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REPUBLIC OF KENYA
SPEAKER'S OFFICE

THE SENATE

THIRTEENTH PARLIAMENT - THIRD SESSION

THE SENATE
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DEPUTY CLERK

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04 DEC 2024

CLERK'S OFFICE
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for approval for tabling
04/12/2024

**REPORT OF THE SELECT COMMITTEE ON COUNTY PUBLIC INVESTMENTS
AND SPECIAL FUNDS ON THE CONSIDERATION OF THE AUDIT REPORTS OF
THE FOLLOWING MUNICIPALITIES FOR THE FINANCIAL YEAR 2021/2022 (1st
JULY, 2021 TO 30th JUNE, 2022):**

NO.	MUNICIPALITY	COUNTY
1.	ELDORET MUNICIPALITY	UASIN GISHU
2.	KAKAMEGA MUNICIPALITY	KAKAMEGA
3.	KISII MUNICIPALITY	KISII
4.	KITALE MUNICIPALITY	TRANS NZOIA
5.	LAMU MUNICIPALITY	LAMU
6.	MIGORI MUNICIPALITY	MIGORI
7.	MUMIAS MUNICIPALITY	KAKAMEGA
8.	MURANGA MUNICIPALITY	MURANGA
9.	MWATATE MUNICIPALITY	TAITA TAVETA
10.	RONGO MUNICIPALITY	MIGORI
11.	RUMURUTI MUNICIPALITY	LAKEURIA

VOLUME XV

Hon. Speaker

You may approve for tabling
J. M. Nyegenye, C.B.S.,
Clerk of the senate secretary, PSC
Date: 04/12/24

Clerk's Chambers

The Senate

P.O. Box 41842-00100

Nairobi

November, 2024

APPROVED
RT. HON. SEN
AMASON J. KINGI

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*Mr. Hon. Speaker
You may address the
Chair of the committee
on the subject of the
committee's report.*

ACRONYMS/ABBREVIATIONS

CBK	- Central Bank of Kenya
COB	- Controller of Budget
COG	- Council of Governors
DPP	- Director of Public Prosecution
EACC	- Ethics and Anti-Corruption Commission
GAAP	- Generally Accepted Accounting Principles
IFMIS	- Integrated Financial Management Information System
KRA	- Kenya Revenue Authority
IGRTC	- Intergovernmental Relation Technical Committee
OAG	- Office of the Auditor-General
PAA	- Public Audit Act
PFM	- Public Finance Management
PSASB	- Public Sector Accounting Standards Board
SO	- Standing Orders
TNT	- The National Treasury

DEFINITION OF TERMS

1. **Unqualified opinion:** This refers to a clean opinion which is the most desirable in which the auditor states that the financial condition, position, and operations of an organization are fairly presented in the financial statements in accordance with Generally Accepted Accounting Principles (GAAP).
2. **Qualified opinion:** This is an opinion expressed by the auditor if the financial statements appear to contain a small deviation from Generally Accepted Accounting Principles (GAAP) but are otherwise fairly presented. It is also rendered if the management of the organization limits the scope of audit procedures.
3. **Adverse opinion:** This refers to an opinion issued when there are material exceptions to Generally Accepted Accounting Principles (GAAP) that affect the financial statements as a whole and the auditor indicates that the financial statements are not presented fairly.
4. **Disclaimer:** This is an opinion given by the auditor when there is a significant limitation in the access to audit information and documentation and inadequate cooperation by the organizational management in the audit process.
5. **Accountability** – This refers to the assurance that an individual or a group will be held responsible for their actions or inactions.

PREFACE

Hon. Speaker,

Parliamentary 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 (SO) for the orderly conduct of its proceedings, including the proceedings of its Committees. The Select Committee on County Public Investments and Special Funds is established pursuant to Standing Order No. 194 of the Senate Standing Orders and is mandated to-

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

COMMITTEE MEMBERSHIP

Hon. Speaker,

The membership of the Committee comprises of the following Senators-

1. Sen. Godfrey Atieno Osotsi, MP - **Chairperson**
2. Sen. (Prof.) Tom Odhiambo Ojienda, SC, MP - **Vice-Chairperson**
3. Sen. Ledama Olekina, MP
4. Sen. William Kipkemoi Kisang, MP
5. Sen. Paul Karungo Thangwa, MP
6. Sen. Miraj Abdillahi Abdulrahman, MP
7. Sen. Eddy Gicheru Oketch, MP
8. Sen. Hamida Kibwana Ali, MP
9. Sen. Maureen Tabitha Mutinda, MP

COMMITTEE SECRETARIAT

1. Mr. Yussuf Shimoy - Clerk Assistant I
2. Mr. David Angwenyi - Clerk Assistant I
3. Mr. Erick Njogu - Clerk Assistant II
4. Mr. Godfrey Nyaga - Clerk Assistant III
5. Mr. Kennedy Owuoth - Fiscal Analyst
6. Mr. Andrew Nyairo - Legal Counsel
7. Ms. Lucy Radoli - Legal Counsel
8. Ms. Linet Aseka - Research Officer III
9. Ms. Raisa Mwithi - Research Officer III
10. Mr. Martin Mulandi - Research Officer III
11. Mr. Josphat Ng'enh - Media Relations officer.
12. Ms. Winfred Ocholla - Audio officer
13. Mr. Patrick Ngenoh - Procurement officer
14. Mr. Josphat Ng'enh - Media Relations Officer.
15. Mr. Julia Gachoki - Serjent-at-arms

ESTABLISHMENT OF THE COMMITTEE

Hon. Speaker,

The Committee was first constituted on 19th October, 2022 pursuant to Standing Order No. 194 of the Senate Standing Orders. The County Public Investments and Special Funds Committee (CPISFC) was split from the broad County Public Accounts and Investments Committee (CPAIC) in the 12th Parliament for the purpose of clearing audit backlog and to consider many audit thematic areas which had not been subjected to Parliamentary scrutiny since the inception of devolution in the year 2013.

Hon. Speaker,

The County Public Investments and Special Funds Committee is one of the financial audit committees through which the Senate under the provisions of Article 96(3) of the Constitution conducts ex-post scrutiny on Public Investments and Special Funds in Counties.

EXECUTIVE SUMMARY

In the execution of its mandate, the Committee relied on the reports of the Auditor-General on audited Accounts of the Municipalities for the Financial year 2021/2022 (1st July, 2021 to 30th June, 2022) as the primary documents for the investigations. The Committee invited the Governors as the Chief Executive Officers of their respective County Governments pursuant to Article 179(4) as witnesses to respond to the audit queries raised in the reports under consideration.

The Committee received both written and oral evidences from the Governors in response to the various audit queries raised by the Auditor-General in the reports under consideration on various dates. The Committee considered and concluded its inquiry onto the reports of the Auditor-General on the Financial Operations of the Municipalities for the Financial Year 2021/2022.

This report documents the observations and recommendations of the Committee on each audit query as raised by the Auditor-General.

THE PREFACE DETAILS the place of Committees in the Constitution, Committee establishment and mandate, Committee membership and formation, the niche of the Committee in the Senate, the executive summary, key observations and recommendations and acknowledgement.

CHAPTER ONE is a record of the audit queries raised in the report of the Auditor-General for the Municipality of Eldoret for the Financial Year 2021/22 and observations and recommendations of the Committee on each audit query.

CHAPTER TWO is a record of the audit queries raised in the report of the Auditor-General for the Municipality of Kakamega for the Financial Year 2021/22 and observations and recommendations of the Committee on each audit query.

CHAPTER THREE is a record of the audit queries raised in the report of the Auditor-General for the Municipality of Kisii for the Financial Year 2021/22 and observations and recommendations of the Committee on each audit query.

CHAPTER FOUR is a record of the audit queries raised in the report of the Auditor-General for the Municipality of Kitale for the Financial Year 2021/22 and observations and recommendations of the Committee on each audit query.

CHAPTER FIVE is a record of the audit queries raised in the report of the Auditor-General for the Municipality of Lamu for the Financial Year 2021/22 and observations and recommendations of the Committee on each audit query.

CHAPTER SIX is a record of the audit queries raised in the report of the Auditor-General for the Municipality of Migori for the Financial Year 2021/22 and observations and recommendations of the Committee on each audit query.

CHAPTER SEVEN is a record of the audit queries raised in the report of the Auditor-General for the Municipality of Mumias for the Financial Year 2021/22 and observations and recommendations of the Committee on each audit query.

CHAPTER EIGHT is a record of the audit queries raised in the report of the Auditor-General for the Municipality of Muranga for the Financial Year 2021/22 and observations and recommendations of the Committee on each audit query.

CHAPTER NINE is a record of the audit queries raised in the report of the Auditor-General for the Municipality of Mwatate for the Financial Year 2021/22 and observations and recommendations of the Committee on each audit query.

CHAPTER TEN is a record of the audit queries raised in the report of the Auditor-General for the Municipality of Rongo for the Financial Year 2021/22 and observations and recommendations of the Committee on each audit query.

CHAPTER ELEVEN is a record of the audit queries raised in the report of the Auditor-General for the Municipality of Rumuruti for the Financial Year 2021/22 and observations and recommendations of the Committee on each audit query.

GENERAL OBSERVATIONS

1. **Lack of Operational Autonomy of Municipalities** – The Committee observed that various municipalities lacked operational independence from the County Executive with respect to management, function and finances. This contravened sections 12 on Management independence, 20 on functional independence, 45 and 46 on financial independence of the Urban Areas and Cities Act, 2011 CAP. 275.
2. **Bookkeeping, Preparation & Accuracy of the Financial Statements/ Compliance to Reporting Standards** – The Committee observed that there were various inaccuracies and errors in the financial statements of municipalities, raising concerns about the capacity of the officers who prepared the financial statements. It also observed that municipalities faced challenges in adapting to the International Public Sector Accounting Standards (IPSAS) framework required for preparing the financial statements.
3. **Periodic review of IPSAS**- The Committee observed that the Public Sector Accounting Standards Board (PSASB) periodically reviews IPSAS to address emerging issues and align with best practices, however county entities including municipalities struggled to apply the updated standards, as evidenced by the audit queries.
4. **Asset Management**- The Committee observed that the assets belonging to municipalities were still being held and managed by the county executives. Consequently, this made the municipalities not to maintain and update the asset registers which was contrary to section 104(1)(h) of the Public Finance Management Act, 2012. Thus, the true financial position of the municipalities could not be reflected in the financial statements.
5. **Late submission of documents**– The Committee observed that the Auditor-General encountered challenges in timely submission of supporting documents for audit by the municipalities, hindering the accountability and audit process. This delay contravened Section 62 of the Public Audit Act, Cap. 412B.
6. **Budgetary Control and Performance** – The Committee observed that municipalities had weaknesses in executing their approved budgets and did not adhere to the approved budget ceilings set for programs. The municipalities either over-utilized or under-utilized the appropriated funds. Further, some Municipalities prepared unbalanced budgets contrary to regulation 31(c) of the Public Finance Management (County Governments) Regulations, 2015.

GENERAL RECOMMENDATIONS

The Committee recommends that—

1. Governors ensure that operational independence of the municipalities is fully actualized in accordance with sections 12 (management independence), 20 (functional independence), 45 and 46 (financial independence) of the Urban Areas and Cities Act, by the end of the financial year 2024/2025.
2. Accounting officers responsible for municipalities in conjunction with the Public Sector Accounting Standards Board conduct continuous capacity building on financial reporting standards for officers preparing the financial statements of the municipalities so as to improve the quality of reporting and enhance compliance. Accounting officers to ensure that the accountants have requisite competency and experience in financial management as is required by the Accountants Act.
3. The National Treasury should enhance awareness and training on changes made to the accounting standards to all public officers handling financial matters in Counties.
4. Governors to ensure that municipalities have full custody of their assets by the end of the financial year 2024/2025. Further, accounting officers responsible for municipalities should maintain an accurate and up-to-date asset register in the format prescribed by the Public Sector Accounting Standards Board pursuant to section 104(1) (h) of the Public Finance Management Act 2012, failure to which penalties under section 199 of the Public Finance Management Act shall apply.
5. Accounting Officers responsible for municipalities should ensure proper record keeping in accordance with Section 149 (2)(b) of the Public Finance Management Act and provide all the supporting documents to the Auditor-General in accordance with section 9(1) (e) of the Public Audit Act during audit and adhere to the Accountants Act, failure to which the committee shall invoke section 62 of the Public Audit Act.
6. Accounting Officers responsible for municipalities should ensure compliance with regulation 31(c) and regulation 42(1)(b) of the Public Finance Management (County Government) Regulations, 2015 on preparation of a balanced budget and exerting budgetary control measures, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences shall apply.
7. The National Treasury should ensure timely release of funds to County Governments in line with the cash disbursement schedules approved by the Senate.

ACKNOWLEDGEMENT

Hon. Speaker,

The Committee wishes to acknowledge the support it received from the Office of the Speaker and the Clerk of the Senate in the execution of its mandate. I also take this opportunity to thank the Members of the Committee for their due diligence and commitment in the consideration of the audit reports. The Committee further wishes to express its appreciation to the able secretariat for their support and services in facilitating the Members and the Committee in its operations.

Hon. Speaker,

On behalf of the County Public Investments and Special Funds Committee, it is my pleasant duty and privilege to table this report on the floor of the Senate and commend it to the House for debate and adoption pursuant to the provision of Standing Order No. 223 (6) of the Senate Standing Orders.


SIGNED:

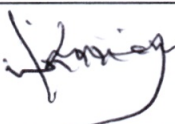
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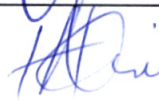
HON. SEN. GODFREY ATIENO OSOTSI, MP
CHAIRPERSON

**ADOPTION OF THE REPORT OF THE SENATE SELECT COMMITTEE ON
COUNTY PUBLIC INVESTMENTS AND SPECIAL FUNDS ON THE
CONSIDERATION OF THE AUDIT REPORTS OF ELEVEN
MUNICIPALITIES FOR THE FINANCIAL YEAR 2021/2022**

NO.	MUNICIPALITY	COUNTY
1.	ELDORET MUNICIPALITY	UASIN GISHU
2.	KAKAMEGA MUNICIPALITY	KAKAMEGA
3.	KISII MUNICIPALITY	KISII
4.	KITALE MUNICIPALITY	TRANS NZOIA
5.	LAMU MUNICIPALITY	LAMU
6	MIGORI MUNICIPALITY	MIGORI
7	MUMIAS MUNICIPALITY	KAKAMEGA
8	MURANGA MUNICIPALITY	MURANGA
9	MWATATE MUNICIPALITY	TAITA TAVETA
10	RONGO MUNICIPALITY	MIGORI
11	RUMURUTI MUNICIPALITY	LAIKIPIA

We, the undersigned Members of the Select Committee on County Public Investments and Special Funds, do hereby append our signatures to adopt this report.

No.	Name	Signature
1.	Sen. Godfrey Atieno Osotsi, MP (<i>Chairperson</i>)	
2.	Sen. (Prof.) Tom Odhiambo Ojienda, SC, MP (<i>Vice-Chairperson</i>)	
3.	Sen. Ledama Olekina, MP	
4.	Sen. William Kipkemoi Kisang, MP	

5.	Sen. Paul Karungo Thangwa, MP	
6.	Sen. Miraj Abdillahi Abdulrahman, MP	
7.	Sen Eddy Gicheru Oketch, MP	
8.	Sen. Hamida Kibwana Ali, MP	
9.	Sen. Maureen Tabitha Mutinda, MP	

CHAPTER ONE

REPORT ON THE AUDITED FINANCIAL STATEMENTS MUNICIPALITY OF ELDORET FOR THE FINANCIAL YEAR 2021/2022

The Governor of Uasin Gishu County, Hon. (Dr.) Jonathan Bii Chelilim, PHD, EGH, appeared before the Committee on Thursday, 25th July, 2024, to respond (under oath) to audit queries raised in the report of the Auditor-General on financial statements for the Municipality of Eldoret for the financial year 2021/2022. The Governor was accompanied by:

- | | |
|-----------------------|--|
| 1. Mr. Micah Rogony | -CECM-Finance |
| 2. Mr. Tito Koiyet | - Manager Municipality of Eldoret |
| 3. Mr. Jului Kitur | - Chairperson Eldoret Municipality Board |
| 4. Mr. Eliud Kipkorir | - Chief Officer- Finance |

REPORT ON THE FINANCIAL STATEMENTS

The Auditor-General rendered a **qualified opinion** on the Financial Statements of the Municipality of Eldoret for the period under review on the following basis—

1. Presentation and Accuracy of the Financial Statements

The statement of changes in net assets reflect opening capital fund balance of Kshs.610,640,513 whereas the closing balance as at 30 June, 2021 was Kshs.1,048,141,362 resulting to unexplained variance of Kshs.437,500,849. Further, the opening balance for retained earnings reflects nil balance which differs from the prior year closing balance of Kshs.3, 534,518.

In the circumstances, the accuracy and completeness of the statement of changes in net assets could not be confirmed.

Management response

County acknowledges the finding. Kshs 1,048,141,362 comprised of the Kshs 610,640,513 for Urban Development Grants, Kshs.433, 966,331 being County development co-funding amounts while Kshs 3,534,518 was Urban Institutional Grants. Kshs 3,534,518 was utilized during the year under use of goods. The total amount was treated as the closing balance as at 30 June 2021.

A reconciliation was done and it was determined that Kshs 433,966,331 was accounted for in the main County financial statements. At the close of the financial year 30 June 2022, this amount was among the funds that were transferred to County Revenue Fund Account as required by Law.

Committee Observations

The Committee observed that the management could not account for the County Development co-funding of Kshs. 433,966,331 and there was no evidence that this balance was transferred to County Revenue Fund.

