

8.	**2.9 Unreported Bank Accounts-** Bank accounts with cash balances totaling Kshs.1, 269,375 as at 30 June, 2020 held In commercial banks were omitted from the financial statements.	The County CEO undertakes administrative action against the responsible accounting officer, the head of county treasury and any other officer(s) for omitting the bank accounts and failure to ensure the accuracy of the financial statements within the stipulated timelines in accordance with section 156 of the Public Finance Management Act, 2012 and submit a report to the Office of the Auditor General within sixty (60) days of adoption of this report.	The County Chief Executive Officer	60 days from the date of adoption of this report
9.	**5.0 Pending Bills-** the accuracy and completeness of the pending bills balance totaling Kshs.737, 915,217 as at 30 June, 2020 could not be confirmed.	The Committee recommends that;- 1. the National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate so as to enable county entities settle their obligations on time; 2. the County Executive should disclose all pending bills in the format prescribed by the Public Sector Accounting Standards Board as stipulated under Section 104(1)(h) of Public Finance Management Act, 2012; 3. the county executive puts in place measures to enhance own generated revenue in order to meet its revenue target and address revenue shortfalls that contribute to the challenge of pending bills; 4. Pending bills deemed ineligible should be forwarded to the Directorate of Criminal Investigation (DCI) for investigation proper legal action taken against those filing false claims;	1) The County Chief Executive Officer 2) The National Treasury 3) The DCI 4) The Auditor General	Continous

		5. County Government to take note of judgement in a Kitale High Court Constitutional Petition E003 of 2023 that declared formation of pending bills verification committees unconstitutional and engage Office of the OAG and strengthen the internal audit functions.; 6. All valid pending bills that have been reviewed by the Office of the Auditor General be paid and a payment plan be submitted to the county assembly for approval and progress report on implementation sent to the Senate and the Office of the Controller of Budget.		
10.	**6.0 Other Grants and Payments - Emergency Payments**	1) The County CEO undertakes administrative actions against the accounting officer(s) who failed to provide all the documents to the auditors in accordance with section 156 of the Public Finance Management Act and provides a status report to the Office of the Auditor General within 60 days from the adoption of this report. 2) The County Executive Committee should regularise the process of establishing the fund through the Samburu County Assembly in line with Section 110 of the PFM Act, 2012.	1) The County CEO 2) CECM Finance	60 days from the adoption of this report
11.	**7.0 Refunds of Deposits and Retention Monies**	The committee recommends the EACC to cause investigation into contractors' deposit and retention payments and provides a status update to the Senate within ninety (90) days from the adoption of this report.	The EACC	Within 90 days from the adoption of this report

12.	**8.0 Budgetary Control and Performance** under-expenditure of Kshs.456, 827,487 Or 11% of the budget.	1) the National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate and comply with Article 219 of the Constitution and Section 17(6) of the Public Finance Management Act, 2012. 2) the County executive puts in place measures to enhance its own generated revenue in order to meet its revenue target and address revenue shortfalls.	The National Treasury	
REPORT ON LAWFULNESS AND EFFECTIVE IN USE OF PUBLIC RESOURCES				
13.	**1.2Idle Donor Project Funds** Funds set aside for the development of Maralal Municipality but were not put to use. No satisfactory explanation was provided for the Failure to utilize the funds.	The Auditor General should conduct project verification to ascertain the completion status and report back to the Senate within 60 days of adoption of this report.	Auditor General	Within 60 days of adoption of this report
14.	**1.4 Boreholes Drilled Without Authority-** Water Resources Management Authority (WARMA) permits were not obtained for the drilling of 30 boreholes.	1. The Committee recommends that the Auditor General conducts project verification to ascertain the completion status and report back to Senate within 60 days of adoption of this report. 2. The committee further recommends Water Resources Management Authority (WARMA) to enforce the regulations made under the water act and provides a status update to the	1)Auditor General 2)Water Resources Management Authority (WARMA)	

		OAG within 60 days of adoption of this report.		
15.	**2.0 Irregular Grants Issued to Samburu Water and Sanitation Company Limited** the grants were issued contrary to Section 71 of the Public Finance Management (County Government) Regulations, 2015	The committee recommends the Senate County Public Investment and Special Fund to look into this matter. The committee further recommends the County Government to operate within the provision of the law for such grants provided to County Corporations	The County Chief Executive Officer Senate CPISF	
16.	**4.0 Irregular Payments to Council of Governors payments** totaling Kshs.3, 227,133 were made to the Council of Governors contrary to Section 37 of the Intergovernmental Relations Act, 2012,	The Committee recommends that;- 1. the irregular payments to the Council of Governors (COG) be stopped and further recommends the surcharge of any Governor, in their capacity as Chief Executive Officer, who continues to make the irregular contribution; and 2. The EACC should oversee the recovery of all the public funds irregularly transferred to the Council of Governors (COG) by the Governor. This is in line with the Resolution of the Senate.	The County CEO EACC	Immediately

17	**5.0 Uncollected Land Rates** Examination of revenue records revealed unpaid land rates, including penalties for Delayed payment, totaling Kshs.60, 343,374	1) The county executive should automate their revenue collection to enhance revenue collection, administration, enforcement and also seal revenue leakages and provide a status update to the Office of the Auditor General within 60 days of adoption of this report; 2) The county executive should adopt realistic revenue targets based on their mapped revenue streams; and 3) the Auditor General to review the matter in the next audit cycle.	1) The County CEO 2) The Auditor General 3) CECM Finance 4) Receiver of Revenue	Subsequent Audit Cycle
REPORT ON THE EFFECTIVNESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE				
18	**1.0 Irregular Payroll System** The County Government maintains two (2) payroll systems; the electronic Integrated. Payroll and Personnel Database (IPPD) for its 1,614 permanent staff and a manual System for 529 non-permanent	1. The County Executive should engage the State Department of Public Service to fast-track the issuance of personal numbers to enable them onboard all employees on the Integrated Personnel and Payroll Database (IPPD) System; 2. the County Public Service Board to develop a framework of regularizing the casual workers and provide a status update to the Office of the Auditor General within 60 days; and 3. the Auditor General to review the matter in subsequent audit cycle.	1) CECM Finance 2) Auditor General	Continuous
1.	**3.0 Lack of County Performance Management and Staff**	1. The committee recommends the County Public Service Board put in place a performance and staffs appraisal systems and tools in place and provide a status update to the	1) County Public Service Board	60 days from the Adoption of the Report

	Appraisal System Management of Samburu County Executive had neither designed a Performance Management Plan nor established a Performance Management Committee. As a result, staff were not evaluated on their performance in the year	OAG within sixty (60) days from the adoption of this report. 2.The committee further recommends the Auditor General to monitor the matter.	2) Auditor General	

Adverse Opinion

1.0 Discrepancies in Management Report and Financial Statements

The Key Management Information Report and the financial statements contain numerous discrepancies, as outlined below:

1.1 Omissions and Errors

(i) The financial statements are titled 'County Government of Samburu without denoting that they are specific to the County Executive.

(ii) The information provided on key members of Management at Page iii does not include the profile of the County Secretary.

(iii) The report on expenditure for the year at page xi indicates that the County Executive equipped 24 boreholes during the year under review whereas the operational performance report at page xiv indicates that seventeen (17) boreholes were equipped.

(iv) Contrary to the requirements of Paragraph 19 of IPSAS (Cash Basis), the summary statement of appropriation: recurrent and development combined does not provide footnotes on various under-expenditures and adjustments totaling Kshs.1, 281,017 made on the budget for the year. Further, the statement does not indicate the surplus or deficit amount for the year under review.

(v) Important disclosures in Note 5 to the financial statements on establishment of other County Government entities at page 43 have omitted Maralal Municipality

and Samburu County Persons Living with Disabilities Fund both of which are in operation.

(vi) Annex 3 - analysis of pending staff payables does not indicate the aggregate sum of payables as at 30 June 2020.

(vii) The asset classes reflected in Annex 5-summary of fixed assets register- at page 104 do not correspond with the asset disclosures in Note 17- description of assets. The former reflects 19 classes of assets whereas the latter reflects 9 (nine).

(viii) Disclosures on Inter-entity transfers at page 106 have not been signed off by the Director of Finance and as a result, their validity has not been confirmed.

(ix) Pages iii to xv of the financial statements do not have headers.

(x) Note 1 on page 41 on other important disclosures - pending accounts payables indicates that detailed analyses of the payables are reflected in Annex 1 to the financial statements. However, actual analyses are reflected in Annex 2. Further, the attached annex reflects pending accounts balances as at 30 June, 2019 instead of 30 June, 2020.

(xi) The disclosures at Note 1- pending staff payables at page 41 make reference to detailed analysis at Annex 2 instead of Annex 3. Similarly, the disclosures at Note 3, other pending payables at page 41 makes reference to a detailed analysis at Annex 3 instead of Annex 4.

(xii) The disclosure on accounts receivables-outstanding imprests in Note 22 to the financial statements does not indicate the amounts of imprests issued and surrendered. xiii. Annex 8 on pending bills owed by the defunct local authorities at page 108 reflects a balance of Kshs.34,877,937 for the year comprised of Kshs.31,837,590 and Kshs.3,040,347 owed to the defunct County Council of Samburu and Town Council of Maralal respectively. However, detailed analyses of the balances have not been provided.

Management Response

The Management submitted the following that;

i) The omissions referred in i and ii have been noted and we shall make amendments in subsequent years.

ii) The correct status is that the County Executive equipped 24 boreholes during the year under review. The seventeen boreholes indicated at page xiv was an error in the financial statements.

iii) County did not provide foot notes to explain the over/under expenditures as per IPSAS 1.9.23 however the County had done explanations of such variances in subsequent years.

iv) People Living with Disabilities (PLWD) Fund was an omission; however, we have made amendments in subsequent years. The municipality was still under the normal operation of the County Executive.

v) The errors referred in VI have been noted.

vi) Note 17 reflect the transactions of assets purchased during the year while Annex 5 is the summary of the total assets of the county.

vii) The Director Finance had duly signed disclosure on inter-entity transfer as per the attached annexure.

viii) The omissions and errors referred ix to xi have been noted and we shall make amendments in subsequent years.

ix) The outstanding imprest balance of 1,176,272 is supported by a schedule under note 22 which show imprest issued and surrendered as per the attached annexure.

x) The analyses of pending Bills Of Defunct Local Authorities are well Captured In The County Assets And Liability Committee Report attached as annexure

Committee Observations

The Committee noted that the financial statements of Samburu were basic bookkeeping issues, and it points to gross professional negligence.

Committee Recommendations

The Committee recoemnds that;-

1. **The County CEO undertakes administrative action against the accounting officer, the Chief Officer Finance, the Head of County Treasury and any other officer(s) responsible for failure to undertake reconciliation of financial statements within the stipulated timelines and submit a report to the Committee within 60 days of adoption of this report;**
2. **The Institute of Certified Public Accountants (ICPAK) takes action(s) against the Head of Treasury for misrepresentation of financial statements which constitutes professional misconduct pursuant to Section 8 (a) and 30 of the Accountants Act CAP 531 and reports to the Committee within 60 days of adoption of this report;**
3. **County CEO must ensure strict adherence to the Public Audit Act, 2015 by providing accurate and reliable reconciliations of the financial statements, payment details and the vote books during the audit cycle; and**
4. **The County Executive to identify training needs of its staff serving in the Finance Department and initiate capacity building and training in conjunction with the National Treasury within 60 days of adoption of this report.**

1.2 Inaccuracies and Misstatements

The annual report and financial statements contain the following discrepancies:

i. The Foreword by the County Executive Committee Member (CECM) for Finance, Economic Planning and Information Communication Technology at Page (vii) indicates that the County Executive had in the year under review budgeted for revenues totaling Kshs.5, 615,006,285. However, the balance differs with the revenue budget balance totaling Kshs.6,075,395,125 reflected in respect to the account in the statement of appropriation: recurrent and development combined, resulting to an unexplained variance of Kshs.460,388,840.

ii. In addition, the Foreword highlights a cash and cash equivalents balance of Kshs.485,008,631 as at 30 June, 2020 whereas, the statement of financial assets and liabilities reflects a balance of Kshs.1,546,199,279 resulting to an unexplained variance of Kshs.1,061,190,648.

iii. The statement of receipts and payments reflects payments totaling Kshs.5, 182,428,104 whereas the statement of appropriation: recurrent and development combined reflects Kshs.4, 692,131,086 resulting to an unexplained variance of Kshs.490, 297,018.

iv. The disclosure in Note 9 to the financial statements reflects County own generated receipts totaling Kshs.215,349,580 but a recast of the balances included therein yields Kshs.215,069,579 resulting to an unexplained variance of Kshs.280,001.

v. The statement of receipts and payments reflects comparative transfers (receipts) from other government entities totaling Kshs.213, 955,254. However, the balance does not tally with the sum of Kshs.224, 702,414 reflected in Note 3 to the financial statements resulting to an unexplained variance of Kshs.10, 747,160. The disclosure in Note 24 to the financial statements reflects a fund balance totaling Kshs.1, 388,400,396 but a recast of the amounts shown as comprising the balance yields a sum of Kshs.1, 386,700,686 resulting to an unexplained variance of Kshs.1, 699,710.