Committee Recommendations

The Committee recommends that—

- i. the Accounting Officer to take appropriate administrative action on responsible officers within the Accounts and Finance department who fail to keep complete financial records in accordance with section 156(1) of the Public Finance Management Act, Cap.412A and in accordance with their terms and conditions of appointment or employment, failure to which the provisions of section 199 of the Public Finance Management Act, Cap.412A on penalties for offences shall apply;**
- ii. the Accounting Officer should comply with section 149(2)(b) of the Public Finance Management Act, Cap.412A and section 47(2) of Public Audit Act, Cap.412B in the preparation and management of financial and accounting records, failure to which the provisions of section 62 of the Public Audit Act, Cap.412B and section 199 of the Public Finance Management Act, Cap.412A on penalties and offences shall apply;**
- iii. the National Treasury should enhance awareness and training on changes made to the accounting standards to all public officers handling financial matters in Counties; and**
- iv. The Accounting Officer enhance the capacity of in-post officers preparing financial statements to comply with the requirements of the Public Sector Accounting Standards and should further invest in technology to enhance efficiency and improve the accuracy of financial statements.**

2. Valuation and Depreciation of Property, Plant and Equipment

The statement of financial position reflects total non-current assets of Kshs.564, 248,648 which includes property plant and equipment balance of Kshs.376, 444,167 as disclosed in Note 6 to the financial statements. However, no evidence was provided to indicate the valuation by a recognized valuer.

Further the statement of financial performance reflects depreciation and amortization amount of Kshs.11, 007,556. The Management has applied depreciation rate of 2% on the civil works, however, no approved depreciation policy was provided for audit

review to provide consistency and guidelines on accurate measurement of property, plant and equipment.

In the circumstances, the accuracy and completeness of the property, plant and equipment balance of Kshs.376, 444,167 and the depreciation and amortization expense of Kshs.11, 007,556 could not be confirmed.

Management response

Kshs.376, 444,167 is the net book value for property, plant and equipment. The basis of using 2% on civil works was guided by the Engineer's manual and IPSAS number 17 on the treatment of depreciation. County is currently developing an assets management policy that will cater for the above anomalies.

Committee Observations

The Committee observed that the management did not provide evidence to indicate the valuation by a recognized valuer. Further, the accuracy and completeness of the property, plant and equipment balance of Kshs.376,444,167 and the depreciation and amortization expense of Kshs.11,007,556 could not be confirmed.

Committee Recommendations

The Committee recommends that the Accounting Officer ensures that supporting documents are availed to the Auditor during audit as required under section 9(1)(e) of the Public Audit Act, failure to which the Committee shall recommend for their investigation and prosecution in line with section 62(2) of the Public Audit Act, 2015 in the subsequent audit cycle.

Other Matter

1. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects total receipts budget and actual on comparable basis of Kshs.1,016,323,168 and Kshs.937,951,527 respectively resulting to under-funding of Kshs.78,371,641 or 8% of the budget. Similarly, the Municipality spent Kshs.978,467,033 against approved budget of Kshs.1,016,323,168 resulting to an under-expenditure of Kshs.37,836,135 or 4% of the budget.

Management response

County acknowledges the observation. It was worth noting that despite the prevailing conditions of the Covid 19 pandemic and challenges experienced due to health stringent protocols, County was able to implement most of its projects. In comparison to the previous financial year, the period under review had an under

expenditure of 4% and underfunding of 8%.

In addition, the underspending of Kshs 37,856,135 was funds rolled over to the FY 2022/2023 as a result of multi-year projects.

Committee Observations

The Committee observed that the municipality had an under-funding of Kshs.78,371,641 or 8% of the budget. There was an under-expenditure of Kshs.37, 836, 135 or 4% of the budget.

Committee Recommendations

The Committee recommends that—

- i. **The Accounting Officer should ensure strict compliance with section 149(2) (h) and (i) of the Public Finance Management Act, Cap. 412A and the standards prescribed by the Public Sector Accounting Standards Board under IPSAS 24 on the presentation of budget information in the financial statements for an entity that prepares their financial statements under the accrual basis of accounting, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences shall apply; and**
- ii. **The Accounting Officer should comply with regulation 42(1) (b) of the Public Finance Management (County Government) Regulations, 2015 on exerting budgetary control measures, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences shall apply.**

2. 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. The Management has not resolved the issues or given any explanation for failure to adhere to the provisions of Section 149(2)(1) of the Public Finance Management Act, 2012 which require Accounting Officers designated for County Government entities to try to resolve any issues resulting from an audit that remain outstanding.

Management response

Municipality management was invited to appear before the County Assembly on 20th May 2024 to deliberate on audit reports for the FY 2021/2022 and 2022/2023. County

Assembly are yet to submit the recommendations to County for implementation. However, a number of items have been resolved such as having certificate of bank balances in place of board of survey; complying with accrual basis of reporting; independency of Municipality; expenditure on hospitality services; and completion of the four (4) projects.

The development of Asset management policy is ongoing and when finalized it will solve the anomalies of depreciation.

Committee Observations

The Committee observed that the management of the Municipality did not take action in resolving the queries raised in the report of the Auditor-General for the financial year 2020/2021.

Committee Recommendations

The Committee recommends that—

- i. The Accounting Officer should resolve any issues resulting from an audit that remains outstanding as required by section 149(2) (l) of the Public Finance Management Act, Cap. 412A, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences may apply; and**
- ii. The Auditor-General provides a status update on the progress made on the matter in the subsequent audit cycle upon review of the progress report.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Pursuant to Article 229 (6) of the Constitution, based on the audit procedures performed by the Auditor General, the following matters formed the basis for conclusion that public resources were not applied lawfully and in an effective way –

1. Lack of Operational Independence of the Entity

As previously reported, the Municipality was granted Municipal Charter on 18 August, 2020 which was supposed to grant operational independence from the County Government of Uasin Gishu. However, review of the operations of the Municipality revealed lack of autonomy as detailed below: -

- The Municipality's budget was prepared and controlled by the County Executive and there was no budget approval by the Municipality Board.
- Except from project accounts with joint signatories from the County Treasury, the Municipality's expenditure was controlled by the County

Treasury and did not have independent operations account.

- The County Government has continued to perform a number of functions which were transferred to the Municipality.

This is in contravention of Section 9(1) of the Urban Areas and Cities Act, 2011, which states that the County Governor may, on the resolution of the County Assembly, confer the status of a Municipality on a town that meets the criteria set out in Sub-Section (3), by grant of a Charter in the prescribed form. In addition, it contravenes Section 12(1) of the Urban Areas and Cities Act, 2011, which states that the Management of a City and Municipality shall be vested in the County Government and administered on its behalf by a Board, a Manager appointed pursuant to Section 28 and such other staff or officers as the County public service may determine.

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

Management response

County has complied with Section 9(1) of the Urban Areas and Cities Act, 2011 by granting the Municipal charter on 18 August, 2020. County has also put in place a Municipal Board, appointed a Municipal Manager and deployed a number of officers to run the operations of the Municipality.

Committee Observations

The Committee observed that the operations of the Municipality lacked autonomy which contravention of Section 9(1) of the Urban Areas and Cities Act, 2011.

Committee Recommendations

The committee recommends that the Governor of Uasin Gishu County ensures Eldoret Municipality operational independence is fully actualized in line with sections 12 (management independence), 20 (functional independence), 45 and 46 (financial independence) of the Urban Areas and Cities Act, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences may apply.

2. Occupational Safety and Health

Review of Municipality's occupational and safety records, revealed that the entity did not establish a Safety and Health Committee at the workplace as required under Section 9(1) of the Occupational Safety and Health Act, 2007. Further, Management did not provide a safety and health audit report as required under Section 11(1) which stipulates that the occupier of a workplace shall cause a thorough safety and health audit of his workplace to be carried out at least once in every period of twelve months by a safety and health advisor.

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

Management response

Municipality management constituted a safety and health committee on 3rd. March 2022. Committee conducted a safety and health audit of the workplace as required by the occupational safety and health section 9(1) Act 2007.

Committee Observations

The Committee observed that—

- i. The entity did not establish a Safety and Health Committee at the workplace as required under Section 9(1) of the Occupational Safety and Health Act, 2007; and
- ii. The Management did not provide a Safety and Health Audit Report.

Committee Recommendations

The Committee recommends that—

- i. the municipality strictly adhere to Section 9(1) of the Occupational Safety and Health Act, 2007, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences may apply; and
- ii. the Accounting Officer ensures that supporting documents are availed to the Auditor during audit as required under section 9(1)(e) of the Public Audit Act, failure to which the Committee shall recommend for their investigation and prosecution in accordance with section 62(2) of the Public Audit Act, 2015 in the subsequent audit cycle.

3. Failure to Observe Gender Equity on Board Composition

Review of Municipality records provided for audit revealed that the Municipality had nine (9) Municipality Board members out of which two (2) Board members or about 22% are from same gender contrary to Section 13(3) Urban Areas and Cities Act, 2011 which requires that the Executive Committee shall, while appointing members of the board, ensure gender equity, representation of persons with disability, youth and marginalized groups.

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

Management response

County is in cognizant to Section 13(3) Urban Areas and Cities Act, 2011 and has complied. Currently the Board members are at 70% male and 30% female as indicated in the table below:

S/No.	Name	Designation	Gender
-------	------	-------------	--------

1	Julius Kitur	Chairperson	Male
2	Beatrice Kambui	Vice Chairlady	Female
3	Peter Mwaniki	Member	Male
4	Walter Ayot	Member	Male
5	Winnie Maru	Member	Female
6	Richard Omanyala	Member	Male
7	Dr. Job K. Ngetich	Member	Male
8	Dr Janeth Kosgei	Member	Female
9	Julius Koech	Member	Male
10	Tito Koiet	Secretary	Male

Committee Observations

The Committee observed that the Municipality Board members out of which two (2) Board members or about 22% are from the same gender contrary to Section 13 (3) Urban Areas and Cities Act, 2011

Committee Recommendations

The Committee recommends that—

- i. The County Public Service Board makes deliberate efforts to progressively comply with section 65 of the County Governments Act, 2012 which provides 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; and**
- ii. The Board and the accounting officer to make deliberate efforts progressively in the endeavor to comply with Section 7 (1) and (2) of the National Cohesion and Integrity Act, 2008, which requires that public establishments shall seek to represent the diversity of the people of Kenya in employment of staff.**

4. Unsupported Special Board Meeting

Review of the board attendance register and minutes indicated that the Municipality board held a special full board on 30 September, 2021. However, there was no evidence to indicate that at least one third of the members of the board requested in writing for such meeting to occur, contrary to Section 23(2) Urban Areas and Cities Act, 2011 that states that the chairperson may, and upon request in writing by at least one-third of the members of the Board, convene a special meeting to transact any urgent business of the board.

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

Management response

County do comply with Section 23(2) Urban Areas and Cities Act, 2011, thus the board members requested the chairperson to convene a special meeting in writing when need arises as indicated on the notices to the Chairperson.

Committee Observations

The Committee observed that the letters for the convening the special board meeting have since been provide to the auditor, however, the same was not provided to the auditor during the audit that was conducted in December 2022.

Committee Recommendations

The Committee recommends that the Accounting Officer ensures that supporting documents are availed to the Auditor during audit as required under section 9(1)(e) of the Public Audit Act, failure to which the Committee shall recommend for their investigation and prosecution in accordance with section 62(2) of the Public Audit in the subsequent audit cycle.

5. Lack of Fixed Asset Register

Review of records for the Municipality revealed that the Management does not maintain a fixed asset register indicating the costs of the assets, where the assets are located and dates of acquisition as required by Regulation 136(1) of the Public Financial Management (County Government) Regulations, 2015.

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

Management response

County acknowledges the observation. During the period under review, the fixed asset register was being developed. Currently, the fixed asset register is being maintained.

Committee Observations

The Committee observed that the Municipality did not maintain an updated fixed asset register contrary to Regulation 136 (1), (2) and (3) of the Public Finance Management (County Governments) Regulations, 2015.

Committee Recommendations

The Committee recommends that—

- i. the Accounting Officer to ensure that the municipality maintains an up-to-date asset register in the format prescribed by the Public Sector Accounting Standards Board pursuant to section 104(1)(h) of the Public Finance Management Act 2012, failure to which penalties under section 199 of the Public Finance Management Act shall apply; and**
- ii. The Auditor-General to undertake physical verification of all assets of the Municipality and provide a status report to the Committee in the subsequent audit cycle.**

CHAPTER TWO

REPORT ON THE AUDITED FINANCIAL STATEMENTS FOR MUNICIPALITY OF KAKAMEGA FOR THE FINANCIAL YEAR 2021/2022

The Governor of Kakamega County, Hon. FCPA Fernandes Barasa, EGH, appeared before the Committee on Thursday, 22nd August, 2024 to respond (under oath) to audit queries raised in the report of the Auditor-General on financial statements for the municipality of Kakamega for the financial year 2021/2022. The Governor was accompanied by the following officers:

- | | |
|---------------------------|--------------------------------------|
| 1. CPA Livingstone Imbayi | - CECM-Finance and Economic Planning |
| 2. Mr. Charles Orunga | - CEO-Microfinance Corporation |
| 3. Mr. Jeophita Mwajuma | - CCO-Finance |
| 4. Mrs. Faith Gitiva | - CO-Trade |

REPORT ON THE FINANCIAL STATEMENTS

The Auditor-General rendered a **qualified opinion** on the financial statements of the Kakamega Municipality for the financial year based on the following basis-

1. Unconfirmed Balances

The source of the balance of Kshs.121, 646,033 in respect of surplus as at 01 July, 2021 could not be confirmed since this is the first set of financial statements of the Municipality which have been prepared for a period of twenty-two (22) months beginning 01 September, 2020.

Further, the source of balances of Kshs. (16,439,018) and Kshs.121, 646,033 in respect of net increase in cash and cash equivalents and cash and cash equivalents as at 01 July 2021 in the statement of cash flows could not be confirmed.

In addition, the statement of financial position reflects a balance of Kshs.121, 646,033 in respect of Fund balance brought forward as at 30 June, 2022 whose supporting documents was not provided.

Management response

The expenditures of the municipality were previously undertaken by the parent ministry of Lands, Physical Planning, Housing and Urban Development. That implies that their financial performance was being reported in the books of the County Executive.

The documents supporting the above figure were provided to the auditor during the audit exercise.

Committee Observations

The Committee observed that whereas the documents were provided and verified by the Auditor-General, and the query marked as addressed, the submission was done outside the timelines contemplated under the Public Audit Act, Cap.412B and constitutes an offence under section 62(2) of the Act.

Committee Recommendations

The Committee recommends that the Accounting Officer ensures that supporting documents are availed to the Auditor during audit as required under section 9(1)(e) of the Public Audit Act, failure to which the Committee shall recommend for their investigation and prosecution in accordance with section 62(2) of the Public Audit Act, 2015 in the subsequent audit cycle.

2. Failure to Disclose Reporting Period.

The Municipality Board has prepared and presented financial statements for a period of twenty-two (22) months ending 30 June, 2022. However, no disclosure has been provided in the financial statements to this effect.

Management response

The non-disclosure by management was due to technical capacity challenges. These were the first financial statements and those preparing them were not fully conversant with the new reporting template for municipalities. In future, management commits to improve on this.

Committee Observations

The committee observed that the municipality management did not disclose reporting period for the financial statements presented to the auditors for the year ending 30th June, 2022.

Committee Recommendations

The Committee recommends that—

- i. the Accounting Officer to take appropriate administrative action on responsible officers within the Accounts and Finance department who fail to keep complete financial records in accordance with section 156(1) of the Public Finance Management Act, Cap.412A and in accordance with their terms and conditions of appointment or employment, failure to which the provisions of section 199 of the Public Finance Management Act, Cap.412A on penalties for offences shall apply;**
- ii. the Accounting Officer should comply with section 149(2)(b) of the Public Finance Management Act, Cap.412A and section 47(2) of Public**

- Audit Act, Cap.412B in the preparation and management of financial and accounting records, failure to which the provisions of section 62 of the Public Audit Act, Cap.412B and section 199 of the Public Finance Management Act, Cap.412A on penalties and offences shall apply;**
- iii. the National Treasury should enhance awareness and training on changes made to the accounting standards to all public officers handling financial matters in counties; and**
 - iv. The Accounting Officer should enhance the capacity of in-post officers preparing financial statements to comply with the requirements of the Public Sector Accounting Standards and should further invest in technology to enhance efficiency and improve the accuracy of financial statements.**

Other Matter

Budgetary Control and Performance

- Under-funding of Kshs.112, 251,747 or 29% of the budget.
- under-performance of Kshs.279, 789,589 or 71% of the budget.
- The Municipality Board had a budget of Kshs.391, 627,740 under expenditure vote but received Kshs.111, 838,151

Management response

- i. Management acknowledges under expenditure due to late disbursement of funds from the exchequer.
- li.In ability of the World Bank to disburse funds in full.
- lii.Payments made on behalf of the Municipality by the parent ministry of Lands

Committee Observations

The Committee observed that there was an under-funding of Ksh 112,251,747 which is 29% of the approved budget and under-performance of Ksh 279,789,589 which is 71% of the approved budget for the financial year.

Committee Recommendations

The Committee recommends that—

- i. The Accounting Officer should ensure strict compliance with section 149(2) (h) and (i) of the Public Finance Management Act, Cap. 412A and the standards prescribed by the Public Sector Accounting Standards**

- Board under IPSAS 24 on the presentation of budget information in the financial statements for an entity that prepares their financial statements under the accrual basis of accounting, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences shall apply; and**
- ii. **The Accounting Officer should comply with regulation 42(1) (b) of the Public Finance Management (County Government) Regulations, 2015 on exerting budgetary control measures, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences shall apply.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Pursuant to Article 229 (6) of the Constitution, based on the audit procedures performed by the Auditor General, the following matters formed the basis for conclusion that public resources were not applied lawfully and in an effective way –

1.1. Contracts for Cleaning and Landscape Maintenance Services at Khayega Market.

The Municipality Board awarded a contract to a local company for cleaning and landscape maintenance at Khayega market at a contract sum of Kshs.6, 175,152. However, the Company did not submit a tender document as required by law.