vi. The statement of receipts and payments reflects use of goods and services expenditure totaling Kshs.1, 516,808,956, as further disclosed in Note 12 to the financial statements. The balance includes other operating expenditure totaling Kshs.827,507,583 which in turn includes cash transfers totaling Kshs.159,861,552 from the County Revenue Fund as outlined below:

Date	Payment Voucher No	Payee	Amount (KSH.)
24-10-2019	724	Samburu County Naris Operational Account	6,500,000
06-03-2020	2002	Samburu County Ideas Project Account	32,288,748
30-03-2020	2236	ASDP II Special Purpose Account	10,747,160

30-06-2020	2839	Samburu County Narig Operational Account	100,325,644
30-06-2020	3430	Samburu County Narig Operational Account	10,000,000
Total			159,861,552

The funds were held in Project accounts operated with commercial banks as at 30 June, 2020 and therefore, did not qualify as expenditure items as their reflection in The statement of receipts and payments is intended to portray. As a result of the incorrect treatment of the transfers, the expenditure on goods and services is overstated by Kshs.159, 861,552 and the surplus for the year understated by the same amount.

In view of these matters, the financial statements and the Management report do not provide adequate disclosure on the financial position of the County Executive as at 30 June, 2019 and of its operations for the year then ended. In addition, they do not conform to the reporting format prescribed by the Public Sector Accounting Standards Board.

Management Response

Management submitted that;

i) The statement in the highlights referred in i and ii by the CECM relate to prior year. The error is noted. We shall endeavor to proofread document before submission to the auditor General.
ii) The statement in the highlights referred in i and ii by the CECM relate to prior year. The error is noted. We shall endeavor to proofread document before submission to the auditor General.
iii) A recast of the certified financial statements indicate the correct amount of Ksh 215,349,579.
iv) The errors have been noted.
v) The transfers were expensed under management fees rather than transfer to other County entities however the funds were utilized as per the attached bank statements, bank reconciliations and certificates of bank balances.
vi) The balances of the unutilized funds are well captured in the financial statements as per attached annexure.

Committee Observation

The Committee noted that there was negligence in preparation of the financial statements by the county treasury.

Committee Recommendations

The Committee recoemnds that;-

1) **The County CEO undertakes administrative action against the accounting officer, the Chief Officer Finance, the Head of County Treasury and any other officer(s) responsible for failure to undertake reconciliation of financial statements within the stipulated timelines and submit a report to the Committee within 60 days of adoption of this report;**
2) **The Institute of Certified Public Accountants (ICPAK) takes action(s) against the Head of Treasury for misrepresentation of financial statements which constitutes professional misconduct pursuant to Section 8 (a) and 30 of the Accountants Act CAP 531 and reports to the Committee within 60 days of adoption of this report;**
3) **County CEO must ensure strict adherence to the Public Audit Act, 2015 by providing accurate and reliable reconciliations of the financial statements, payment details and the vote books during the audit cycle; and**
4) **The County Executive to identify training needs of its staff serving in the Finance Department and initiate capacity building and training in conjunction with the National Treasury within 60 days of adoption of this report.**

2. Unconfirmed Balances

2.1 Variances between Financial Statement and Ledger Balances

Fourteen large balances reflected in the financial statements differ with those reflected

in respect to identical accounts in the Integrated Financial Management Information

Systems (IFMIS) ledger. The accounts Include cash and bank balances, exchequer releases, proceeds from domestic and Foreign grants, use of goods and services, transfers to other government entities, Accounts payables, other grants and transfers, among others.

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

Management Response

The County Treasury of Samburu had teamed up with staff from National Treasury to conduct a cleanup exercise of the system data for previous years which was affecting the year in question in order to harmonize system generated reports against financial statements. After the above explained exercise, here below is the resulting comparative analysis of financial statements data against IFMIS balances. The funds returned to CRF at the commencement of the year are categorized under exchequer releases in the system due to use of the similar chart of account code. Consequently, in the system, funds transferred to other government units exclude transfers to the County Assembly since the Assembly generates its reports separately.

County Executive attached the latest IFMIS extracts of Receipts and Payments, Assets and Liabilities and CRF extracts showing amounts returned and transfers to the County Assembly in the year.

Committee Observation

The Committee noted that there was a discrepancies variance between the balances in the financial statements and ledger balances.

Committee Recommendations

The Committee recoemnds that;-

1. **The County CEO undertakes administrative action against the accounting officer, the Chief Officer Finance, the Head of County Treasury and any other officer(s) responsible for failure to undertake reconciliation of financial statements within the stipulated timelines and submit a report to the Committee within 60 days of adoption of this report;**
2. **The Institute of Certified Public Accountants (ICPAK) takes action(s) against the Head of Treasury for misrepresentation of financial statements which constitutes professional misconduct pursuant to Section 8 (a) and 30 of the Accountants Act CAP 531 and reports to the Committee within 60 days of adoption of this report;**
3. **County CEO must ensure strict adherence to the Public Audit Act, 2015 by providing accurate and reliable reconciliations of the financial statements, payment details and the vote books during the audit cycle; and**
4. **The County Executive to identify training needs of its staff serving in the Finance Department and initiate capacity building and training in conjunction with the National Treasury within 60 days of adoption of this report.**

2.2 Transfers from Other Government Entities

The statement of receipts and payments reflects transfers from other Government entities totaling Kshs.159, 899,473, as disclosed in Note 3 to the financial statements. Included in the balance are receipts on account of Road Maintenance Levy Fund (RMLF) and Health Workers Emergency Allowance (HWEA) totaling Kshs.131, 167,313 and Kshs.16, 485,000 respectively, or Kshs.147, 652,313 in Aggregate. However actual RMLF and HWEA receipts for the period reflected in bank statements totaled Kshs.188, 754,490 and nil respectively resulting to unexplained net variances of Kshs.57, 587,177 and Kshs.16, 485,000 respectively.

Consequently, the accuracy and completeness of the reported transfers from other government entities receipts totaling Kshs.159, 899,473 reflected in the statement of receipts and payments for the year ended 30 June, 2020 could not be confirmed.

Management Response

In FY 2015/16 the amount received from Kenya Roads Board by the Department of Roads, Transport and Public Works was Ksh. 45,129,788.00 which was not utilized and was returned to CRF as unspent balance on 21/7/2016. In the following year, FY

2016/17 Kenya Roads Board again transferred another amount of Ksh. 58,898,596 to CRF. The amount was transferred from CRF to special purpose account but upon financial year closure the entire amount was not utilized and was refunded back to CRF as unspent balances on 27/7/2017. The two figures of unspent balances returned to CRF of Ksh. 45,129,788 and Ksh. 58,898,596 gives a total of Ksh. 104,028,374 Kenya Roads Board balance in CRF. The entire amount of Ksh. 104,028,374 remained un-utilized until FY 2018/19 where Ksh. 46,441,197.00 was first transferred from CRF to Special purpose account leaving a balance of Ksh. 57,587,177.00 which was later transferred to special purpose account in FY 2019/20 on 11/5/2020. As per the attached annexure 7(a) 16,485,000 relates to funds for COVID Response for Health Workers Emergency Allowance (HWEA) sent by ministry of health. County executive attached the authority to incur expenditure from the ministry of health in the annexure 7(b).

Committee Observation

The Committee noted that the matter has since been addressed.

Committee Recommendation

The Committee recommends that the matter be marked as resolved.

2.3 Compensation of Employees Costs

The statement of receipts and payments reflects compensation of employee's costs totaling Kshs.1, 801,273,580, as further disclosed in Note 11 to the financial statements. However, unexplained variances totaling Kshs.110, 774,012 on basic salaries of permanent employees, personal allowances paid as part of salary, and pension and other social security contributions were noted, as detailed below:

Description	Amount in Financial Statements (Kshs.)	Amount in Payroll (Kshs.)	Variance (Kshs.)
Basic Salaries of Permanent Employees	1,004,788,871	787,642,718	217,146,153
Personal Allowances Paid as Part of Salary	690,963,143	819,683,792	(128,720,649)
Personal Allowances Paid as	1,333,095	0	1,333,095

Reimbursements			
Pension and Other Social Security Contributions	104,188,471	83,173,059	21,015,413
Total	1,801,273,580	1,690,499,569	110,774,012

In view of the unexplained variances, the accuracy and completeness of the compensation of employee's costs totaling Kshs.1, 801,273,580 reflected in the statement of receipts and payments could not be confirmed.

Management Response

We acknowledge the variances between amount in financial statements and amount in payroll emanated from manual payroll. Not all staff compensation was processed through the payroll system thus resulting to a discrepancy between the payroll an Actual amount spent. Having spent on the following lead to the difference mentioned;

- Gratuity of KES 34,223,903 paid to retired members of County Public Service Board and other staff.
- Casual laborers engaged for short term jobs by the Health department in the three main hospitals in the county drew KES 12,379,796.85 in terms of wages.
- Employer's pension contribution amounted to KES 52,641,048.80 is normally processed out of the payroll.

Committee observation

The Committee noted that Management had reconciled the misposted variances up to kshs.99, 244,749 but kshs.11,529,263 worth of variance not explained.

Committee Recommendations

The Committee recoemnds that;-

1. **The County CEO undertakes administrative action against the accounting officer, the Chief Officer Finance, the Head of County Treasury and any other officer(s) responsible for failure to undertake reconciliation of financial statements within the stipulated timelines and submit a report to the Committee within 60 days of adoption of this report;**
2. **The Institute of Certified Public Accountants (ICPAK) takes action(s) against the Head of Treasury for misrepresentation of financial statements which constitutes professional misconduct pursuant to Section 8 (a) and 30 of the Accountants Act CAP 531 and reports to the Committee within 60 days of adoption of this report;**
3. **County CEO must ensure strict adherence to the Public Audit Act, 2015 by providing accurate and reliable reconciliations of the financial statements, payment details and the vote books during the audit cycle; and**

4. **The County Executive to identify training needs of its staff serving in the Finance Department and initiate capacity building and training in conjunction with the National Treasury within 60 days of adoption of this report.**

2.4 Misclassified Expenditure

The statement of receipts and payments reflects use of goods and services and Acquisition of assets balances totaling Kshs.1, 516,808,956 and Kshs.829, 286,906, as disclosed in Note 12 and Note 17 to the financial statements respectively. However, expenditures totaling Kshs.485, 767,075 on the two items are misclassified.

Consequently, the use of goods and services balance totaling Kshs.1, 808,273,580 and acquisition of assets totaling Kshs.829, 286,906 reflected in the statement of receipts and payments are not fairly stated in the financial statements.

Management Response

The management has put in place measures to minimize misclassifications of expenditures.

Committee Observation

The Committee observed that the county spent money outside the correct budget line without approval from the county assembly.

Committee Recommendation

The Committee recommends that;-

1. **The County CEO undertakes administrative action against the accounting officer, the Chief Officer Finance, the Head of County Treasury and any other officer(s) responsible for failure to undertake reconciliation of financial statements within the stipulated timelines and submit a report to the Committee within 60 days of adoption of this report;**
2. **The Institute of Certified Public Accountants (ICPAK) takes action(s) against the Head of Treasury for misrepresentation of financial statements which constitutes professional misconduct pursuant to Section 8 (a) and 30 of the Accountants Act CAP 531 and reports to the Committee within 60 days of adoption of this report;**
3. **the EACC causes an investigation on to the expenditure of Kshs.485,767,075 to ascertain if there was an intent to defraud the county and provide a status update within sixty (60) days from the adoption of this report.**
4. **County CEO must ensure strict adherence to the Public Audit Act, 2015 by providing accurate and reliable reconciliations of the financial statements, payment details and the vote books during the audit cycle; and**
5. **The County Executive to identify training needs of its staff serving in the Finance Department and initiate capacity building and training in conjunction with the National Treasury within 60 days of adoption of this report.**

2.5 Transfers to Other Government Entities

The statement of receipts and payments reflects transfers to other government entities totaling Kshs.630, 127,269 as disclosed in Note 14 to the financial statements. The balance includes other capital transfers to Wildlife Conservancies totaling Kshs.93, 643,164. However, the transfers were not supported by any legal framework or provision and there were no records of activities or expected outputs identified before the transfers were made. Further, expenditure returns, if any, indicating the use of the grants were not provided for audit review.

In view of these anomalies, the accuracy, completeness and validity of transfers to other government entities totaling Kshs.630, 127,269 made in the year under review could not be confirmed.

Management Response

These transfers were done in anticipation of the enactment of the Samburu County Conservancy act 2020

Committee Observation

The Committee noted that the matter has since been addressed.

Committee Recommendation

The Committee recommends that the matter be marked as resolved.

2.6 Social Security Benefits

The statement of receipts and payments reflects social security benefits payments Totaling Kshs.6, 767,634. However, records on the payments reflected unpaid mortgage deductions totaling Kshs.6, 102,145 expensed under compensation of employees.

Consequently, the accuracy and completeness of social security benefits expenditure totaling Kshs.6, 767,634 for the year ended 30 June, 2020 could not be confirmed.