No evidence for constitution of tender opening committee.

Management response

The service provider submitted tender document. The tender document was on file and still available for a further audit verification.

The tender opening committee was appointed by the chief officer ministry of lands. The opening committee appointment letter dated 5th November, 2020, and the tender opening minutes dated 11th November, 2020 were on file and still available for a further audit verification.

Committee Observations

The Committee observed that whereas the tender documents were provided and verified by the Auditor-General, and the query marked as addressed, the submission was done outside the timelines contemplated under the Public Audit Act, Cap.412B and constitutes an offence under section 62(2) of the Act.

Committee Recommendations

The Committee recommends that the Accounting Officer ensures that supporting documents are availed to the Auditor during audit as required under section 9(1)(e) of the Public Audit Act, failure to which the Committee shall recommend for their investigation and prosecution in accordance with section 62(2) of the Public Audit Act, 2015 in the subsequent audit cycle.

1.2 Cleaning and Landscape Maintenance Services at Rosterman Solid Waste Disposal Site

The Municipality Board awarded a contract to a local company for cleaning and landscape maintenance at Rosterman solid waste disposal site at a contract sum of Kshs.13,689,177. However, the Company did not submit a tender document.

No evidence for constitution of tender opening committee

Management response

The service provider submitted tender document The tender document was on file and still available for a further audit verification.

The tender opening committee was appointed by the chief officer ministry of lands. The opening committee appointment letter dated 5th November, 2020, and the tender opening minutes dated 11th November, 2020 were on file and still available for a further audit verification.

Committee Observations

The Committee observed that whereas the tender were provided and verified by the Auditor-General, and the query marked as addressed, the submission was done outside the timelines contemplated under the Public Audit Act, Cap.412B and constitutes an offence under section 62(2) of the Act.

Committee Recommendations

The Committee recommends that the Accounting Officer ensures that supporting documents are availed to the Auditor during audit as required under section 9(1)(e) of the Public Audit Act, failure to which the Committee shall recommend for their investigation and prosecution in accordance with section 62(2) of the Public Audit Act, 2015 in the subsequent audit cycle.

2. Other Contracts Awarded Without Tender Opening Committees

Municipality Board also awarded nine (9) contracts for supply of services and works for amounts totaling to Kshs.263,757,728. However, review of the procurement process revealed that the contracts were awarded without being subjected to tender opening as

required by Section 78(1). The management clarifies that 8 companies were awarded contracts for supply of services and works at a total contract sum of Kshs.264,897,898.99 and not nine (9) as indicated by the auditor. The tenders were submitted opened and evaluated as required by the law.

Management response

Tender opening documents for Demax Holdings Company Limited, Boybridge Investment Limited, Western Cross Express Company Limited -Zone A, Western Cross Express Company Limited – Zone B, Wheels Cleaning Company Limited, Hill Holdings Construction Limited and Boybridge Investment Limited were submitted to auditors for review.

Committee Observations

The Committee observed that whereas tender opening documents for the eight companies were provided and verified by the Auditor-General, and the query marked as addressed, the submission was done outside the timelines contemplated under the Public Audit Act, Cap.412B and constitutes an offence under section 62(2) of the Act.

Committee Recommendations

The Committee recommends that the Accounting Officer ensures that supporting documents are availed to the Auditor during audit as required under section 9(1)(e) of the Public Audit Act, failure to which the Committee shall recommend for their investigation and prosecution in accordance with section 62(2) of the Public Audit Act, 2015 in the subsequent audit cycle.

3. Construction of Sichirai Market and Access Roads

i) The Municipality Board awarded a contract to a local construction company for construction of Sichirai market and access roads at a contract sum of Kshs.178,111,050 and a contract period of twelve (12) months commencing May, 2021 and ending in April, 2022. However, the company did not submit a tender document as required by law.

ii) No evidence for constitution of tender opening committee and evaluated.

iii) Municipality Board had paid the contractor a total amount of Kshs.157,288,139 or 88% of the contract sum, inclusive of advance payment. Advance payments totaling Kshs.8,332,159 had not been recovered from the contractor as required by Clause 6.5 of the contract agreement.

iv) Physical inspection carried out in November, 2022 revealed that although the contract period had elapsed, the project was still incomplete as roofing had not been

done and the orientation of the market had been changed due to land dispute. However, the instructions book, the new drawings and revised Bill of Qualities were not provided for audit review.

Management response

The contractor submitted tender document which was in the file and still available for a further audit verification

The tender opening committee was appointed by the chief officer ministry of lands. The opening committee appointment letter dated 20th January, 2021, and the tender opening minutes dated 21st January, 2021 were on file and still available for a further audit verification.

The advance payment has since been fully recovered from the contractor vide certificate numbers 6 and 7 as tabulated.

The roof was finally completed after the contract period was extended.

The documents related to the project change of scope, that is, the instructions book, the new drawings and revised Bill of Qualities were on file and are hereby provided for a further audit review.

Committee Observations

The Committee observed that whereas the tender documents were provided and verified by the Auditor-General, and the query marked as addressed, the submission was done outside the timelines contemplated under the Public Audit Act, Cap.412B and constitutes an offence under section 62(2) of the Act.

Committee Recommendations

The Committee recommends that the Accounting Officer ensures that supporting documents are availed to the Auditor during audit as required under section 9(1)(e) of the Public Audit Act, failure to which the Committee shall recommend for their investigation and prosecution in accordance with section 62(2) of the Public Audit Act, 2015 in the subsequent audit cycle.

5. Construction of Perimeter Wall at Rosterman Disposal Site

The Municipality Board awarded a contract to a local construction company for construction of a perimeter wall at Rosterman disposal site at a contract sum of Kshs.9,904,727. However, the company did not submit a tender document.

No evidence for constitution of tender opening committee and evaluated.

Management response

The contractor submitted tender document as required by law. The tender document was on file and still available for a further audit verification.

The tender opening committee was appointed by the chief officer ministry of lands. The opening committee appointment letter dated 29th November, 2021, and the tender opening minutes dated 29th November, 2021 were on file and still available for a further audit verification.

Committee Observations

The Committee observed that whereas the tender documents were provided and verified by the Auditor-General, and the query marked as addressed, the submission was done outside the timelines contemplated under the Public Audit Act, Cap.412B and constitutes an offence under section 62(2) of the Act.

Committee Recommendations

The Committee recommends that the Accounting Officer ensures that supporting documents are availed to the Auditor during audit as required under section 9(1)(e) of the Public Audit Act, failure to which the Committee shall recommend for their investigation and prosecution in accordance with section 62(2) of the Public Audit Act, 2015 in the subsequent audit cycle.

4. Rehabilitation of Shirere Slaughterhouse

The Municipality Board awarded a contract to a local construction company for rehabilitation of Shirere slaughterhouse at a contract sum of Kshs.10, 469,097 and a contract period of six (6) months commencing 20 January, 2022 and ending on 19 June, 2022.

i)However, the Company did not submit a tender document

ii)No evidence for constitution of tender opening committee and evaluated.

iii)Physical inspection of the project carried out in November, 2022 revealed that although the contract period had expired, the contractor had not installed a solar water heater, and had also not erected concrete support poles after every ten (10) meters at the corners of the perimeter fence as provided for in the Bill of Quantities.

Management response

The tender opening committee was appointed by the chief officer ministry of lands. The opening committee appointment letter dated 22nd October, 2021, and the tender opening minutes dated 26th October, 2021 were on file and still available for a further audit verification.

The outstanding works, that is, installation of a solar water heater and the erection of the concrete support poles after every ten (10) meters at the corners of the perimeter fence as provided for in the Bill of Quantities were finally completed. The project is currently in use.

Committee Observations

The Committee observed that whereas the tender documents were provided and verified by the Auditor-General, and the query marked as addressed, the submission was done outside the timelines contemplated under the Public Audit Act, Cap.412B and constitutes an offence under section 62(2) of the Act.

Committee Recommendations

The Committee recommends that the Accounting Officer ensures that supporting documents are availed to the Auditor during audit as required under section 9(1)(e) of the Public Audit Act, failure to which the Committee shall recommend for their investigation and prosecution in accordance with section 62(2) of the Public Audit Act, 2015 in the subsequent audit cycle.

5. Construction of Perimeter Wall at Rosterman Disposal Site

The Municipality Board awarded a contract to a local construction company for construction of a perimeter wall at Rosterman disposal site at a contract sum of Kshs.9,904,727. However, the company did not submit a tender document.

No evidence for constitution of tender opening committee and evaluated.

Management response

The contractor submitted tender document as required by law. The tender document was on file and still available for a further audit verification.

The tender opening committee was appointed by the chief officer ministry of lands. The opening committee appointment letter dated 29th November, 2021, and the tender opening minutes dated 29th November, 2021 were on file and still available for a further audit verification.

Committee Observations

The Committee observed that whereas the tender documents were provided and verified by the Auditor-General, and the query marked as addressed, the submission was done outside the timelines contemplated under the Public Audit Act, Cap.412B and constitutes an offence under section 62(2) of the Act.

Committee Recommendations

The Committee recommends that the Accounting Officer ensures that supporting documents are availed to the Auditor during audit as required under section 9(1)(e) of the Public Audit Act, failure to which the Committee shall recommend for their investigation and prosecution in accordance with section 62(2) of the Public Audit Act, 2015 in the subsequent audit cycle.

6. Operational Autonomy of Kakamega Municipality

During the audit, it was observed that only office operations were being carried out by the Municipality Board while project implementation was being carried out by the County Executive through the Department of Lands, Housing, Urban Areas Development and Physical Planning. This is contrary to Section 21(1)(a) of the Urban Areas and Cities Act, 2011 which gives Municipality Boards executive authority as delegated by County Executives.

Management response

Some of the major challenges include: (i) staff capacity, (ii) un-constituted municipal boards; (iii) inadequate technical staff; (iv) incomplete delineation of boundaries; (v) lack of autonomy in raising own source revenues; (vi) lack of autonomy in human resource management; (vii) lack of Municipality Managers; (viii) un-gazetted municipality functions among others. However, the Kakamega Municipality is making progress towards autonomy by; (i) Appointing municipality boards vide gazette notice number 10370 dated 2/8/2023, (ii) Gazetting proposed devolved functions through gazette notice no.6225 of 12/5/2023, (iii) Appointing municipal managers and designating them as accounting officers for the municipalities.

Committee Observations

The committee observed;-

- i. that only office operations were being carried out by the Municipality Board while project implementation was being carried out by the County Executive through the Department of Lands, Housing, Urban Areas Development and Physical Planning. This is contrary to Section 21(1)(a) of the Urban Areas and Cities Act, 2011 which gives Municipality Boards executive authority as delegated by County Executives.
- ii. the Kakamega Municipality had made progress towards autonomy by; (i) Appointing municipality boards vide gazette notice number 10370 dated 2/8/2023, (ii) Gazetting proposed devolved functions through gazette notice no.6225 of 12/5/2023, (iii) Appointing municipal managers and designating them as accounting officers for the municipalities.

Committee Recommendations

The committee recommends that the Governor of Kakamega County ensures Kakamega Municipality operational independence is fully actualized in line with sections 12 (management independence), 20 (functional independence), 45 and 46 (financial independence) of the Urban Areas and Cities Act, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences may apply.

CHAPTER THREE

REPORT ON THE AUDITED FINANCIAL STATEMENTS FOR THE MUNICIPALITY OF KISII FOR THE FINANCIAL YEAR 2021/2022

The Governor of Kisii County, Hon. Paul Simba Arati, appeared before the Committee on Thursday, 26th September, 2024 to respond (under oath) to audit queries raised in the report of the Auditor-General on financial statements for the Municipality of Kisii for the financial year 2021/2022. He was accompanied by –

- | | |
|------------------------|------------------------------------|
| 1. Mr. Kennedy Abincha | - CECM-Finance |
| 2. Mrs. Grace Nyarango | - CECM-Lands and Physical planning |
| 3. Mr. Ronald Nyakweba | - CECM-Health |
| 4. Mr. Vincent Okioma | - Chief Officer-Finance |

REPORT ON THE FINANCIAL STATEMENTS

The Auditor-General rendered a **qualified opinion** on the financial statements of the Kisii Municipality for the period under review on the following basis-

1. Failure to Depreciate Property, Plant and Equipment

The statement of financial position reflects property, plant and equipment balances of Kshs. 306,443,955. As disclosed in note 9 to the financial statements, the balance reflects historical cost of building, other machinery and equipment, furniture and fittings, computers, infrastructural assets and capital work in progress. However, Management did not provide for depreciation on these non-current assets as required by International Public Sector Accounting Standard (IPSAS) 17 of property, plant and equipment. This was also contrary to paragraph (c) of the significant accounting policies, which states that all property, plant and equipment are stated at cost less accumulated depreciation and impairment losses.

In the circumstances, the accuracy of property, plant and equipment balance of Ksh 306,443,955 as at 30th June 2022 could not be confirmed.

Management Response

The management concurred with the auditor's observation on failure to depreciate property, plant and equipment. Depreciation was not done because Kisii County Government does not have a policy on depreciation. The management has noted this and is committed to develop a policy guideline for the County.

Committee Observations

The Committee noted that Management did not provide for depreciation on non-current assets as required by International Public Sector Accounting Standard (IPSAS) 17 of property, plant and equipment.

Committee Recommendations

The Committee recommends that—

- i. The accounting officer ensures that all property, plant and equipment are subjected to depreciation in accordance to the Public Sector Accounting Standards Board(PSASB) requirements to reflect the true financial position of the municipality and the Auditor-General should keep the matter in view and report to the Committee in the next audit cycle;**
- ii. The committee recommends that the Governor of Kisii County ensures Kisii Municipality operational independence is fully actualized in line with sections 12 (management independence), 20 (functional independence), 45 and 46 (financial independence) of the Urban Areas and Cities Act, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences may apply; and**
- iii. the Accounting Officer ensures that supporting documents are availed to the Auditor during audit as required under section 9(1)(e) of the Public Audit Act, failure to which the Committee shall recommend for their investigation and prosecution in accordance with section 62(2) of the Public Audit Act, 2015 in the subsequent audit cycle.**

Other Matter

1. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects revenue budget and actual on comparable basis amounts of Kshs.760, 808 and Kshs. Nil respectively, resulting in underfunding of Kshs. 760,808 (or 100% of the budget). Similarly, the statement reflects development and recurrent expenditure budget and actual on comparable basis amounts of Kshs 163,292,992 and Kshs. 81,604,658, resulting in under expenditure of Kshs. 81,688,334, (or 50% of the budget).

The budget under funding and under expenditure affected planned activities and may have impacted negatively on delivery of services to the residents of Kisii municipality.

Management Response

Management concurred with the auditor's observation on budgetary control and performance. An amount of Ksh 760,808 in the budget was an opening balance which was erroneously captured.

The under expenditure of Ksh 81, 688,344 representing 50% of the budget was occasioned by delayed completion of project, and payment were made based on certified works done.

Committee Observations

The Committee noted that there was an underfunding of Kshs. 760,808 (or 100% of the budget). There was also an under expenditure of Kshs. 81,688,334, (or 50% of the budget).

Committee Recommendations

The Committee recommends that—

- i. the Accounting Officer should ensure strict compliance with section 149(2)(h) and (i) of the Public Finance Management Act, Cap. 412A and the standards prescribed by the Public Sector Accounting Standards Board under IPSAS 24 on the presentation of budget information in the financial statements for an entity that prepares their financial statements under the accrual basis of accounting, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences shall apply; and**
- ii. the Accounting Officer should comply with regulation 42(1)(b) of the Public Finance Management (County Government) Regulations, 2015 on exerting budgetary control measures, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences shall apply.**

2. Failure to maintain Retention Account

The statement of financial position reflects trade and other payables-deposits retention balance of Kshs. 7,317,927 as disclosed under note 10. However, management did not maintain a separate retention account for such monies to cover any defect in construction contracts.

In the circumstance, contractors' retention monies may be used for other purposes, which may lead to the municipality being sued by the contractors.

My opinion is not modified in respect of these matters.

Management Response

Management concurred with the auditor's observation on failure to maintain retention account. It is important to note that this is a donor funded project with specific terms and conditions on account opening. Retention account is not a donor requirement. However, the retention monies were prudently managed and paid.

Committee Observations

The Committee noted that the management did not maintain a separate retention account for such monies to cover any defect in construction contracts

Committee Recommendations

The Committee recommends that the municipality creates a separate retention account for construction contracts as required in the Public Finance Management Act 2012, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences shall apply.

The Auditor- General to keep the matter in view in the subsequent audit cycle.

3. Late Submission of Financial Statements

The financial statements of Kisii Municipality for the year ended 30th June,2022 were submitted for audit on 19th October, 2023, contrary to section 47(1) of the Public Audit Act,2015, which requires financial statements for the financial year ended 30th June, 2023 to be submitted to the Auditor –General by 30th September, 2023.Management did not provide an explanation for the late submission.

In the circumstances, management was in breach of the Law.

Management Response

The management concurred with the auditor's observation on late submission of financial statements for the financial year 2021/2022. Subsequently management has complied

Committee Observations

The Committee noted that the management submitted financial statements for the financial year under review after the required timelines contrary to section 47(1) of the Public Audit Act, 2015.

Committee Recommendation

The Committee recommends that the Accounting Officer ensures that supporting documents are availed to the Auditor during audit as required under section

9(1)(e) of the Public Audit Act, failure to which the Committee shall recommend for their investigation and prosecution in accordance with section 62(2) of the Public Audit Act, 2015 in the subsequent audit cycle.