Management Response

We accept the error; mortgage was wrongly classified as social security. The management has put in place measures to minimize misclassifications.

Committee Observation

The Committee observed that the county used money meant for mortgages to pay for social security benefits.

Committee Recommendations

The Committee recommends that;

1) **The Committee recommends that the county provides financial statements of the mortgage fund, schedule of those who received the mortgages; name, amount and designation, security offered, repayments that have been made to date and measures the county is taking to ensure recovery to the auditor general within sixty (60) days from the adoption of this report; and**
2) **The Committee recommends the EACC to investigate the mortgage matter in the county to ascertain prudence in the use of county revolving funds and provide a status update to the Senate within 90 days of adoption of this report.**

2.7 Bank Balances

The statement of assets and liabilities reflects bank balances totaling Kshs.1, 546,199,279, as further disclosed in Note 21A to the financial statements.

However, the following anomalies were noted in respect to the balances:

2.8 Bank Accounts

Included in the balance is Kshs.244, 708,334 reportedly held in six (6) bank accounts.

However, the accounts were not supported with cash book records, or bank balance certificates:

Account Name	Balance (Kshs.)
Samburu County Roads Maintenance & Fuel Levy	113,092,333
Samburu County Narig Project	9,941,915
Samburu County Maralal Youth Polytechnic	250,292
Samburu County IDEAS Project	47,951,933
Maralal Municipality KUSP UDG	49,997,931
Maralal Municipality UIG	23,473,930
Total	**244,708,334**

Further, Annex 7 - other bank account balances - reflects eighteen (18) bank accounts shown as having balances totaling Kshs.293, 400,534 as at 30 June, 2020. However, cash books and certificates for these bank accounts were likewise, not provided for audit review.

Management Response

We wish to present the cash books, bank balance certificates and bank reconciliations as per the attached annexure.

Committee Observation

The Committee noted that no bank certificates and balances were provided.

Committee recommendation

The County CEO undertakes administrative action against the responsible accounting officers, the County Executive Committee Member (CECM) in charge of Finance and Economic Planning, who failed to provide the documents to the auditors in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report.

2.9 Unreported Bank Accounts

Bank accounts with cash balances totaling Kshs.1, 269,375 as at 30 June, 2020 held

In commercial banks were omitted from the financial statements as detailed below:

Account Name	Amount (Kshs.)
Samburu County Maralal International Camel Derby	0
Samburu County Asset Creation Accounts	1,244,356
Samburu County ASDP	0
Samburu County Maralal Village Youth Polytechnic	25,018.50
Total	1,269,375

In view of these discrepancies, the accuracy, completeness and fair statement of the reported bank balances totaling Kshs.1, 546,199,279 as at 30 June, 2020 could not be confirmed.

Management Response

Samburu County Maralal International Camel Derby, Samburu County ASDP and Samburu County Maralal Village Youth Polytechnic bank accounts were captured in the financial statement of FY 2019/2020 page 36 and page 107 however there was an omission of Samburu County Asset creation bank accounts.

Committee Observation

The Committee noted that the Bank accounts with cash balances totaling Kshs.1,269,375 as at 30 June, 2020 held in commercial banks were omitted from the financial statements.

Committee Recommendation

The County CEO undertakes administrative action against the responsible accounting officer, the head of county treasury and any other officer(s) for omitting the bank accounts and failure to ensure the accuracy of the financial statements within the stipulated timelines in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report.

3.0 Accounts Receivables - Outstanding Imprests

The statement of assets and liabilities reflects accounts receivables- outstanding imprests balance totaling Kshs.71, 134,261 as at 30 June, 2020, as disclosed in Note

22 to the financial statements. Included in the balance is Kshs.15, 527,402 reportedly owed by unnamed County Assembly Members and staff. Further, records on the imprests indicated that, only Kshs.229, 244,724 of the imprests totaling

Kshs.332, 968,572 issued during the year under review were surrendered leaving a balance of Kshs.103, 723,848 outstanding as at 30 June, 2020. However, as indicated, the statement of assets and liabilities as at 30 June, 2020 reflects outstanding imprests totaling Kshs.71, 134,261 only. The variance amounting to

Kshs.32, 589,587 between the two sets of records has not been explained. As a result, the accuracy and fair statement of the reported accounts receivables – outstanding imprests - totaling Kshs.71, 134,261 as at 30 June, 2020 could not be confirmed.

Management Response

The County executive reported receivable amount of Ksh. 71,134,260.90 which comprises of;

(i) Outstanding imprest of Ksh. 55,606,859
(ii) Receivable from County Assembly of Ksh. 15,527,401.90

Therefore, the outstanding imprest of Ksh, 55,606,859 is the accumulated amount for the following years;

S/NO	FINANCIAL YEAR	AMOUNT
1.	FY 2013/2014	21,183,478.00
2.	FY 2014/1015	10,775,658.00

3	FY 2015/2016	9,190,638.00
4	FY 2016/2017	4,396,828.00
5.	FY 2017/2018	3,269,684.00
6.	FY 2018/2019	5,614,301.00
7.	FY 2019/2020	1,176,272.00
	TOTAL	**55,606,859.00**

The total amount of imprest issued during the year 2019/2020 was Ksh. 358,034,912.00 and Ksh. 356,858,640.00 were fully surrendered leaving a balance of Ksh. 1,176,272 as outstanding imprest as per attached analysis and impress register.

Committee Observation

The Committee noted that the matter has since been addressed.

Committee Recommendation

The Committee recommends that the matter be marked as resolved.

4.0 Acquisition of Assets

The statement of receipts and payments reflects acquisition of assets balance totaling

Kshs.829, 286,906 as further disclosed in Note 17 to the financial statements. Included in the balance are purchase costs for motor vehicles and other transport equipment totaling Kshs.47, 577,032. However, log books for an undisclosed number of motor vehicles valued at Kshs.37, 403,032 as at 30 June, 2020 were not provided for audit and as a result, their ownership by the County Executive could not be confirmed.

Management Response

There was delay in delivery of vehicles from Toyota due to challenges Related to cross boarder movement as a result of covid-19 pandemic Nonetheless, all the five vehicles have now been delivered and attached as

Committee Observation

The Committee noted that the matter has since been addressed.

Committee Recommendation

The Committee recommends that the matter be marked as resolved.

5.0 Pending Bills

Note 5.10 to the financial statements on other important disclosures reflects pending

Accounts payable balance totaling Kshs.1, 149,826,715 arrived at by adding the Balances from 2018/2019 to the unpaid bills for the year under review. Out of this Balance, Kshs.411, 911,497 is indicated to have been paid in the year leaving an Outstanding balance of Kshs.737, 915,217 as at 30 June, 2020. However, records Made available for audit indicated that actual payments in the year totaled Kshs.22, 236,618 only. As a result, the unpaid bills totaling Kshs.737, 915,217 disclosed in the financial Statements as at 30 June, 2020 may have been understated by Kshs.389, 674,879. Therefore, the actual unpaid bills may have totaled Kshs.1, 127,590,096 as at 30 June, 2020. Consequently, the accuracy and completeness of the pending bills balance totaling Kshs.737, 915,217 as at 30 June, 2020 could not be confirmed.

Management Response

The pending bills for the year under review were reported as Ksh. 737,915,217. The balance is work in progress. However correct status of pending bills has been ascertained by the pending bills Committee. The current status is that the said pending bills have been settled.

Committee Observations

The Committee observed that-

1) the County Executive had not settled all its pending bills at the time of the audit;

2) the County Executive did not provide a status report of all its pending bills as prescribed by the Public Sector Accounting Standards Board. This could lead to inadequate disclosures of the pending bills; and

3) there was poor record keeping of pending bills that could lead to ineligible bills and litigations.

Committee Recommendations

The Committee recommends that;-

1. **the National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate so as to enable county entities settle their obligations on time;**

2. **the County Executive should disclose all pending bills in the format prescribed by the Public Sector Accounting Standards Board as stipulated under Section 104(1)(h) of Public Finance Management Act, 2012;**
3. **the county executive puts in place measures to enhance own generated revenue in order to meet its revenue target and address revenue shortfalls that contribute to the challenge of pending bills;**
4. **Pending bills deemed ineligible should be forwarded to the Directorate of Criminal Investigation (DCI) for investigation proper legal action taken against those filing false claims;**
5. **County Government to take note of judgement in a Kitale High Court Constitutional Petition E003 of 2023 that declared formation of pending bills**

verification committees unconstitutional and engage Office of the OAG and strengthen the internal audit functions.;

6. **All valid pending bills that have been reviewed by the Office of the Auditor General be paid and a payment plan be submitted to the county assembly for approval and progress report on implementation sent to the Senate and the Office of the Controller of Budget.**

6.0 Other Grants and Payments - Emergency Payments

The statement of receipts and payments reflects other grants and payments totaling Kshs.398, 163,759 which in turn includes payments for emergency relief and refugee Assistance totaling Kshs.299, 363,759, as disclosed in Note 15 to the financial Statements. The relief payments include Kshs.71, 363,759 spent without sufficient Records on the unforeseen needs funded. As a result, the occurrence and propriety of The payments could not be confirmed. Further, the spending contravened Section 110 Of the Public Finance Management Act, 2012 that requires the County Executive Committee to seek the approval of the County Assembly before establishing an Emergency Fund.

Management Response

Ksh 71,363,759 relates to emergency relief food supplies to drought affected people, locust invasion and security emergency response within the County which is a budget expenditure item in our budget under special programs.

Committee Observations

The committee noted that;

1) the responses given by the county executive were unsatisfactory;
2) the lack of sufficient documentation towards expenditure on emergency relief food supplies
3) the executive failed to seek county assembly's approval on the establishment of the county emergency fund which is irregular.

Committee Recommendation

The Committee recommends that;

1) **The County CEO undertakes administrative actions against the accounting officer(s) who failed to provide all the documents to the auditors in accordance with section 156 of the Public Finance Management Act and provides a status report to the Office of the Auditor General within 60 days from the adoption of this report;**

2) **The County Executive Committee should regularise the process of establishing the fund through the Samburu County Assembly in line with Section 110 of the PFM Act, 2012.**

7.0 Refunds of Deposits and Retention Monies

Project expenditure records indicated that deposits and retentions totaling Kshs.106, 537,548 were paid to contractors during the year under review. However, the refunds were not supported with official receipts, demand notices from contractors, Certificates of final account and approvals from the Department of Roads and Public Works. This was contrary to Section 151(2) (h) of the Public Procurement and Asset Disposal Act, 2015 which requires each project implementation team to ensure a Contract is completed - including all handover procedures, transfer of title if applicable, And payment of final retention payment- prior to closing the contract file.

Therefore, Management did not adhere to the law and further, the propriety of the Payments could not be confirmed.

Management Response

It is true that the suppliers are refunded their retention fees at the end of defect liability period, we ensure that support documentation must include certificate of completion from public works, demand notice from suppliers and confirmation of approvals to make payments by the authorized chief officers

Committee Observations

The Committee noted that;

1) the responses given by the county executive is unsatisfactory.
2) the management did not provide sufficient documentation on payment of contractor's deposit and retention money.

Committee Recommendation

The Committee recommends that the County CEO undertakes administrative actions against the accounting officer(s) who failed to provide all the documents to the auditors in accordance with section 156 of the Public Finance Management Act and provides a status report to the Office of the Auditor General within 60 days from the adoption of this report;

Other Matter

Budgetary Control and Performance

The statement of appropriation: recurrent and development combined reflects final Expenditure budget and actual on comparable basis totaling Kshs.6, 413,311,289 and Kshs.4, 692,131,086 respectively resulting in an under-expenditure of Kshs.1, 721,180,203 or 27% of the budget. The under-expenditure mainly occurred in the development vote with Kshs.906, 603,119 spent against an allocation of Kshs.2,

170,955,835 resulting in Under-expenditure of Kshs.1, 264,352,716 or 58% of the budget. under the recurrent vote, actual expenditure totaled Kshs.3, 785,527,967 against an Allocation of Kshs.4, 242,355,454 resulting in under-expenditure of Kshs.456, 827,487 Or 11% of the budget. Failure to spend the whole of the development vote implied that some portion of the planned for execution during the year under review were not implemented. As a result, a significant portion of the goods and services promised to the residents of Samburu County were not delivered.

Management Response

There were delays in implementation of development projects in the year Under review due to challenges in rolling out e-procurement module and Delay of disbursement of funds by the National Treasury which led to Low budget absorption.

Committee Observations

The Committee observed that;

1) there was under-utilization of appropriated funds by the county executive as a result of delay in exchequer releases by the National Treasury; and

2) the county did not meet its own-source revenue targets.

Committee Recommendations

The Committee therefore recommends that:

(1) the National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate and comply with Article 219 of the Constitution and Section 17(6) of the Public Finance Management Act, 2012.