CHAPTER FOUR

REPORT ON THE AUDITED FINANCIAL STATEMENTS FOR MUNICIPALITY OF KITALE FOR THE FINANCIAL YEAR 2021/2022

The Governor of Trans-Nzoia County, Hon. George Ntembea, appeared before the Committee on Tuesday 24th September 2024, to respond (under oath) to audit queries raised in the report of the Auditor-General on financial statements for Municipality of Kitale for the financial year 2021/2022. He was accompanied by-

- | | |
|--------------------------|------------------------------------|
| 1. Mrs. Janerose Wabwoba | - CECM-Lands and Urban Development |
| 2. Mrs. Irene Nang'ole | - Ag. M/M-Kitale |
| 3. Mr. Truphosa Amere | - County Secretary |
| 4. Mr. Walioli Wabwoba | - County Attorney |

REPORT ON THE FINANCIAL STATEMENTS

The Auditor-General rendered an **adverse opinion** on the financial statements of Municipality of Kitale for the period under review on the following basis—

1. Failure to Provide Ledgers

The general ledgers for following components reflected in the statements of financial performance and financial position were not provided for audit.

Component	Amount (Kshs.)
Transfer from County Government	19,500,000
Imprest Re-banked	67,420
Restricted Grant Taskforce Inquiring to Public Land Money	10,579,190
Use of Goods and Services	10,411,986
Board Expenses	3,780,800
Taskforce	7,288,980
Cash Recovered from Double Pay-to-be Transferred	700,000
Property, Plant and Equipment (Business Park) WIP	476,461,816
Bara Bara Mpya Road Upgraded	108,295,110
Trade and other Payables	43,910,833

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

Management Response

The Ledgers for the various components/items in the financial statement have been submitted to the auditors for audit review and are attached.

Committee Observations

The Committee observed that whereas the ledgers were provided and verified by the Auditor-General, the submission was done outside the timelines contemplated under the Public Audit Act, Cap.412B and constitutes an offence under section 62(2) of the Act.

Committee Recommendations

The Committee recommends that the Accounting Officer ensures that supporting documents are availed to the Auditor during audit as required under section 9(1)(e) of the Public Audit Act, failure to which the Committee shall recommend for their investigation and prosecution in line with section 62(2) of the Public Audit Act, 2015 in the subsequent audit cycle;

2. Inaccuracies in Financial Statements

The financial statements presented for audit had the following inaccuracies;

- 1.1. The statement of financial performance reflects Kshs. nil development grants while Note 2 reflects Kshs. 77,483,918, the amount is also omitted from the statement of changes in net assets;

Management Response

Changes have been made to correct the errors by excluding the amount of Kshs. 77,483,918 from note 2 in the Statement of Financial Performance and have been reflected under Net assets in the statement of Financial Position in the amended report submitted to office of auditor General on 20th March 2023. Copy of the report has been presented to the auditors for review and copy is attached.

- 1.2. The statement of financial performance reflects Kshs. Nil comparative development grants received while Note 2 reflects Kshs. 299,106,900;

Management Response

This had been corrected in the amended Financial Report Submitted to Office of Auditor General on 20th March 2023 as evidenced by the attached report. The report has been presented to the auditor for review.

- 1.3. The statement of financial performance reflects restricted grants of Kshs. 10,579,190 and task force expenditure of Kshs. 7,288,980 Kshs. 7,288,980 which are not supported by a note to the financial statements;

Management Response

The restricted grant of Kshs. 10,579,190 was supported under note 3 in the Amended Statements.

- 1.4. The statement of financial performance reflects total expenses of Kshs. 21,491,426 while casting revealed Kshs. 21,481,766 resulting to an unexplained variance of Kshs. 9,660;

Management Response

The casting error was amended in the amended financial statement.

- 1.5. The statement of financial performance reflects surplus of Kshs. 8,021,196 while casting revealed Kshs. 8,664,844 resulting to an unexplained variance of Kshs. 643,648;

Management Response

The difference is depreciation charge of Kshs 633,988 and double charge of bank charges of Kshs. 9,660. This has been addressed in the amended financial statement.

- 1.6. The statement of financial performance reflects surplus of Kshs. 8,021,196 while the statement of financial position reflects Kshs. 86,148,762 resulting to an unexplained variance of Kshs. 78,127,566;

Management Response

The variance in the two statements is due to an error of inclusion of Kshs. 77,483,918 in the statement of financial position being grants received during the period instead of recognition under the Net Assets in the statement of financial position. The other portion is the accumulated depreciation adjusted as in 1.5 above Kshs. 643,648. Corrections are done on the amended statement of changes in Net Assets

- 1.7. The statement of financial performance reflects surplus of Kshs. 8,021,196 while the statement of changes in net assets reflects Kshs. 82,858,552 resulting to an unexplained variance of Kshs. 74,837,356;

Management Response

The variance between statement of financial performance and the statement of changes in Net Assets has been addressed in the amended financial statement under statement of changes in net assets.

- 1.8. The statement of financial performance reflects comparative deficit of Kshs. 15,767,028 while the statement of changes in net assets reflects surplus of Kshs. 283,339,872 resulting to an unexplained variance of Kshs. 299,106,900;

Management Response

The variance was due to a misclassification of funds received in the FY 2020/2021 as surplus in the statement of changes in net assets The variance is due to over cast surplus with received Capital/ development grants in the statement of financial performance of Kshs. 299,106,900. Corrections were done on the statement of Changes in Net Assets.

- 1.9. The statement of cash flows reflects receipts from capital grants of Kshs. 77,483,918 which is omitted from the statement of changes in net assets;

Management Response

The omission of Kshs. 77,483,918 is acknowledged and is captured in the statement of changes in equity on the amended Statements.

- 1.10. The statement of financial position reflects accumulated surplus balance of Kshs. 585,726,552 while statement of changes in net assets reflects Kshs. 668,585,104 resulting to an unexplained variance of Kshs. 82,858,552;

Management Response

The variance between statement of financial position and the statement of changes in net assets is wrong inclusion of surplus/ (deficit) in the statement of Financial position. This has been addressed in the amended financial statements under statement of changes in Net Assets.

- 1.11. The statements of financial position reflect total net assets and liabilities balance of Kshs. 715,152,156 while statement of changes in net assets reflects Kshs. 881,138,887 resulting to an unexplained variance of Kshs. 165,986,731;

Management Response

The error is noted, and the variance between the total net asset and liabilities in the statement of financial position and the statement of changes has been addressed in the amended financial statement.

- 1.12. The statement of financial position reflects comparative total net assets and liabilities balance of Kshs. 667,187,047 while statement of changes in net assets reflects Kshs. 576,497,046 resulting to an unexplained variance of Kshs. 90,690,001;

Management Response

The error is noted. variance between total net assets and liabilities reflected in the statement of financial position and statement of changes in net assets has been addressed in the amended financial statement.

- 1.13. The statement of changes in net assets reflects capital/development grants/fund balances of Kshs. 71,358,441 as at 01 July, 2020 and Kshs. 274,110,366 as at 30 June, 2021 which were omitted from the previous years' financial statements;

Management Response

The amounts represent bank balances instead of accumulated grants balances thus an under cast of Kshs. 227,748,459 and Kshs. 324,103,434 respectively. The capital/development grants/ fund balances wrongly casted has been corrected in the amended financial statement.

1.14. The statement of changes in net assets reflects capital/development grants/fund balances of Kshs. 126,405,021 which was wrongly casted;

Management Response

The amounts represent bank balances instead of accumulated grants balances thus an under cast of Kshs. 549,292,696.75. Corrections have been done in the amended financial statement.

1.15. The statement of cash flows reflects PPE business complex park balance of Kshs. 122,205,529 which is omitted in Note 8 to the financial statements;

Management Response

Changes have been made on the Financial Statements under note 9 – The Property Plant and Equipment business complex park to include the actual cash paid during the period against Work Certified.

1.16. The statement of cash flows has not been adjusted for trade and other payables balance of Kshs. 37,549,662.

Management Response

The statement of cash flows was prepared using the direct Method as prescribed by PSASB for all entities under the IPSAS Accrual basis of Accounting. Changes have been made to reflect the Net effect of Kshs. 37,549,662/- as shown undernote 9. Trade and other Payables in the amended financial statement.

1.17. The statement of comparison of budget and actual amounts reflects final revenue budget of Kshs. 376,590,818 while casting revealed Kshs. 357,106,900 resulting to unexplained variance of Kshs. 19,483,918;

Management Response

The final figure of revenue budget in the statement of comparison of budget and actual has been addressed in the amended statement of financial statement.

1.18. The statement of comparison of budget and actual amounts reflects actual on comparable basis expenditure of Kshs. 14,192,786 while casting revealed Kshs. 14,202,446 resulting to unexplained variance of Kshs. 9,660;

Management Response

The final figure of expenditure has been addressed in the amended statement of financial statement.

In the circumstances, the accuracy and completeness of the above balances reflected in these financial statements could not be confirmed.

Committee Observations

The Committee observed that the errors have been corrected and amended financial statements confirmed and verified.

Committee Recommendations

The Committee recommends that—

- i. the Accounting Officer to take appropriate administrative action on responsible officers within the Accounts and Finance department who fail to keep complete financial records in accordance with section 156(1) of the Public Finance Management Act, Cap.412A and in accordance with their terms and conditions of appointment or employment, failure to which the provisions of section 199 of the Public Finance Management Act, Cap.412A on penalties for offences shall apply;**
- ii. the Accounting Officer should comply with section 149(2)(b) of the Public Finance Management Act, Cap.412A and section 47(2) of Public Audit Act, Cap.412B in the preparation and management of financial and accounting records, failure to which the provisions of section 62 of the Public Audit Act, Cap.412B and section 199 of the Public Finance Management Act, Cap.412A on penalties and offences shall apply;**
- iii. the National Treasury should enhance awareness and training on changes made to the accounting standards to all public officers handling financial matters in counties; and**
- iv. the Accounting Officer should enhance the capacity of in-post officers preparing financial statements to comply with the requirements of the Public Sector Accounting Standards and should further invest in technology to enhance efficiency and improve the accuracy of financial statements.**

OTHER MATTER

1. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final revenue budget of Kshs. 376,590,818 and actual on comparable basis of Kshs. 96,983,918 resulting to an under-funding of Kshs. 260,122,982 or 73% of the budget. Similarly, the Municipality spent Kshs. 14,192,786 against an approved budget of Kshs. 39,620,000 resulting to an under-expenditure of Kshs. 25,417,554 or 64% of the budget.

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

Management Response

The Municipality anticipated KUSP donor funds of Kshs. 299,106,900 in the FY 2021/2022 in which only 77,483,918 was received. This was because the programme funds was performance based for all counties and there was unexpected good performance in the first two years resulting in disbursements of the maximum amounts of Kshs. 299,106,900 thus reducing the amounts available for the third year 2021/2022.

Payments were processed but were not paid due to failure to receive the June 2022 Disbursement (Kshs. 574.8 Million).

For under absorption on recurrent, we did not absorb due to failure to receive the June 2022 Disbursement (Kshs. 574.8 Million).

Committee Observations

The Committee observed that—

- i. The Municipality received less KUSP donor funds than anticipated.
- ii. The Municipality had an under-funding of Kshs. 260,122,982 or 73% of the budget.
- iii. The municipality's budget was revised downward in the supplementary which could have affected its performance owing to the fact that the county did not receive its June disbursement for FY 2021/22

Committee Recommendations

The Committee recommends that—

- i. the Accounting Officer should ensure strict compliance with section 149(2)(h) and (i) of the Public Finance Management Act, Cap. 412A and the standards prescribed by the Public Sector Accounting Standards Board under IPSAS 24 on the presentation of budget information in the financial statements for an entity that prepares their financial statements under the accrual basis of accounting, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences shall apply; and
- ii. the Accounting Officer should comply with regulation 42(1)(b) of the Public Finance Management (County Government) Regulations, 2015 on exerting budgetary control measures, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences shall apply.

2. Unresolved Prior Year Audit Matters

In the audit report of the previous year, several issues were raised. However, no report or recommendations from the County Assembly Management and Oversight bodies were submitted for audit verification and clearance. Further, the issues remain

unresolved contrary to Section 149(2)(i) of the Public Finance Management Act, 2012 which require Accounting Officers designated for County Government entities to try to resolve any issues resulting from an audit that remain outstanding.

Management Response

At the time of audit, the County Assembly had not invited the Municipality to discuss previous years audit reports. But subsequently the invitation to appear before the Assembly was received in October 2023 and the issues were discussed and resolved.

However, the report of the County Assembly on the same is yet to be received.

Committee Observations

The Committee observed that the Municipality had resolved the issues raised in the previous years' audit.

Committee Recommendations

The Committee recommends that—

- i. the Accounting Officer should resolve any issues resulting from an audit that remains outstanding as required by section 149(2)(i) of the Public Finance Management Act, Cap. 412A, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences may apply; and**
- ii. the Auditor-General provides a status update on the progress made on the matter in the subsequent audit cycle upon review of the progress report.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCE

Pursuant to Article 229(6) of the Constitution, based on the audit procedures performed by the Auditor-General, the following matters formed the basis for conclusion that public resources were not applied lawfully and in an effective way—

1. Incomplete Multi-Storey Business Complex

- a) The contract for construction of multi-story business complex building was awarded at a contract sum of Kshs. 874,280,383 on 07 June, 2018 for twenty-five months ending on 07 July, 2020. However, physical verification in November, 2022 revealed that the project was incomplete with only 70% of estimated works done. In addition, the number of lockable shops was reduced by 222 from 586 to 364, external and internal walling estimated at cost of Kshs. 38,717,682 were constructed using concrete blocks instead of natural stonework, while steel doors instead of louvered double leaved doors were fitted without approval. Further, works initially

estimated at Kshs. 139,400,000 were varied by Kshs. 81,150,000 or 49% from Kshs. 139,400,000 to Kshs. 208,945,123 without approval by the Evaluation Committee and the Accounting Officer. Also, there was no evidence of measurement of works paid at Kshs. 315,038,427.

In the circumstances, value for money on the construction of multi-story business complex building awarded at a contract sum of Kshs. 874,280,383 could not be confirmed.

- b) The surface area of the internal walling estimated at 31,017 S/M was also reduced due to the change in plan from building 586 closed shops to having:
1. Ground floor has an open floor plan with an open-air market, 108 lockable shops, 208 display stands, 14 food courts, 264 people sitting area, 1 boda boda Sacco office and 75 boda boda parking,
 2. First and second floors have 256 (each 128) lockable shops, 608 (each 304) display stands and 228 (114 each) open-air spaces,
 3. Third-floor plan has an open-air market, 314 display stands and 978 open spaces.
 4. The number of lockable shops reduced from 586 to No.364, a reduction of 222. Similarly, the number of louvered double-leaved door was reduced by a similar number. Each door was costed at Kshs. 83,115 implying that Kshs. 18,451,530 was paid for work not done. Further, physical audit verification of the project revealed that the doors installed are normal steel doors expected to be less than half the price of louvered double-leaved doors.

Management Response

- a) There was delay in execution of the project occasioned by challenges faced in project implementation among them irregular disbursements of resources for project execution, advent of the Covid 19 pandemic, heavy rains at the time of undertaking the foundational works which necessitated extension on project completion period severally.
- b) Concerning the external and internal walling estimated to cost Kshs. 38,717,682, the contractor requested for use of concrete blocks instead of the machine dressed natural stone owing to site space constraints for the stone dressing and challenges of availability of the same.

Site instruction no.2 dated 4th October 2021 was issued to the contractor to do masonry wall for all external and internal partitions using concrete blocks subject to them availing material test results for the same. See attached a copy of the site instruction.

The amount paid on both external and internal walling was Kshs. 22,609,621.27 as given in the attached extract of the project appraisal report which is a saving on costs, whilst maintaining quality as shown in the laboratory test results.

The contractor submitted Laboratory Test Report dated 20th November 2021 with the lowest sample's comprehensive strength of 7.0 N/MM2. See Attached Laboratory Test Report.

- c) Refer to minutes 16.5 and 17.3 for the site progress meeting No.17 held on 27th January 2022 in which it was discussed and agreed that to accommodate more small-scale traders in the facility and enhance the value of the final product, the lockable stalls at the lower ground floor be omitted. Kindly note that we were to accommodate 66 No. of traders in the lockable shops but with changes the same floor will accommodate 666 No. traders. We have attached variation Order 02 to omit Lower ground floor stalls and the minutes for your reference. We have further attached engineer's site instructions for the omission of the lower ground floor lockable stalls.

Refer to Valuation No. 12 giving a detailed breakdown of works undertaken. The total cost of the steel doors fixed is Kshs. 29,766,543, and this was for the actual number of steel doors fixed. No payment was made for a steel door not fixed. An extract of the valuation report is attached for your reference.

Review of valuation certificate no. 9 revealed that an initial provision for works under item No. 4 of Kshs. 139,400,00 was revised upwards by Kshs. 81,150, 000 (49%) to Kshs 208,945,123 after utilizing Kshs. 127,795,123. This revision was not approved by the Evaluation Committee and the Accounting Officer.

Further, Certificate No.9 included Specialty provisional works under Item No. 5 estimated to cost Kshs. 404,430,000. However, the Bill of Quantities and the measurement of works in support of the Kshs. 315,038,427 paid for the specialty works were not presented for audit making it difficult to establish whether the works were competitively sourced and that the payments made were for actual work done.

There was no upward variation of amounts under item no. 4 on provisional works and there was no request for payment under that item on certificate no. 9 as evidenced by minutes/report of the project implementation committee together with request for payment attached.

We have attached the measurements of works and payment accounts for the provisional works together with the Interim Certificate No. 9 for your information.

Committee Observations

The Committee observed that—

- i. The project is incomplete and not in use.

- ii. The Work in Progress balance has been correctly adjusted in the financial statements to include part of the cost incurred by other Departments that previously had been omitted.

The Committee conducted an inspection of the business complex on Saturday, 2nd November 2024 and made the following observations—

- i. There was a delay in the completion of the project. Construction began in 25th June, 2018 with an expected completion date of 10th June, 2021 but the project stands incomplete to date raising concerns over the value for money.
- ii. There were numerous requests for extension by the contractor which were not granted.
- iii. The value of work done could not be established.
- iv. There were complaints from the public on the manner in which the slots in the complex were being allocated.
- v. The number of lockable shops was reduced by 222 from 586 to 364 without any justification.
- vi. The memorandum of understanding on the co-funding between the Municipality, department of trade and lands were not provided for audit review

Committee Recommendations

The Committee recommends that—

- i. **The Governor should ensure that valuation on the project in its current status is undertaken to ascertain if the current value commensurate the funds utilised within 60 days from the adoption of this report;**
- ii. **The Auditor-General to carry out an audit of value for money for the project and provide a status update in the subsequent audit cycle;**
- iii. **Within 30 days of the adoption of this report, the board of the municipality should develop a slots allocation matrix that factors in fairness and equity submit to the Auditor-General to monitor implementation;**
- iv. **The Governor to expedite the completion of the project; and**
- v. **The Auditor-General keep the matter in view in the subsequent audit cycle.**

2. Irregularities in Upgrading of BarabaraMpya-Mitume Road

The upgrading of Barabara Mpya – Mitume Road (1.75KM) to bitumen standards was awarded and paid at Kshs. 108,295,110. However, the bid documents for the seven (7) firms and original payment vouchers were not provided for audit. It was noted that the

performance bond expired on 11 August, 2021 but the contractor was engaged until 17 November, 2021 and retention money was paid on 15 February, 2022 being three (3) months before the expiry of six (6) months defect liability period. In addition, physical verification revealed upgrading of only 1.6 kilometers not 1.75 kilometers resulting to a difference of 150 meters estimated at Kshs. 9,282,450 and also, works estimated at Kshs. 2,618,300 were not undertaken. Further, substandard works were noted in installation of culverts, drainage, painting, manholes, kerbs, channel blocks to road, footpaths and shoulders estimated at Kshs. 21,089,000.

In the circumstances, value for money in upgrading of Barabara Mpya – Mitume Road to bitumen standards at Kshs. 108,295,110 could not be confirmed.

Management Response

- (i) The actual length upgraded was 1.75 km chainage taken as measured works on the ground at intervals of 20M throughout the road length.

The delay to upgrade and cover the road length arose from delay in relocation of utilities i.e water line, Fibre cables, electricity lines and Perimeter wall for tenants living within the proposed road construction area.

- (ii) All culverts, drainage channels, Man Holes, road kerbs, footpaths and channel blocks were installed as required. Man hole was not in the project scope

Committee Observations

The Committee observed that—

- i. The seven bids were presented for audit and verified.
- ii. The management has not explained on why the performance bond was not renewed after it expired.
- iii. No evidence was produced to support that the retention money was not released before the defect liability period. However, inspection of the road on 16 August confirmed the 150M of the road was done later to achieve the length (1.75 KM).

Committee Recommendations

The Committee recommends that the Municipality should adhere to the procurement laws as put across in the Public Procurement and Disposal of Assets Act, 2015 when engaging in contractual services, failure to which the provisions of section 177 of the Public Procurement and Asset Disposal Act, 2015 on penalties for offences shall apply.

The Committee recommends that the Accounting Officer should ensure timely submission of documents during the audit process in line with section 9 (1) (e) of the Public Audit Act, Cap.412B, failure to which the Committee shall recommend

for their investigation and prosecution in accordance with section 62 (2) of the Public Audit Act, Cap.412B.

3. Irregular Expenditure on Taskforce

The statement of financial performance reflects task force expenditure of Kshs. 7,288,980 for inquiry into public land which had no budget provision. The task force report indicated that only one hundred and twenty-three (123) parcels of public land were within Kitale Municipality which varied with the one thousand, four hundred and three (1,403) parcels of land reflected in the valuation roll of year 2006. This is indicative that the taskforce may not have prepared a comprehensive inventory, data and information of all public land in the county as mandated by the Kenya Gazette Notice Vol.CXXIII-No.137 dated 25 June, 2021.

In the circumstances, value for money on task force expenditure of Kshs. 7,288,980 could not be confirmed.

Management Response

The Department of lands had budgeted Kshs. 11,000,000 for the Taskforce Expenses in FY 2021/2022, the extract of the budget is attached. In order to fast track the work of the task force the budgeted amount was transferred to Municipality commercial Bank account held with SBM Bank. It is worth noting that the bulky of the parcels of public land are within the Municipality and therefore the main beneficiary of the report.

The variance in the number of parcels of land in the valuation roll 2006 (1402) and the Taskforce report (123) is due to the fact that valuation rolls contain all the ratable parcels of land/property-both private and public, within the Municipality. The Taskforce committee inquired on the public land as opposed to the properties in the valuation roll that includes private properties.

Committee Observations

The Committee observed that—

- i. There was comingling of funds between the Municipality and the County Government thus value for money could not be ascertained.
- ii. The funds were budgeted for under the department of lands and were transferred to the municipality's account for ease of access. The municipality did not have control over the funds.

Committee Recommendations

The committee recommends that the Governor of Trans- Nzoia County ensures Kitale Municipality operational independence is fully actualized in line with sections 12 (management independence), 20 (functional independence), 45 and 46 (financial independence) of the Urban Areas and Cities Act, failure to which the

provisions of section 199 of the Public Finance Management Act on penalties for offences may apply.

CHAPTER FIVE

REPORT ON THE AUDITED FINANCIAL STATEMENTS FOR MUNICIPALITY OF LAMU FOR THE FINANCIAL YEAR 2021/2022

The Governor of Lamu County, Hon. Issa Abdallah Timamy, EGH, OGW, appeared before the Committee on Tuesday 30th July 2024, to respond (under oath) to audit queries raised in the report of the Auditor-General on financial statements for Municipality of Lamu for the financial year 2021/2022. He was accompanied by-

- | | | |
|----|-----------------|---------------------------|
| 1. | Mr. Mohamed Ali | - CECM-Finance |
| 2. | Mrs. Salma Omar | -Chief Officer Finance |
| 3. | Amb. Ali Abbas | - County Secretary |
| 4. | Mr. Ahmed Kombo | - Principal Administrator |

REPORT ON THE FINANCIAL STATEMENTS

The Auditor-General rendered a **qualified opinion** on the financial statements of Municipality of Lamu for the period under review on the following basis—

1. Inaccuracies in the Financial Statements

Review of financial statements revealed that the opening balances reflected in the financial statements were not in agreement with closing balances reflected in the 2020/2021 audited financial statements as analyzed below:

Component	Amount as Per Current Financial Statement (Kshs.)	Amount as Per Prior Year Financial Statements (Kshs.)	Variance (Kshs)
General expenses	0	4,800	-4,800
Construction services	0	18,001,366	-18,001,366
Consultancy services/contracted professional services	24,320,086	6,318,721	18,001,365
Capital works in progress	32,373,349	0	32,373,349

Further, the statement of changes in net assets reflects total revaluation reserve of Kshs.32, 373,949. However, Management did not provide evidence to support the source and basis of revaluation reserve. Also, the statement of changes in net assets reflects accumulated deficit of Kshs. 69,359,336 which includes a deficit of Kshs. 27,008,636 instead of a deficit of Kshs. 15,881,541.

In addition, Note 22 to the financial statements reflects capital work in progress balance of Kshs. 4,935,067. However, the balance was excluded in the total net book value of property plant and equipment of Kshs.93, 101,348.

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

Management Response

They confirmed that Kshs. 32,373,949 was improperly posted as revaluation reserve in the Statement of Financial Position where this amount was for Non-Current Asset being payment made to the contractor of Lamu Market, and attached ledger account amounting to Kshs. 32,373,349.

During the financial year 2020-2021 there was no Financial Template for municipalities. The Financial reporting template for Municipalities was provided on June ,2022 by PSAB.

Kshs. 24,320,086 is the sum of Kshs. 18,001,366 for Renovation and Extension of Lamu Island Market and 6,318,721 is for Consultancy Service which was reported in the Financial as a block figure.

Secondly the Kshs. 27,008,636 was use of goods and services and not a deficit as reflected in the Account. The actual deficit was not Kshs. 15,881,541 but was Kshs. 22,108,634 as reflected in the amended Statement of Financial Position and Statement of Changes in Net Asset for the financial year ended 30th June, 2022. Management attached the amended financial statement.

Committee Observations

The Committee observed that—

- i. there were casting errors on the financial statements resulting into variances which would be corrected in the financial statements of financial year 2023/2024.
- ii. There was no loss of funds after the figures were adjusted accordingly.

Committee Recommendations

The Committee recommends that—

- i. **the Accounting Officer to take appropriate administrative action on responsible officers within the Accounts and Finance department who fail to keep complete financial records in accordance with section 156(1) of the Public Finance Management Act, Cap.412A and in accordance with their terms and conditions of appointment or employment, failure to which the provisions of section 199 of the Public Finance Management Act, Cap.412A on penalties for offences shall apply;**

- ii. **the Accounting Officer should comply with section 149(2)(b) of the Public Finance Management Act, Cap.412A and section 47(2) of Public Audit Act, Cap.412B in the preparation and management of financial and accounting records, failure to which the provisions of section 62 of the Public Audit Act, Cap.412B and section 199 of the Public Finance Management Act, Cap.412A on penalties and offences shall apply;**
- iii. **the National Treasury should enhance awareness and training on changes made to the accounting standards to all public officers handling financial matters in Counties;**
- iv. **the Accounting Officer should enhance the capacity of in-post officers preparing financial statements to comply with the requirements of the Public Sector Accounting Standards and should further invest in technology to enhance efficiency and improve the accuracy of financial statements.**

2. Unconfirmed Cash and Cash Equivalents

The statement of financial position reflects cash and cash equivalents balances of Kshs. 31,033,171. However, scrutiny of bank statements revealed that an amount of Kshs. 299,782 was transferred twice to Lamu County Deposit Account for retention.

In the circumstances, the accuracy and completeness of cash and cash equivalents balance of Kshs. 31, 033,171 could not be confirmed.

Management Response

This was an error on the part of the Bank which was corrected. An amount of Kshs. 299,782 was debited on 5th July 2022 and reversed to Lamu Municipality Urban Institutional Grant Account Number 1590279012840 on 24th January 2023.

Committee Observations

The Committee observed that an error caused by the bank led to deposit of Kshs. 299,782 twice to the Lamu County Deposit Account for retention. The amount was later reversed to Lamu Municipality Urban Institutional Grant

Committee Recommendations

The Committee recommends that—

- i. **the Accounting Officer to take appropriate administrative action on responsible officers within the Accounts and Finance department who fail to keep complete financial records in accordance with section 156(1) of the Public Finance Management Act, Cap.412A and in accordance**

- with their terms and conditions of appointment or employment, failure to which the provisions of section 199 of the Public Finance Management Act, Cap.412A on penalties for offences shall apply;
- ii. the Accounting Officer should comply with section 149(2)(b) of the Public Finance Management Act, Cap.412A and section 47(2) of Public Audit Act, Cap.412B in the preparation and management of financial and accounting records, failure to which the provisions of section 62 of the Public Audit Act, Cap.412B and section 199 of the Public Finance Management Act, Cap.412A on penalties and offences shall apply;
- iii. the National Treasury should enhance awareness and training on changes made to the accounting standards to all public officers handling financial matters in Counties;
- iv. the Accounting Officer should enhance the capacity of in-post officers preparing financial statements to comply with the requirements of the Public Sector Accounting Standards and should further invest in technology to enhance efficiency and improve the accuracy of financial statements.

3. Non-Maintenance of Lack of a Fixed Asset Register

The statement of financial position reflects property, plant and equipment balance of Kshs. 93,101,348. However, the Municipality did not maintain a fixed asset register to support the assets. In addition, the Municipality incurred an expenditure of Kshs. 43,340,111 during the year in respect of construction of Mokowe Open Air Market. However, ownership documents for the parcel of land where the market was constructed were not provided for audit review.

In the circumstances, the accuracy, completeness and ownership of property, plant and equipment of Kshs. 93,101,348 could not be confirmed.

Management Response

Management attached the updated Asset Register and the title deed for Mokowe open Air Market (LAMU/MOKOWE NEW TOWNSHIP/156) which was issued on 27th January, 2023.

Committee Observations

The Committee observed that—

- i. The Municipality did not maintain a fixed asset register to support assets worth Kshs. 93,101,348 but later provided the asset register after the audit.

- ii. Ownership documents for the parcel of land where Mokowe Open Air Market was constructed were not provided for audit review however, the title deed was presented after the audit.

Committee Recommendations

The Committee recommends that—

- i. **the Accounting Officer to ensure that the municipality maintains an up-to-date asset register in the format prescribed by the Public Sector Accounting Standards Board pursuant to section 104(1)(h) of the Public Finance Management Act 2012, failure to which penalties under section 199 of the Public Finance Management Act shall apply; and**
- ii. **the Auditor-General to undertake physical verification of all assets of the Municipality and provide a status report to the Committee in the subsequent audit cycle.**

4. Unsupported Transfer from the County Government

The statement of financial performance reflects transfers from County Government of Kshs. 11,127,107. However, the financial statements of County Government of Lamu did not have details of the transfer.

In the circumstances, the accuracy and completeness of transfers of Kshs.11, 127,107 could not be confirmed.

Management Response

Kshs. 11,127,107 relates to a Donor grant that was received from Lamu County Government.

Committee Observations

The Committee observed that the Kshs. 11,127,107 was donor grant given by the county Government of Lamu and was supported not by bank statements and payment voucher.

Committee Recommendations

The Committee recommends that the Accounting Officer should ensure timely submission of documents during the audit process in line with section 9 (1) (e) of the Public Audit Act, Cap.412B, failure to which the Committee shall recommend for their investigation and prosecution in accordance with section 62 (2) of the Public Audit Act, Cap.412B.

5. Unsupported Expenditure on Allowances.

The statement of financial performance and Note 12 to the financial statements reflects domestic travel and subsistence of Kshs. 2,791,268. Out of the balance, an amount of Kshs. 855,900 was paid to nineteen (19) officers on 1 July 2022 for sensitization of the Kenya Urban Support program. However, the expenditure was not supported with dates when the activities were undertaken, approved work plans and evidence that the officers had traveled. Further, no evidence was provided to confirm whether the funds were accounted for.

In the circumstances, the accuracy and regularity of the expenditure of Kshs. 855,900 could not be confirmed.

Management Response

The management attached the payment voucher and supporting documents amounting to Kshs. 855,900 in support of the payment.

Committee Observations

The Committee observed that the management spent Kshs. 855,900 for sensitization of nineteen officers on Urban Support program but did not provide evidence to account for the expenditure of the fund. The payment voucher and supporting documents were later provided after the audit. However, the submission was done outside the timelines contemplated under the Public Audit Act, Cap.412B and constitutes an offence under section 62(2) of the Act.

Committee Recommendations

The Committee recommends that the Accounting Officer should ensure timely submission of documents during the audit process in line with section 9 (1) (e) of the Public Audit Act, Cap.412B, failure to which the Committee shall recommend for their investigation and prosecution in accordance with section 62 (2) of the Public Audit Act, Cap.412B.

6. Irregular Procurement and Delivery of Office Catering

The statement of financial performance reflects use of goods and services balance of Kshs. 27,008,636. Included in this amount is Kshs. 520,480 incurred on hospitality, supplies and services. An amount of Kshs. 298,500 was paid to a supplier for supply and delivery of office catering. According to the quotation opening minutes, the quotations for the goods were opened on 28 April, 2022, seven (7) days before the quotations were submitted by the bidders on 4 May, 2022. In addition, the professional opinion was signed 7 May, 2022 whereas the contract agreement was signed on 6 May, 2022.

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

Management Response

The Board acknowledged the Audit findings. Measures have been undertaken to ensure that procurement laws are complied with the staff involved were reprimanded.

Committee Observations

The Committee observed that the quotations for the goods were opened seven days before the quotations were submitted by the bidders and that the professional opinion was signed a day after the contract agreement.

Committee Recommendations

The Committee recommends that the Municipality adhere to the rules and regulations outlined in the Public Procurement and Disposal of Assets Act, Cap 412C on procurement procedures failure to which the provisions of section 177 of the Public Procurement and Asset Disposal Act, 2015 on penalties for offences shall apply.

OTHER MATTER

Budgetary Control and Performance

During the year under review, the Municipality's approved budget was Kshs. 118,776,407. However, the Municipality spent Kshs. 87,743,236 resulting to under-absorption of Kshs. 31,033,171 or 26%.

The under-absorption affected the planned activities and may have impacted negatively on service delivery to the residents of Lamu County.

Management Response

- The underdevelopment was attributed to the following project implementations process.
- The Lamu Municipality Integrated Development Plan – Kshs. 996,000
- The Lamu Island Local and Physical Land Use Plan – Kshs. 2,236,480
- The Solid Waste Management Policy – Kshs. 979,309.20
- Storm water drainage works and paving at Shella – Kshs. 17,887,069

These projects were implemented through consultancy and entailed extensive phases which required more time than initially anticipated due to comprehensive community and stakeholder engagement. Additionally, the topography of the area where the project was being implemented had narrow streets, and existing structure necessitating significant restoration of existing infrastructure, such as water pipes and drainage systems, hence the delay. Kindly note that all the above have been duly completed and paid for. The consultant report is available for verification.

Committee Observations

The Committee observed that Lamu Municipality had a 26% under-absorption of the budget which negatively affected the planned activities.