(2) the County executive puts in place measures to enhance its own generated revenue in order to meet its revenue target and address revenue shortfalls.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

1.0 Unsatisfactory Implementation of Projects

1.1 Failure to Implement Contracted Projects

The Projects Implementation Status Report as at 30 June, 2020 indicated that projects

Valued at Kshs.1, 358,248,530 were contracted for implementation during the year

Under review and payments totaling Kshs.822, 960,480 or 61% of the total value of

The portfolio was made to the contractors as indicated below:

Department	Contracted Amount	Amount Paid (Kshs.)	Works Outstanding

	(Kshs.)		(Kshs.)
Finance and Economic Planning	16,897,900	16,897,900	-
Agriculture, Livestock, Veterinary Services& Fisheries	98,941,908	98,941,908	-
Water, Environment, Natural Resources and Energy	174,839,935	131,647,826	43,192,109
Education & Vocational Training	104,696,542	72,276,680	32,419,862
Medical Services	235,845,190	48,523,970	187,321,220
Lands and Physical Planning	183,863,060	93,955,280	89,907,780
Public Works	516,711,320	341,890,589	174,820,731
Tourism, Trade, Enterprise Development and Cooperatives	18,826,348	18,826,327	21
Culture, Social Services, Gender, Sports and Youth Affairs	7,626,327		7,626,327
Total	1,358,248,530	822,960,480	535,288,050

Several unsatisfactory matters were noted on implementation of the projects, as

Described below:

Management Response

The management reported that the projects in question have been completed as evidence and project implementation report to affirm successful completion of the same.

Committee Observation

The Committee noted that the matter has since been addressed.

Committee Recommendation

The Committee recommends that the matter be marked as resolved.

1.2 Delays, Poor Workmanship, and Unutilized Projects

Audit inspection of a sample of twenty-nine (29) development projects valued at Kshs.328, 381,595 revealed several unsatisfactory issues. The issues included delay in completion, poor quality workmanship and failure to put Completed projects to use. In view of these issues, value for money on the public funds spent on the projects May not be realized.

Management Response

I wish to report that the projects in question have been completed as evidenced in annexure 19 which include photos and project implementation report to affirm successful completion of the same.

Committee Observation

The Committee noted that the matter has since been addressed.

Committee Recommendation

The Committee recommends that the matter be marked as resolved.

1.3 Idle Donor Project Funds

the financial statements reflect Kenya Urban Support Programmed funds totaling Kshs.49, 997,931 held by the County Executive as at 30 June, 2020. The Funds were, two years previously, set aside for the development of Maralal Municipality but were not put to use. No satisfactory explanation was provided for the Failure to utilize the funds. The delay is contrary to the provisions of Section 149(1) of The Public Finance Management Act, 2012 that requires an Accounting Officer to Ensure that the resources of the entity for which the Officer is designated are used in A way that is effective, efficient, economical and transparent. Further, in view of the failure to spend the funds, the expected improvement of local infrastructure expected to benefit County's residents was not realized.

Management Response

We admit there were delays in implementation of the donor funded projects, however the funds are now fully utilized and the project complete. The project entails the construction of Maralal market and construction of carobs in Maralal Town.

Committee Observation

The Committee noted that the matter was outstanding.

Committee Recommendation

The Committee recommends that the Auditor General conducts project verification to ascertain the completion status and report back to Senate within 60 days of adoption of this report.

1.4 Boreholes Drilled Without Authority

Expenditure records indicated that payments totaling Kshs.69, 891,200 were made for thirty boreholes drilled in various Wards in the County. However, contrary to the provisions Section 2(2) of the Fourth Schedule to the Water Act, 2016, requirements For hydrological surveys, Environmental Impact Assessment (EIA) and Water Resources Management Authority (WARMA) permits were not obtained before award of the drilling contracts. The provision requires any person intending to construct a borehole or well to obtain a permit from the Authority and comply with any other requirements set.

Management Response

The county executive drilled 35 boreholes during the year under review out of which 24 boreholes were successful equipped and is in use.

Committee Observation

The Committee noted that the matter was outstanding and the response given by the county executive is unsatisfactory.

Committee Recommendations

The Committee recommends that;

1. **the Auditor General conducts project verification to ascertain the completion status and report back to Senate within 60 days of adoption of this report;**
2. **Water Resources Management Authority (WARMA) to enforce the regulations made under the water act and provide a status update to the Auditor General within 60 days of adoption of this report.**

2.0 Irregular Grants Issued to Samburu Water and Sanitation Company Limited

Examination of expenditure records indicated that in the year under review, the County Executive provided grants valued at Kshs.46, 187,071 disbursed in cash and kind to Samburu Water and Sanitation Company Limited to augment its budgetary resources.

However, the grants were issued contrary to Section 71 of the Public Finance Management (County Government) Regulations, 2015 which prohibits One County

Government entity from making donations to another for the purpose of augmenting

The budgetary resources of the recipient entity.

Management Response

The County Assembly of Samburu approved a budget for grant to support SAWASCO to provide water to urban centers within the County. It is the responsibility of the County Government to ensure the residents of Samburu County gets adequate and reliable water supply and as such the expenditure is regular as per attached approved County supplementary budget.

Committee Observation

The committee noted that the grants to Samburu Water and Sanitation Company Limited was irregular as it was provided outside the provision of the law.

Committee Recommendations

The Committee recommends that;

1. **the Senate County Public Investment and Special Funds to look into this matter.**
2. **the County Government to operate within the provision of the law when providing such grants to County Corporations.**

3.0 Irregular Commitments for Supply of Goods and Services

Procurement records indicated that expenditure commitments totaling Kshs.108, 765,543 were made during the month of June, 2020 without the written Approval of the Accounting Officer. This was contrary to Section 50(1) of the Public Finance Management (County Government) Regulations, 2015 that 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.

Management Response

I wish to confirm that all commitments done after 31st of May 2020 were done with express approval by the Accounting officers.

Committee Observation

The committee observed that the matter has since been addressed

Committee Recommendations

The committee recommends that the matter be marked as resolved.

4.0 Irregular Payments to Council of Governors

Records on operating expenses indicated that payments totaling Kshs.3, 227,133 were made to the Council of Governors contrary to Section 37 of the Intergovernmental Relations Act, 2012, which provides that all operational expenses of The Council should be met by the National Government.

Therefore, in effecting the expenditure, Management may have breached the law.

Management Response

Irregularity noted.

Committee Observation

The Committee noted that payments made to the Council of Governors from County Revenue Funds were irregular and unlawful since the Intergovernmental Relations Act specifies that funding for the COG shall be drawn from the Consolidated Fund.