Committee Recommendations

The Committee recommends that—

- i. the Accounting Officer should ensure strict compliance with section 149(2)(h) and (i) of the Public Finance Management Act, Cap. 412A and the standards prescribed by the Public Sector Accounting Standards Board under IPSAS 24 on the presentation of budget information in the financial statements for an entity that prepares their financial statements under the accrual basis of accounting, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences shall apply; and**
- ii. the Accounting Officer should comply with regulation 42(1)(b) of the Public Finance Management (County Government) Regulations, 2015 on exerting budgetary control measures, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences shall apply.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCE

Pursuant to Article 229(6) of the Constitution, based on the audit procedures performed by the Auditor-General, the following matters formed the basis for conclusion that public resources were not applied lawfully and in an effective way—

1. Irregular Payment for Professional Services

The statement of financial performance reflects use of goods and services balance of Kshs. 27,015,248 which includes an expenditure of Kshs. 18,463,892.04 on contracted professional services. Expenditure on contracted professional services includes an amount of Kshs. 5,591,000 paid to a consultant for preparation of Lamu Island Urban Development Plan. The contract for the services was awarded on 23 April, 2020 at a contract price of Kshs. 11,182,400 with a completion period of five (5) months. As at the time of audit in November, 2022 the Consultant had not completed the work and submitted the final reports to the Municipality which was twenty-six (26) months after the agreed completion period. However, as at 30 June, 2022 the Consultant had been paid the total contract sum of Kshs. 11,182,400. Management did not explain why the consultant was paid full contract sum before submission of final report.

In the circumstances, the payment to the Consultant was irregular and the Municipality did not obtain value for money on the expenditure.

Management Response

The consultant completed and submitted the final report to the Municipality of Lamu, which was subsequently forwarded to the County Assembly and approved. The multiple extensions of the contract were necessitated by the complexity of the program, involving numerous activities including working during the COVID-19 pandemic. The initial stages included feasibility studies, data collection, and several public participation forums, including discussions with the County Executive County Assembly, and other stakeholders.

Regarding the Performance Bond, no bond was required for this type of contract, as specified in the Terms of Reference (TOR), which also outlined payment terms. The Consultant received three payments, with the final payment made on January 26, 2023. The Contract sum was to be paid as illustrated below (per the Contract agreement)

First payment-Kes 3,354,720.00 which is 30%

Second Payment –Kes 5,591,000.45 which is 50%

Third Payment-2,236,480.00 which is 20%

The final payment was made upon the consultant's submission of the final report. As a result, the contract was fully executed as per the Terms of Reference (TOR). The consultant was paid the final payment of KES. 2,236,480.00 on January 26, 2023, upon the successful completion of the task and submission of the final report.

Committee Observations

The Committee observed that—

- i. The multiple extensions of the contract were due to the numerous activities and the outbreak of the Covid-19 pandemic.
- ii. A performance Bond was not required for this type of contract, as specified in the Terms of Reference (TOR), which also outlined payment terms.

Committee Recommendations

The Committee recommends that—

- i. EACC to investigate the irregular expenditure of Kshs. 11,182,400 and provide a status update on the same to the Senate within sixty (60) days of the adoption of this report;
- ii. the Municipality should ensure strict compliance to the Public Procurement and Disposal of Assets Act and follow procurement procedure when handling contracts and contractors failure to which the provisions of section 177 of the Public Procurement and Asset Disposal Act, 2015 on penalties for offences shall apply; and

2. Unapproved Expenditure of Contingency Funds

The statement of financial position reflects property plant and equipment of Kshs. 93,101,348. Included in this figure are additions of Kshs. 54,164,023 on acquisition of land and buildings as reflected in note 22 to the financial statements. An amount of Kshs. 43,340,111 was incurred in respect of construction of Mokowe Open Air Market. It was noted that provisional and contingency sums of Kshs. 2,650,000 was paid in respect of construction of Mokowe open air market. However, Management did not provide evidence of approval of the expenditure by the accounting officer as required by Section 139(2)(e) of the Public Procurement and Asset Disposal Act, 2015 which provides that an accounting officer of a procuring entity, on the recommendation of an evaluation committee, may approve the request for use of provisional sums, which request shall be accompanied by a certificate from the tenderer making a justification. In the circumstances, the Management was in breach of the law.

Management Response

The Municipal Board and Management would like to acknowledge receipt of your audit findings regarding the expenditure of Kshs. 2,650,000 which covered utilization of contingency money and provisional sum.

However, the Management would like to point out that all due processes were observed before proceeding with expenditure. The Project Manager, Qs and Contractor identified all additional works not captured in the BOQ and came up with costing/ appraisal that was forwarded to the accounting officer/ Manager for approval.

Enclosed herein find the requisite documents and request letter to utilize the funds for the items or extra works, appraisal and final account indicating the expenditure.

However, during audit period the contractor had not completed the project. Therefore, the Municipal Board would request your team to revisit the project which was completed satisfactorily.

Additionally, the project had independent national team in charge of monitoring and evaluation. They came and went through the KUSP checklist and guidelines given in the operational manual and they were satisfied with the works and the project and its deliverables.

Committee Observations

The Committee observed that—

- i. Management did not provide evidence of approval of use of Kshs. 2,650,000 expenditures on contingency and provisional sums by the accounting officer but later provided documents and request letter to utilize the funds.
- ii. Construction of Mokowe Market had an independent national team in charge of monitoring and evaluation of the project and was satisfied with the expenditure.

Committee Recommendations

The Committee recommends that—

- i. the Municipality should ensure strict adherence to Section 139(2)(e) of the Public Procurement and Asset Disposal Act, 2015, failure to which the provisions of section 177 of the Public Procurement and Asset Disposal Act, 2015 on penalties for offences shall apply; and**
- ii. The Committee recommends that the Accounting Officer should ensure timely submission of documents during the audit process in line with section 9 (1) (e) of the Public Audit Act, Cap.412B, failure to which the Committee shall recommend for their investigation and prosecution in accordance with section 62 (2) of the Public Audit Act, Cap.412B.**

3. Failure to Comply with Contract Specifications

The statement of financial position reflects property plant and equipment balances of Kshs. 93,101,348. Included in this amount is Kshs 64,512,403 in respect of total additions of property, plant and equipment. The additions of property, plant and equipment includes an amount of Kshs. 4,343,480 incurred on purchase of computers and office equipment. Physical verification of computers supplied revealed variations in specifications of the equipment supplied and specifications as per Local Purchase Orders, invoices and delivery notes

This was contrary to the provisions of section 48(3)(b)(1) of the Public Procurement and Asset Disposal Act, 2015 which states that the inspection and acceptance committee shall immediately after the delivery of goods, works or services inspect and review the goods, works or services in order to ensure compliance with the terms and specifications of the contract.

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

Management Response

The Municipal Board acknowledges the Audit findings. In response, the Board initiated corrective measures by corresponding with the Supplier regarding the discrepancies in the equipment specifications received. The Supplier promptly rectified the specifications to align with the original requirements outlined in the Local Purchase Order. The Desktop in question are for. The specification as per the L.P. O were, 8 GB RAM with 5/12 GB hard disk and SSD Processor. The Supplier supplied all the (4) desktop with a 4GB Random Access Memory and SSD Processor instead of HDD Processor. The above was rectified and all four desktops have been replaced with the Correct random access memory which is 8GB and replaced the SSD Processor with

HDD Processor. Enclosed are copies of the correspondence letters confirming the updated specifications.

Committee Observations

The Committee observed that Kshs. 4,343,480 was incurred on purchase of computers and office equipment whereby the computers had variations in specifications of the equipment supplied and specifications as per Local Purchase Orders, invoices and delivery notes.

Committee Recommendations

The Committee recommends that the management adheres to section 48(3)(b)(1) of the Public Procurement and Asset Disposal Act, 2015 failure to which the provisions of section 177 of the Public Procurement and Asset Disposal Act, 2015 on penalties for offences shall apply.

4. Overpriced Office Equipment

The statement of financial position reflects property plant and equipment balances of Kshs. 93,101,348. Note 22 to the financial statements reflects additions to property, plant and equipment of Kshs. 64,512,403 which includes an amount of Kshs. 4,343,480 in respect to acquisition of computers and office equipment. However, examination of payment documents revealed that computers and equipment were acquired at inflated prices compared to the prices reflected in the Market Price Index published by the Public Procurement Regulatory Authority as summarized below:

Purchase Order	S13 No	Item	Qty	Unit Price (Kshs.)	Total Price (Kshs.)	Price as per Market Price Index (Kshs.)	Difference (Kshs.)
92	1266317	Laptop 360 10 th gen core i7 16Gb 1Tb ssd	2	250,000	500,000	160,000	180,000
92	1266318	Laptop Core i5 8Gb 512 Gb hdd	2	150,000	300,000	50,000	200,000
93	1266324	Ac 24000 btu	4	235,375	941,500	90,000	581,500
	1266324	Projector 3600 lumens	1	165,000	165,000	70,000	95,000

		Giant printer Kyocera Taskalfa 2020	1	280,000	280,000	125,000	155,000
Total					2,186,500		1,211,500

In the circumstances, it was not possible to confirm whether computers and office equipment worth Kshs. 2,186,500 were acquired competitively.

Management Response

We acknowledge and note the findings made during auditing conducted by Office of the Auditor General concerning the purchase of the office equipment. The Municipal Board followed a daily process firstly by coming up with procurement plan that factored in the items to be procured for the year under review which was also approved. The Municipal Board went ahead to raise requisition for the items and all dully processes to raise quotations and appointing an evaluation committee were done.

The evaluation committee evaluated all quotations raised as per the criteria given and as per the PPADA,2015. It was concluded that the lowest bidder was M/S Fuheyd Enterprises (KES. 2,508,000) and Ertugrul Enterprises (1,485,000) against other bidders who had quoted higher above the requisition threshold. The issue of pricing didn't come in during the evaluation since the focus was more on getting the lowest responsive bidder

Committee Observations

The Committee observed that the amount of Kshs. 2,186,500 spent in acquisition of computers and office equipment was inflated compared to the prices reflected in the Market Price Index, thus the due procurement process was not followed.

Committee Recommendations

The Committee recommends that the EACC to investigate the irregular expenditure of Kshs. 4,343,480 and provide a status update on the same to the Senate within sixty (60) days of the adoption of this report.

REPORT OF EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Pursuant to section 7(1)(a) of the Public Audit Act, based on the audit procedures performed by the Auditor-General, the internal control, risk management and governance were not effective—

1. Lack of Independence of the Municipality

The Municipality of Lamu was established on 30 January 2018 vide the Municipality of Lamu Charter. During the year under review, the operations of the Municipality were undertaken by the Department of Lands, Physical Planning, Urban Development, and Infrastructure of the Lamu County Government.

In the circumstances, the Municipality did not operate as a separate corporate body from the County Executive as established by the Municipal Charter.

Management Response

The Municipal Board concurs with the findings; however, it is important to note that Lamu Municipality was not structured in the same way as other municipalities when it was established and gazetted. All municipalities were initially established through the Department of Lands, Physical Planning, and Urban Development. Lamu County Council, in particular, was one of those completely dissolved after devolution, with all staff being transferred to the County Executive and assigned to various departments.

Consequently, when Lamu Municipality was established it could not operate independently, as it lacked a budget until the Kenya Urban Support Grant was introduced. This funding was conditional and earmarked for specific expenditures, such as the Urban Institutional Grant and Urban Development Grant. These grants were insufficient to cover all administrative and recurrent expenses.

Therefore, Lamu Municipality has relied on support from the County Executive, functioning as part of the county department to fulfill its responsibilities. Achieving independence for Lamu Municipality requires a sufficient budget to carry out its mandates and functions effectively. The Municipal Board is actively working to enhance its structure financial and human resource capacity, ensuring that all essential departments are in place to execute the functions outlined in the Municipal Charter.

Committee Observations

The Committee observed that—

- i. Lamu Municipality could not operate independently as it lacked a budget to carry out administrative and recurrent expenses.
- ii. The current Board's term expires in August 2024 and the Governor is in the process of actively recruiting new and qualified Board members.

Committee Recommendations

The committee recommends that the Governor of Lamu County ensures Lamu Municipality operational independence is fully actualized in line with sections 12 (management independence), 20 (functional independence), 45 and 46 (financial independence) of the Urban Areas and Cities Act, failure to which the provisions

of section 199 of the Public Finance Management Act on penalties for offences may apply.

2. Lack of Risk Management Policy and Information Technology Policy

Review of internal control and risk management operations revealed the Municipality did not have a documented risk management policy and Information Technology policy. This was contrary to Regulation 158(1)(a) and (b) of the Public Finance Management (County Governments) Regulations, 2015 which requires the Accounting Officer to develop risk management strategies which include fraud prevention mechanisms and internal control that builds robust business operations.

In the circumstances, Management lacked objective means to identify, assess and mitigate operational and other risks faced by the Municipality.

Management Response

At the time of the audit, the municipality did not have a risk management policy. The Municipality Board has adopted for use (with appropriate changes) the Lamu County Risk Management policy.

Committee Observations

The Committee observed that the matter is recurrent and that the Municipality did not have a Risk management policy and was using that of the County Executive.

Committee Recommendations

The Committee recommends that the Board of Directors ensures that the Municipality puts in place all internal control systems such as a Risk Management Policy as provided under section 158 (1) of Public Finance Management (County Governments) Regulations, 2015 among others to guide the internal operations of all the funds. Further, the management to submit evidence of the same to the Auditor-General for verification.

CHAPTER SIX

REPORT ON THE AUDITED FINANCIAL STATEMENTS MIGORI MUNICIPALITY FOR THE FINANCIAL YEAR 2021/2022

The Governor of Migori County, Hon. Dr. George Ochilo M. Ayacko, EGH, appeared before the Committee on Thursday, 8th August, 2024, to respond (under oath) to audit queries raised in the report of the Auditor-General on financial statements for the Migori Municipality for the financial year 2021/2022. The Governor was accompanied by:

- | | | |
|-------------------------|---|--------------------------------|
| 1. Mr. Maurice Otunga | - | CECM-Finance |
| 2. Mrs. Tuphorser Adamo | - | Vice/Chair Migori Municipality |
| 3. Mr. Julius Awuor | - | CECM-Health |
| 4. Eng. David Ochola | - | Chair PSB |

REPORT ON THE FINANCIAL STATEMENTS

The Auditor-General rendered an **unqualified opinion** on the Financial Statements of the Migori Municipality for the period under review on the following basis-

1. Budgetary controls and performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on a comparable basis of Kshs. 82,638,406 and Kshs. 77,653,026 respectively resulting to an underfunding of kshs. 4,985,380 or 6% of the budget. Similarly, the municipality expended kshs. 75,960,240 against an approved budget of kshs. 82,638,406 resulting to an under-expenditure of kshs. 6,678,166 or 8% of the budget.

The under realization of revenue and under-expenditure represents budgeted goods and services that were not delivered to the County residents of Migori.

Management response

The Management noted the Auditor's observation and wishes to state that the under-funding of ksh. 4,985,380 was due to late disbursement of funds from National Treasury to Migori County Government. Further, the Kshs. 1,692,556 relates to work in progress that was completed in the subsequent year.

Committee Observations

The Committee observed that-

- i. The Municipality did not receive exchequer releases from the National Treasury on time;

- ii. The Municipality had an underfunding of Kshs 4,985,380 or 6% of the budget during the financial year under review; and
- iii. The Municipality had an under-expenditure of Kshs. 6,678,166 or 8% of the budget during the financial year under review.

Committee Recommendations

The Committee recommends that—

- i. **the Accounting Officer should ensure strict compliance with section 149(2)(h) and (i) of the Public Finance Management Act, Cap. 412A and the standards prescribed by the Public Sector Accounting Standards Board under IPSAS 24 on the presentation of budget information in the financial statements for an entity that prepares their financial statements under the accrual basis of accounting, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences shall apply; and**
- ii. **the Accounting Officer should comply with regulation 42(1)(b) of the Public Finance Management (County Government) Regulations, 2015 on exerting budgetary control measures, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences shall apply.**

2. Construction Works at Ombo Modern Market Migori municipality phase III

Included in the property, plant and equipment expenditure of Kshs. 71,945,850 as disclosed in note 8 to the financial statement is an amount of Kshs. 30,066,159 in respect of the construction, fabrication and erection of steel tower and water tank, underground water tank and associated works, flood lights and supply of stackable heavy duty steel skip at Ombo Modern market Migori Municipality Phase III. The contract sum was Kshs. 34,793,828 and commencement date of 17 January, 2022 for a contract period of (6) months ending on 30 June, 2022. The amount certified as at 30 June, 2022 was Kshs. 31,066,159.

The following anomalies were noted:

- (i) The signed form of tender was not provided for Audit and there was no evidence of the provision of the Performance Bond or bid security by the contractor required by Regulation 106(7) of the Public Procurement and Assets Disposal Regulations, 2020, which states that the requirement of the performance security shall be included in the bid documents and be determined by the procuring entity in accordance with the value of the orders made.
- (ii) The signed Bills of Quantities and specific conditions of the contract as required by section 70(6) of the Public Procurement and Assets Disposal Act 2015 were not provided for Audit.

- (iii) Despite the completion of the project in June, 2022 and the previous construction of 420 market stalls at Ombo Modern Market in June, 2020, the market was not operational. No explanation was provided for the non-operationalization of the market.

In the circumstance the management was in breach of the law and value for money on the project may not have been obtained by the county government.

Management Response

The management noted the Auditor's observation and provides the signed Form of Tender and Bid Security of Kshs. 525,000 for review.

The management noted the Auditor's observation and provides signed Bills of Quantities which formed part of the Tender Document from page 101- 115 for review.

The Management noted the Auditor's observation and wishes to state that the stalls were allocated on 28th of June 2022 and the market commissioned on 1st July 2022.

Committee Observations

The Committee observed that-

- i. whereas the signed Form of Tender, Bid Security, signed Bills of Quantities and specific conditions of the contract were provided and verified by the Auditor-General, and the query marked as addressed, the submission was done outside the timelines contemplated under the Public Audit Act, Cap.412B and constitutes an offence under section 62(2) of the Act.
- ii. The management submitted photographic evidence showing the operational market.

Committee Recommendations

The Committee recommends that—

- i. **The Auditor-General to conduct a physical inspection of the Ombo Modern market within the Municipality to verify that it is operational and report back to the Senate on the same in the subsequent audit cycle; and**
- ii. **the Accounting Officer should ensure timely submission of documents during the audit process in line with section 9 (1) (e) of the Public Audit Act, Cap.412B, failure to which the Committee shall recommend for their investigation and prosecution in accordance with section 62 (2) of the Public Audit Act, Cap.412B.**

3. Failure by the Municipal Board to Fulfill its Mandate

Review of the operations and activities of the Municipality revealed that the Board did not implement an integrated urban area development plan that reflect the Board's

operational strategies contrary to section 5(b) and 41(g) of the Urban Areas and Cities Act, 2011. In addition, the board did not undertake annual review of the integrated development plan to assess its performance in accordance with the set performance management tools

Management Response

The Management noted the Auditor's observation and wishes to state that the Municipality of Migori partially implemented the Municipal Integrated Development Plan through the implementation of the Beautification Project under the Municipal Environment Management and Conservation programme.

Further, the Municipality reviewed the Integrated Development Plan in the subsequent year and is hereby provided for review.

Committee Observations

The Committee observed that—

- i. The Board of Directors did not conduct the required annual review of the plan to assess performance during the financial year under review.
- ii. whereas evidence showing that the Board of Directors implemented an integrated urban area development plan was provided and verified by the Auditor-General, and the query marked as addressed, the submission was done outside the timelines contemplated under the Public Audit Act, Cap.412B and constitutes an offence under section 62(2) of the Act.

Committee Recommendations

The Committee recommends that—

- i. **The Board of Directors ensures strict adherence to the provisions of section 42 of the Urban Areas and Cities Act, 2011 with regards to annual review of the integrated development plan of the Municipality ,failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences may apply; and**
- ii. **the Accounting Officer should ensure timely submission of documents during the audit process in line with section 9 (1) (e) of the Public Audit Act, Cap.412B, failure to which the Committee shall recommend for their investigation and prosecution in accordance with section 62 (2) of the Public Audit Act, Cap.412B.**

CHAPTER SEVEN

REPORT ON THE AUDITED FINANCIAL STATEMENTS FOR THE MUNICIPALITY OF MUMIAS FOR THE FINANCIAL YEAR 2021/2022

The Governor of Kakamega County, Hon. FCPA Fernandes Barasa, EGH, appeared before the Committee on Thursday, 22nd August, 2024 to respond (under oath) to audit queries raised in the report of the Auditor-General on financial statements for the Municipality of Mumias for the financial year 2021/2022. The Governor was accompanied by the following officers:

- | | |
|---------------------------|--------------------------------------|
| 1. CPA Livingstone Imbayi | - CECM-Finance and Economic Planning |
| 2. Mr. Jeophita Mwajuma | - CCO-Finance |
| 3. Mrs. Faith Gitiva | - CO-Trade |
| 4. Mrs. Violet Oksi | - Manager-Mumias Municipality |
| 5. Mr. Shakir Adan | - CO. Urban |

REPORT ON THE FINANCIAL STATEMENTS

The Auditor-General rendered a **qualified opinion** on the financial statements of the Mumias Municipality for the financial year based on the following basis-

1. Accuracy and Presentation of the Financial Statements

1.1 Variance between Amounts in the Financial Statements and Supporting Schedule

Variances noted between amounts in the financial statements and those in supporting schedules for three expenditure items of Kshs.8,350, Kshs.54,544 and Kshs.31,183.

Management Response

The management has noted the auditor's observation. However, as per our records the correct balance on office and general supplies and services was Kshs.32,507,449 and not Kshs.32,499,099 as indicated in the audit report hence no variance of Kshs.8,350.

The management took note of the auditor's observation. However, as per our records the correct balance on routine maintenance – other assets was Kshs.765,356 and not Kshs.819,900 as indicated in the audit report hence no variance of Kshs.54,544.

The management has noted the auditor's observation. However, as per our records the correct balance on finance costs was Kshs.69,630 and not Kshs.38,447 as indicated in the audit report hence no variance of Kshs.31,183.

Committee Observations

The Committee observed that whereas the documents were provided and verified by the Auditor-General, and the query marked as addressed, the submission was done outside the timelines contemplated under the Public Audit Act, Cap.412B and constitutes an offence under section 62(2) of the Act.

Committee Recommendations

The Committee recommends that—

- i. the Accounting Officer to take appropriate administrative action on responsible officers within the Accounts and Finance department who fail to keep complete financial records in accordance with section 156(1) of the Public Finance Management Act, Cap.412A and in line with their terms and conditions of appointment or employment, failure to which the provisions of section 199 of the Public Finance Management Act, Cap.412A on penalties for offences shall apply;**
- ii. the Accounting Officer should comply with section 149(2)(b) of the Public Finance Management Act, Cap.412A and section 47(2) of Public Audit Act, Cap.412B in the preparation and management of financial and accounting records, failure to which the provisions of section 62 of the Public Audit Act, Cap.412B and section 199 of the Public Finance Management Act, Cap.412A on penalties and offences shall apply;**
- iii. the National Treasury should enhance awareness and training on changes made to the accounting standards to all public officers handling financial matters in Counties;**
- iv. the Accounting Officer should enhance the skills and capacity of officers preparing financial statements to comply with the requirements of the Public Sector Accounting Standards and should further invest in technology to enhance efficiency and improve the accuracy of financial statements; and**
- v. the Accounting Officer ensures that supporting documents are availed to the Auditor during audit as required under section 9(1)(e) of the Public Audit Act, failure to which the Committee shall recommend for their investigation and prosecution in accordance with section 62(2) of the Public Audit Act, 2015 in the subsequent audit cycle.**

1.2 Reserves

The statement of changes in net assets reflects a balance of Kshs.183, 105,351 in respect of reserves as at 30 June, 2021. However, no documentary evidence and schedules were provided to support the balance.

Management Response

The Statement of Changes in Net Assets reflected a nil figure under revaluation reserve and not Kshs.183,105,351 as reported. Hence the management is unable to provide documentary evidence or schedules to support the same.

Committee Observation

The committee observed that the changes in Net Assets of Ksh. 183,105,351 was erroneously Captured as confirmed by the Auditor-General.

Committee Recommendations

The Committee recommends that the Accounting Officer ensures that supporting documents are availed to the Auditor during audit as required under section 9(1)(e) of the Public Audit Act, failure to which the Committee shall recommend for their investigation and prosecution in accordance with section 62(2) of the Public Audit Act, 2015 in the subsequent audit cycle.

2. Cash and Cash Equivalents

The statement of cash flows reflects a balance of Kshs.116, 027,042 in respect of cash and cash equivalents as at 1 July. However, the source of the balance could not be confirmed since this is the first set of financial statements for audit.

Management Response

The correct opening cash and cash equivalent figure reported in the financial statements of the County Executive as at 30th June, 2021 was Kshs.116, 027,169 and not Kshs.116,027,042 as had been reported in original Statement of Cash Flows under Mumias Municipality original financial statements.

The above opening bank balances for Mumias Municipality Bank Accounts were reported and audited in the books of the County Executive for period ended 30th June, 2021. This was the basis or origin of the balance of Kshs.116, 027,042 in respect of cash and cash equivalents as at 1 July, as reported in the Statement of Cash flows in the original financial statements for the municipality.

Committee Observations

The Committee observed that whereas the documents were provided and verified by the Auditor-General, and the query marked as addressed, the submission was done outside the timelines contemplated under the Public Audit Act, Cap.412B and constitutes an offence under section 62(2) of the Act.

Committee Recommendations

The Committee recommends that the Accounting Officer ensures that supporting documents are availed to the Auditor during audit as required under section 9(1)(e) of the Public Audit Act, failure to which the Committee shall recommend for their investigation and prosecution in accordance with section 62(2) of the Public Audit Act, 2015 in the subsequent audit cycle.

3. Property, Plant and Equipment

The statement of financial position reflects a balance of Kshs.319, 058,717 in respect of property, plant and equipment as at 30 June, 2022. However, the balance is at variance with the balance of Kshs.251, 980,408 shown in Note 10 to the financial statements resulting to an unexplained difference of Kshs.67, 078,309.

In addition, note 10 on property, plant and equipment reflects a balance of Kshs.319, 058,717 as at 30 June, 2021, resulting to a further unexplained balance as there were no financial statements for the year 2021.

Management Response

The management had by error reported nil figure on Property, Plant and Equipment in the original statement of financial position submitted to the auditor. Through advice of the audit team, the initial PPE schedule was revised to Kshs.219,210,772 and not Kshs.319,058,717 or Kshs.251,980,408 as reported hence no variance of Kshs.67,078,309.

Committee Observations

The Committee observed that the error reported in the original financial statement was corrected, provided and verified by the Auditor-General, and the query marked as addressed.

Committee Recommendations

The Committee recommends that—

- i. the Accounting Officer to take appropriate administrative action on responsible officers within the Accounts and Finance department who fail to keep complete financial records in accordance with section 156(1) of the Public Finance Management Act, Cap.412A and in line with their terms and conditions of appointment or employment, failure to which the provisions of section 199 of the Public Finance Management Act, Cap.412A on penalties for offences shall apply;**
- ii. the Accounting Officer should comply with section 149(2)(b) of the Public Finance Management Act, Cap.412A and section 47(2) of Public**

- Audit Act, Cap.412B in the preparation and management of financial and accounting records, failure to which the provisions of section 62 of the Public Audit Act, Cap.412B and section 199 of the Public Finance Management Act, Cap.412A on penalties and offences shall apply;**
- iii. **the National Treasury should enhance awareness and training on changes made to the accounting standards to all public officers handling financial matters in Counties;**
 - iv. **The Accounting Officer should enhance the skills and capacity of officers preparing financial statements to comply with the requirements of the Public Sector Accounting Standards and should further invest in technology to enhance efficiency and improve the accuracy of financial statements.**

4. Failure to Disclose Reporting Period

The Municipality Board prepared and presented financial statements for a period of twenty-two (22) months ending 30 June, 2022. However, no disclosure has been provided in the financial statements to this effect.

Management Response

Failure to disclose reporting period on the cover page. The non-disclosure by management on the reason for preparing the financial statements for 22 months against the provisions of paragraph 71 of the International Public Sector Accounting Standards (IPSAS) in the financial statements was due to technical capacity challenges. After direction from the auditor, the cover page of the amended financial statements was revised to reflect that the financial statements were prepared for a period of 22 months ending 30th June, 2022.

Committee Observations

The committee observed that the municipality management did not disclose reporting period for the financial statements presented to the auditors for the year ending 30th June, 2022.

Committee Recommendations

The Committee recommends that—

- i. **the Accounting Officer to take appropriate administrative action on responsible officers within the Accounts and Finance department who fail to keep complete financial records in accordance with section 156(1) of the Public Finance Management Act, Cap.412A and in line with their terms and conditions of appointment or employment, failure to which**

- the provisions of section 199 of the Public Finance Management Act, Cap.412A on penalties for offences shall apply;
- ii. the Accounting Officer should comply with section 149(2)(b) of the Public Finance Management Act, Cap.412A and section 47(2) of Public Audit Act, Cap.412B in the preparation and management of financial and accounting records, failure to which the provisions of section 62 of the Public Audit Act, Cap.412B and section 199 of the Public Finance Management Act, Cap.412A on penalties and offences shall apply;
 - iii. the National Treasury should enhance awareness and training on changes made to the accounting standards to all public officers handling financial matters in Counties;
 - iv. The Accounting Officer should enhance the skills and capacity of officers preparing financial statements to comply with the requirements of the Public Sector Accounting Standards and should further invest in technology to enhance efficiency and improve the accuracy of financial statements.

Other Matter

Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final revenue budget and actual on comparable basis of Kshs.541,539,877 and Kshs.324,185,532 respectively, resulting to under-funding of Kshs.217,354,345 or 40% of the budget.

Similarly, the Municipality Board incurred actual expenditure of Kshs.123, 770,415 against approved budget of Kshs.541, 539,877 resulting to under-performance of Kshs.417, 769,462 or 77% of the budget.

Management Response

The underfunding of Kshs.217, 354,345 was as a result of the following reasons:

- i. The County Treasury was unable to transfer Kshs.75, 984,552 to Mumias Municipality against the expected receipts of Kshs.97, 834,802 due to delays in exchequer releases by the National Treasury

Lithe parent ministry of Lands was unable to pay for expenses on behalf of the municipality to the tune of Kshs.162, 264,230 against the budgeted amount of Kshs.226, 000,000 due to late exchequer release by the National Treasury.

The management reported actual expenditure of Kshs.238,960,885 in the original Financial Statements and Kshs.63,159,666 in the amended Financial Statement, and not Kshs.123,770,415 as reported by the auditor.

However, the underperformance in either case was due to failure by the relevant entities to disburse funds in full to the Municipality as expected which affected some planned activities in the year under review.

Committee Observations.

The committee observed that;-

- i. The Municipality Board incurred actual expenditure of Kshs.123, 770,415 against approved budget of Kshs.541, 539,877 resulting to under-performance of Kshs.417, 769,462 or 77% of the budget.
- ii. the County Treasury was unable to transfer Kshs.75,984,552 to Mumias Municipality against the expected receipts of Kshs.97,834,802 due to delays in exchequer releases by the National Treasury

Committee Recommendations

The Committee recommends that—

- iii. **The Accounting Officer should ensure strict compliance with section 149(2) (h) and (i) of the Public Finance Management Act, Cap. 412A and the standards prescribed by the Public Sector Accounting Standards Board under IPSAS 24 on the presentation of budget information in the financial statements for an entity that prepares their financial statements under the accrual basis of accounting, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences shall apply; and**
- iv. **The Accounting Officer should comply with regulation 42(1) (b) of the Public Finance Management (County Government) Regulations, 2015 on exerting budgetary control measures, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences shall apply.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Pursuant to Article 229 (6) of the Constitution, based on the audit procedures performed by the Auditor General, the following matters formed the basis for conclusion that public resources were not applied lawfully and in an effective way –

1. Construction of Walkways and Landscaping Works

The Municipality Board awarded a contract to a local contractor for construction of walkways and landscaping works at a contract sum of Kshs.51, 038,454. Examination of tender documents submitted by bidders revealed that the bidders were required to submit to the IFMIS procurement portal, amongst other documents, serialized tender documents and a bid bond of Kshs.200,000. However, review of the IFMIS portal attachment by the bidders revealed that the winning bidder did not fill the tender document in its entirety and did not submit the bid bond in the portal as provided for in the tender document. No explanation was provided for awarding the tender to a bidder who did not meet the tender requirements. Further, tender opening minutes revealed that tender opening was carried out on

16 November, 2021 while the Tender Opening Committee was constituted on 24 November, 2021. No explanation was provided on why the tenders were opened before constituting the Tender Opening Committee.

Management Response

The Winning bidder filled the tender document in its entirety and submitted the bid bond through the IFMIS portal as provided for in the tender document. The bid bond worth Kshs.200,000 was from Spire Bank and was dated 15th November, 2021.

The tender opening committee was appointed on 04/11/2021 while the tender opening exercise was done on 16/11/2021. The letter referred to by the auditor dated 24th November, 2021 was appointing the committee for two other projects not related to this. The projects were: (i) Proposed completion of European Union Market at Mumias Municipality-Neg.No.893255-2021/2022 and (ii) Proposed Rehabilitation and Improvement of Ambwere Junction of Bukhungu Stadium at Kakamega Municipality-Neg.896748-2021/2022. The letter was erroneously filed in the project file under review.

The management has demonstrated by granting access to IFMIS portal and bid bond was submitted electronically as stipulated in the tender advert.

The Management has provided tender opening appointment letters and were issued on 04 November 2021 and verified. The letters dated 24/11/2021 management has

demonstrated was erroneously filled in documents submitted during audit as explained by management

Committee Observations

The Committee observed that whereas the tender documents were provided and verified by the Auditor-General, and the query marked as addressed, the submission was done outside the timelines contemplated under the Public Audit Act, Cap.412B and constitutes an offence under section 62(2) of the Act.

Committee Recommendations;-

The Committee recommends that the Accounting Officer ensures that supporting documents are availed to the Auditor during audit as required under section 9(1)(e) of the Public Audit Act, failure to which the Committee shall recommend for their investigation and prosecution in line with section 62(2) of the Public Audit Act, 2015 in the subsequent audit cycle.

2. Construction of Mumias Bus Park and Access Roads

The Municipality Board awarded a contract to a local contractor for construction of Mumias Bus Park and access roads at a contract sum of Kshs.185, 663,366. However, evaluation was conducted on 25 May, 2021, which was beyond the tender validity period of 120 days from the date of advertisement as provided for in the tender documents.

- i. Failure to submit performance bond within 28 days upon receipt of award notification.
- ii. Failure to submit performance security of 10% of the contract sum, being Kshs.18, 566,337.
- iii. The project was handed over on 26 July, 2022 while the Inspection and Acceptance Committee carried out inspection of the project on 1 August, 2022.
- iv. The inspection report indicated that as at the date of inspection, the Project was 99% complete and the contractor had been paid the entire contract sum.
- v. Physical inspection of the project carried out on 1 December, 2022 revealed that although the project had been certified as complete and handed over and full payment made to the contractor, substantial works had not been done. These included laying of manhole covers, landscaping and testing and commissioning of electric works. In addition, cabro at the main gate on the acceleration and deceleration lanes had sunk, leaving uneven sharp curves, an indication of poor workmanship and substandard works
- vi. It was also observed that although the project was certified as complete, the bus park has not been commissioned and put to use to date.