Committee Recommendation

The Committee recommends that;-

1. **the irregular payments to the Council of Governors (COG) be stopped and further recommends the surcharge of any Governor, in their capacity as Chief Executive Officer, who continues to make the irregular contribution; and**
2. **The EACC should oversee the recovery of all the public funds irregularly transferred to the Council of Governors (COG) by the Governor. This is in line with the Resolution of the Senate.**

5.0 Uncollected Land Rates

Examination of revenue records revealed unpaid land rates, including penalties for delayed payment, totaling Kshs.60,343,374 as at 30 June, 2020. Failure to collect the rates denied the County Government revenue for use in funding public services and development activities. In addition, it contravened Regulation 63(1) of the Public Finance Management (County Governments) Regulations, 2015, which requires the Accounting Officer and Receiver of Revenue in each County entity to ensure that adequate safeguards exist and are applied for the prompt collection and proper Accounting for all County Government Revenue and all other public monies related to The Counties.

Management Response

It is true that the arrears of land rates stood at 60,343,374 as at 30th June 2020.We had Covid-19 pandemic during the year under review which significantly affected general revenue collection in the County. The County is in the process of acquiring an integrated revenue collection and management system in order to enhance revenue collection, administration, enforcement and provision of information to aid management in decision making especially after passing of national policy to support enhancement of

county government revenue collection acquisition of the Electronic Revenue module including;

- Samburu county purchase requisition form
- Samburu County Tender Notice
- Minutes of tender opening committee dated 14th February, 2023
- Minutes and Report of Tender Evaluation Committee dated 15th March, 2023
- GOK IFMIS Evaluation Matrix Report
- Head of Supply Chain Management Professional Opinion for Supply, Installation and Commissioning of Revenue Collection Automation System dated 20th March, 2023
- Notification of award and Award Letter to Web Tribe Limited Dated 21th March, 2023
- Local Purchase Order (L.P.O) awarded to Web Tribe Limited dated 17th April, 2023
- Contract Agreement between Samburu County Government and Web Tribe Limited dated 5th April, 2023

Committee Observation

The committee noted the county failed to collect land rates totalling totaling Kshs.60,343,374.

Committee Recommendation

The Committee recommends that;

1) **The county executive should automate their revenue collection so as to enhance revenue collection, administration, enforcement and also seal revenue leakages and provide a status update to the OAG within 60 days of adoption of this report;**
2) **The county executive should adopt realistic revenue targets based on their mapped revenue streams; and**
3) **the Auditor General to review the matter in the next audit cycle.**

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

1.0 Irregular Payroll System

The County Government maintains two (2) payroll systems; the electronic Integrated Payroll and Personnel Database (IPPD) for its 1,614 permanent staff and a manual system for 529 non-permanent. No satisfactory explanation has been provided for

The use of the manual system. Further, in addition to the manual payroll being overly

Prone to error and misstatement, its lack of integration with the IPPD system has increased the risk of duplication of salary and other payments to staff.

Management Response

The manual payroll system is as result of casual workers engaged mostly at the department of health and medical services who are engaged on 3 months contract from time to time. The salaries for new County employees on probation awaiting processing of their personal numbers are also processed manually. This number of employees in Manual Payroll System has tremendously reduced to 333 Employees as per Payroll report on May, 2023.

Committee Observation

The Committee observed that the County was processing salaries manually instead of using the IPPD system.

Committee Recommendations

The Committee recommends that;

1. **The County Executive should engage the State Department of Public Service to fast-track the issuance of personal numbers to enable them onboard all employees on the Integrated Personnel and Payroll Database (IPPD) System;**
2. **the County Public Service Board to develop a framework of regularizing the casual workers and provide a status update to the Office of the Auditor General within 60 days; and**
3. **the Auditor General to review the matter in subsequent audit cycle.**

2.0 Failure to Activate Electronic Revenue Module

Review of revenue collection records indicated that the County Government had not

Activated the IFMIS module for revenue collection but instead collected and accounted

For its revenues through manual procedures. The practice is contrary to Section 109(1)

Of the Public Finance Management (County Governments) Regulations, 2015 which

Requires County Government entities to use efficient and effective electronic systems

To process financial data.

Consequently, the revenue collection system does not comply with the Public Finance

Management (County Government) Regulations, 2015.

Management Response

TFMIS revenue module has been in existence and utilized by county government since its inception a couple of years ago. However, the module has limitations in that it does not support aspect of revenue collection which has been pointed out. Hence it necessitated the county to initiated the process of acquiring an integrated revenue collection and management system in order to enhance revenue collection, administration, enforcement and provision of information to aid management in decision making especially after passing of national policy to support enhancement of

county government revenue collection. Management provided the full procurement documents to support the acquisition of the Electronic Revenue module including;

- Samburu county purchase requisition form
- Samburu County Tender Notice
- Minutes of tender opening committee dated 14th February, 2023
- Minutes and Report of Tender Evaluation Committee dated 15th March, 2023
- GOK IFMIS Evaluation Matrix Report
- Head of Supply Chain Management Professional Opinion for Supply, Installation and commissioning of Revenue Collection Automation System dated 20th March, 2023
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Committee Observation

The committee noted that the matter has since been addressed.

Committee Recommendation

The Committee recommends that the issue be marked as resolved.

3.0 Lack of County Performance Management and Staff Appraisal System

Section C.5 (1) of the County Public Service Human Resource Manual, 2013, requires

All County Governments to develop their own performance appraisal instruments and

Apply these in evaluating the performance of staff in the County Public Service.

However, Management of Samburu County Executive had neither designed a

Performance Management Plan nor established a Performance Management Committee. As a result, staff were not evaluated on their performance in the year

Under review. Consequently, Management had not complied with regulations and lacked objective Means to measure and control staff performance for effective human resource Development and service delivery to the residents of Samburu County.

Management Response

We are in agreement that during the time of audit the County Government had not yet established performance management and staff appraisal system however the process has already been started beginning with County Executive Committee Members and is expected to cascade downwards to other levels of staff.

Committee Observation

The committee noted that the county executive did not have performance management and staff appraisal system in place to monitor and evaluate the performance of its employees.

Committee Recommendations

The Committee recommends that;

1) **the County Public Service Board puts in place a performance and staffs appraisal systems and tools and provide a status update to the office of the Auditor General within sixty (60) days from the adoption of this report; and**
2) **the Auditor General to monitor the matter in the subsequent audit cycle.**

4.0 Lack of Risk Management Policy

Audit review of operational systems indicated that the County Executive had not

Instituted a risk management system contrary to Section 158(1) (a) and 1581(b) of the

Public Finance Management (County Government) Regulations, 2015. The provision

Requires the Accounting Officer to develop risk management strategies which include fraud prevention mechanisms and internal controls that build robust business

Operations.

Consequently, the County Executive lacks objective means to identify, measure, and

Mitigate risks to its operations.

Management Response

The County Executive did not have a risk management policy during the year under review however the County has developed a risk management policy.

Committee Observation

The committee noted that the matter has since been addressed.

Committee Recommendation

The Committee recommends that the issue be marked as resolved.