Management Response

The evaluation of bids was done through e-procurement and concluded on 18th February 2021. The date of 25th May, 2021 was when the Evaluation Matrix Report was printed from the IFMIS system and not when the evaluation was concluded.

The successful tenderer received and signed the form of contract agreement on 21st April, 2021 and issued the performance security on 5th May, 2021 which was within the 14 days as provided for in the tender documents.

The contract agreement on page sixteen (16) and the tender document provided that the successful bidder shall issue a performance bond of 5% (and not 10%) of the contract price before commencement of the works for the due performance of the contract.

The inspection and acceptance for the final payment on this project was done on 30/06/2022.

At the time of physical inspection of the project on 1st December, 2022, the management still held the contractor's retention money to the tune of Kshs.9,241,528.72. Management implored upon him to make good the defects noted by the auditor before payment of the retention.

The contractor addressed the remaining works

The project was commissioned by H.E Emeritus FCPA Wycliffie Ambetsa Oparanya on 27th July, 2022 and later put to use on 22nd February, 2023 after the prolonged election period.

Committee Observations

The Committee noted that the inspection report indicated that as at the date of inspection, the Project was 99% complete and the contractor had been paid the entire contract sum. The bus park has not been commissioned and put to use to date.

Committee Recommendations

The Committee recommends that The Governor to expedite the completion and use of the project and submit a status update within 60 days of the adoption of this report and The Auditor-General keep the matter in view in the subsequent audit cycle.

3. Tenders Awarded Without Tender Opening Committees

During the period under review, the Municipality Board awarded four (4) contracts for works and services worth a total of Kshs.266, 147,495. However, the tenders were awarded without being subjected to tender opening.

Management Response

The management clarifies that the companies who were awarded contracts for works and services were seven (7) at a total contract sum of Kshs.268,691,224.68 and not four (4) as indicated by the auditor.

Committee Observations

The Committee observed that the tenders were awarded without being subjected to tender opening.

Committee Recommendations;-

The Committee recommends that the Municipality adhere to the rules and regulations outlined in the Public Procurement and Disposal of Assets Act, Cap 412C on procurement procedures failure to which the provisions of section 177 of the Public Procurement and Asset Disposal Act, 2015 on penalties for offences shall apply.

4. Operational Autonomy of Mumias Municipality

During the audit, it was observed that only office operations were being carried out by the Municipality Board while project implementation was being carried out by the County Executive through the Department of Lands, Housing, Urban Areas Development and Physical Planning. This is contrary to Section 21(1) (a) of the Urban Areas and Cities Act, 2011 which gives Municipality Boards executive authority as delegated by County Executives.

Management response

Most municipalities across the 47 county governments are still facing a share of challenges to attain full autonomy. Some of the major challenges include: (i) staff capacity, (ii) un-constituted municipal boards; (iii) inadequate technical staff; (iv) incomplete delineation of boundaries; (v) lack of autonomy in raising own source revenues; (vi) lack of autonomy in human resource management; (vii) lack of Municipality Managers; (viii) un-gazetted municipality functions among others.

Committee Observations

The committee observed that;-

- i. that only office operations were being carried out by the Municipality Board while project implementation was being carried out by the County Executive through the Department of Lands, Housing, Urban Areas Development and Physical Planning. This is contrary to Section 21(1)(a) of the Urban Areas and Cities Act, 2011 which gives Municipality Boards executive authority as delegated by County Executives.

- ii. the Mumias Municipality had made progress towards autonomy by; (i) Appointing municipality boards vide gazette notice number 10369 dated 2/8/2023, (ii) Gazetting proposed devolved functions through gazette notice no.6225 of 12/5/2023, (iii) Appointing municipal managers and designating them as accounting officers for the municipalities.

Committee Recommendations

The committee recommends that the Governor of Kakamega County ensures Mumias Municipality operational independence is fully actualized in line with sections 12 (management independence), 20 (functional independence), 45 and 46 (financial independence) of the Urban Areas and Cities Act, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences may apply.

CHAPTER EIGHT

REPORT ON THE AUDITED FINANCIAL STATEMENTS MUNICIPALITY OF MURANG'A FOR THE FINANCIAL YEAR 2021/2022

The Governor of Murang'a County, Hon. Dr. Irungu Kangata, CBS, appeared before the Committee on Monday, 26th August, 2024, to respond (under oath) to audit queries raised in the report of the Auditor-General on financial statements for the Municipality of Murang'a for the financial year 2021/2022. The Governor was accompanied by:

- | | | |
|----------------------|---|----------------------------|
| 1. Dr. Winnie Mwangi | - | CECM-Finance |
| 2. Mr. Benard Mugo | - | Municipal Manager Murang'a |
| 3. Mr. Makara Ngure | - | Municipal Administrator |

REPORT ON THE FINANCIAL STATEMENTS

The Auditor-General rendered a **qualified opinion** on the Financial Statements of the Municipality of Murang'a for the period under review on the following basis—

1.0 Statement of financial position

The statement of financial position as at 30 June, 2022 reflects an accumulated surplus of Kshs. 908,514 while the statement of financial performance for the year ended 30 June, 2022 reflects a deficit for the period of Kshs. 2,812,524. The resulting variance of Kshs. 3,721,038 has not been reconciled or explained. In addition, the statement reflects property, plant and equipment balance of Kshs. 35,512,994 while Note 22 to the financial statements reflect nil balance.

Further, the statement reflects total net assets and liabilities of Kshs. 65,510,423 while the statement of changes in net assets reflects Kshs. 100,173,574 resulting to unreconciled and unexplained variance of Kshs. 34,663,151.

Management response

Corrections and adjustments have been made.

Committee Observations

The Committee observed that the management submitted amended financial statements which included all the necessary reconciliations however, the financial statements are yet to be verified by the Auditor-General.

Committee Recommendations

The Committee recommends that—

- i. **the Accounting Officer to take appropriate administrative action on responsible officers within the Accounts and Finance department who**

- fail to keep complete financial records in accordance with section 156(1) of the Public Finance Management Act, Cap.412A and in accordance with their terms and conditions of appointment or employment, failure to which the provisions of section 199 of the Public Finance Management Act, Cap.412A on penalties for offences shall apply;**
- ii. the Accounting Officer should comply with section 149(2)(b) of the Public Finance Management Act, Cap.412A and section 47(2) of Public Audit Act, Cap.412B in the preparation and management of financial and accounting records, failure to which the provisions of section 62 of the Public Audit Act, Cap.412B and section 199 of the Public Finance Management Act, Cap.412A on penalties and offences shall apply;**
 - iii. the National Treasury should enhance awareness and training on changes made to the accounting standards to all public officers handling financial matters in Counties;**
 - iv. the Accounting Officer enhance the capacity of in-post officers preparing financial statements to comply with the requirements of the Public Sector Accounting Standards and should further invest in technology to enhance efficiency and improve the accuracy of financial statements.**

1.3 Statement of cash flows

The statement of cash flows for the year ended 30th June, 2022 is incomplete and has no cash and cash equivalent balance as at 30 June, 2022.

In the circumstances, the validity, accuracy and completeness of the financial statement balances for the year ended 30 June, 2022 could not be confirmed.

Management response

The figure of Ksh 29,997,429 being cash and cash equivalent as at 30/06/2022 had been erroneously left in the cash flow statement. It has now been included.

Committee Observations

The Committee observed that the management submitted amended financial statements which included the cash and cash equivalent balance however, the financial statements are yet to be verified by the Auditor-General.

Committee Recommendations

The Committee recommends that—

- i. the Accounting Officer to take appropriate administrative action on responsible officers within the Accounts and Finance department who fail to keep complete financial records in accordance with section 156(1) of the Public Finance Management Act, Cap.412A and in accordance**

- with their terms and conditions of appointment or employment, failure to which the provisions of section 199 of the Public Finance Management Act, Cap.412A on penalties for offences shall apply;**
- ii. the Accounting Officer should comply with section 149(2)(b) of the Public Finance Management Act, Cap.412A and section 47(2) of Public Audit Act, Cap.412B in the preparation and management of financial and accounting records, failure to which the provisions of section 62 of the Public Audit Act, Cap.412B and section 199 of the Public Finance Management Act, Cap.412A on penalties and offences shall apply;**
 - iii. the National Treasury should enhance awareness and training on changes made to the accounting standards to all public officers handling financial matters in Counties;**
 - iv. the Accounting Officer enhance the capacity of in-post officers preparing financial statements to comply with the requirements of the Public Sector Accounting Standards and should further invest in technology to enhance efficiency and improve the accuracy of financial statements.**

2. Presentation of financial statements

Review of the financial statements against the prescribed presentation format by the Public Sector Accounting Standards Board revealed that the three (3) financial statements components notes in the statements of financial position were inconsistent with the corresponding explanatory notes as shown below

In the circumstances, the inconsistencies are contrary to accounting standards as prescribed by the Public Sector Accounting Standard Board.

Note	Items as per the statement of financial position	Items as per the explanatory Notes
28	Provision	Cash Generated from Operations
29	Borrowing	Related Party Balance
30	Non-Current Employee Benefit Obligation	Contingent Liabilities

Management response

There was a mix up of notes in the financial position statements and the explanatory notes. This has now been corrected.

Committee Observations

The Committee observed that the management submitted amended financial statements which are in compliance with the accounting standards as prescribed by the Public Sector Accounting Standard Board however, the financial statements are yet to be verified by the Auditor-General.

Committee Recommendations

The Committee recommends that—

- i. the Accounting Officer to take appropriate administrative action on responsible officers within the Accounts and Finance department who fail to keep complete financial records in accordance with section 156(1) of the Public Finance Management Act, Cap.412A and in accordance with their terms and conditions of appointment or employment, failure to which the provisions of section 199 of the Public Finance Management Act, Cap.412A on penalties for offences shall apply;**
- ii. the Accounting Officer should comply with section 149(2)(b) of the Public Finance Management Act, Cap.412A and section 47(2) of Public Audit Act, Cap.412B in the preparation and management of financial and accounting records, failure to which the provisions of section 62 of the Public Audit Act, Cap.412B and section 199 of the Public Finance Management Act, Cap.412A on penalties and offences shall apply;**
- iii. the National Treasury should enhance awareness and training on changes made to the accounting standards to all public officers handling financial matters in Counties;**
- iv. the Accounting Officer enhance the capacity of in-post officers preparing financial statements to comply with the requirements of the Public Sector Accounting Standards and should further invest in technology to enhance efficiency and improve the accuracy of financial statements.**

Other Matter

Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects revenue final budget and actual on comparable basis totalling Kshs. 64,102,889 and Kshs. 37,919,394 respectively resulting in under- performance of Kshs. 26,183,495 or 41% of the budget.

Similarly, the Municipality expended Kshs. 7,456,320 against approved budget of Kshs. 64,102,889 resulting in an under-expenditure of Kshs. 56,646,569 or 88% of the total expenditure budget.

Further, the Municipality has wrongly captured under expenditure in the statement as Kshs. 57,046,569 instead of Kshs. 56,646,569 resulting to unreconciled and unexplained variance of Kshs. 400,000.

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

Management response

It is true the Municipality had wrongly captured the under expenditure of Ksh 57,046,569. It has been corrected to read as Ksh 56,646,569

It is also true that there was an under performance in the Municipality due to the low allocation of funds from the executive. In future we are going to lobby for more funds to be allocated to Municipality as per the budgeted allocation.

Committee Observations

The Committee observed that—

- i. the Municipality had a revenue shortfall of Kshs. 26,183,495 or 41% of the budget during the financial year under review.
- ii. The Municipality failed to absorb Kshs. 56,646,569 or 88% of the budget during the financial year under review.
- iii. the management submitted amended financial statements which reflected the correct expenditure balance however, the financial statements are yet to be verified by the Auditor-General

Committee Recommendations

The Committee recommends that—

- i. the Accounting Officer should ensure strict compliance with section 149(2)(h) and (i) of the Public Finance Management Act, Cap. 412A and the standards prescribed by the Public Sector Accounting Standards Board under IPSAS 24 on the presentation of budget information in the financial statements for an entity that prepares their financial statements under the accrual basis of accounting, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences shall apply; and
- ii. the Accounting Officer should comply with regulation 42(1)(b) of the Public Finance Management (County Government) Regulations, 2015 on exerting budgetary control measures, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences shall apply.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Pursuant to Article 229 (6) of the Constitution, based on the audit procedures performed by the Auditor General, the following matters formed the basis for conclusion that public resources were not applied lawfully and in an effective way –

Failure to Maintain Updated Asset Register

The Municipality inherited various classes of assets from Murang'a County Government and defunct Local Authorities. However, these assets have not been valued and recorded in an asset register contrary to Regulation 136 (1), (2) and (3) of the Public Finance Management (County Governments) Regulations, 2015 which require that the Accounting Officer shall be responsible for maintaining a register of assets under his or her control or possession as prescribed by the relevant laws, the register of land and buildings shall record each parcel of land and each building and the terms on which it is held, with reference to the conveyance, address, area, dates of acquisition, disposal or major change in use, capital expenditure, lease hold terms, maintenance contracts and other pertinent management details and all major items including furniture and equipment issued for a government's quarters or offices, large tools for county, works, plant, equipment, vehicles or (launches) large motor boat shall be recorded in a register.

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

Management response

By the time the audit was being conducted we had an inventory of all the assets under Municipality which was also presented. We have since then procured an asset register.

The process of revaluation of assets is underway and soon we are going to have an updated register. As per the legal requirements.

We have attached a copy of a valuation report for a few assets which have already been revalued.

Committee Observations

The Committee observed that the Municipality did not maintain an updated fixed asset register contrary to Regulation 136 (1), (2) and (3) of the Public Finance Management (County Governments) Regulations, 2015.

Committee Recommendations

The Committee recommends that—

- i. the Accounting Officer ensures that the municipality maintains an up-to-date asset register in the format prescribed by the Public Sector Accounting Standards Board pursuant to section 104(1)(h) of the Public Finance Management Act 2012, failure to which penalties under section 199 of the Public Finance Management Act shall apply; and**
- ii. the Auditor-General to undertake physical verification of all assets of the Municipality and provide a status report to the Committee in the subsequent audit cycle;**

CHAPTER NINE

REPORT ON THE AUDITED FINANCIAL STATEMENTS FOR SPECIAL MUNICIPALITY OF MWATATE FUND/BOARD FOR THE FINANCIAL YEAR 2021/2022

The Governor of Taita Taveta County, Hon. Andrew Mwadime, appeared before the Committee on Thursday 1st August 2024, to respond (under oath) to audit queries raised in the report of the Auditor-General on financial statements for Special Municipality of Mwatate fund/board for the financial year 2021/2022. He was accompanied by-

- | | |
|----------------------------|---------------------------|
| 1. Mr. Dawson Mzenge - | CECM-Finance |
| 2. Mrs. Getrude Shuwe - | CECM-Trade |
| 3. Mr. Edward Mwakalami - | Mwatate Municipal Manager |
| 4. Mr. Mwang'ombe Mwakio - | County Attorney |

REPORT ON THE FINANCIAL STATEMENTS

The Auditor-General rendered a **qualified opinion** on the financial statements of the Special Municipality of Mwatate fund/board for the period under review on the following basis—

Other Matter

1. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final revenue budget and actual on comparable basis of Kshs.59,729,632 and Kshs.19,558,689 respectively, resulting in a shortfall of Kshs.40,170,943 or 67% of the budget. Similarly, the Fund/Board spent Kshs.14,614,370 against an approved budget of Kshs.59,729,632, resulting in under-expenditure of Kshs.45,115,262 or 76% of the budget.

In the circumstances, the underfunding and under-performance affected the planned activities of the Fund/Board and may have impacted negatively on service delivery to the stakeholders.

Management Response

The county government did not realize donor funds of kshs KUSP window 2 kshs 10,000,000 KUSP UDG shs 17,425,533, county contribution of shs 12,745,411. See attached Supplementary II Budget for 2021- 2022, financial statement note 17, (comparison of Budget and Actual amounts for the year ended 30 th June 2022

The under-expenditure was occasioned by the reason that non-realization of KUSP UDG money could not enable the board to execute the earmarked project of A23-Mordern market access road which was planned to cost shs 14,000,000. Therefore there

was need for the board to wait for the unrealized funds so that the procurement process could be initiated.

Committee Observations

The Committee noted that;

- i. The Municipality had an underfunding of Kshs.40,170,943 or 67% of the budget ;and
- ii. The Municipality had an under-expenditure of Kshs.45,115,262 or 76% of the budget.

Committee Recommendations

The Committee recommends that—

- i. the Accounting Officer should ensure strict compliance with section 149(2)(h) and (i) of the Public Finance Management Act, Cap. 412A and the standards prescribed by the Public Sector Accounting Standards Board under IPSAS 24 on the presentation of budget information in the financial statements for an entity that prepares their financial statements under the accrual basis of accounting, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences shall apply; and
- ii. the Accounting Officer should comply with regulation 42(1)(b) of the Public Finance Management (County Government) Regulations, 2015 on exerting budgetary control measures, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences shall apply

REPORT ON EFFECTIVENESS OF INTERNAL CONTROL, RISK MANAGEMENT, AND GOVERNANCE

Pursuant to section 7(1)(a) of the Public Audit Act, based on the audit procedures performed by the Auditor-General, the internal control, risk management and governance were not effective—

1. Lack of Approved Integrated Development Plan

The Special Municipality of Mwatate did not have an approved Integrated Development plan as provided under Section 38 of the Urban Areas and Cities Act, 2011 which states that ‘a city or urban area shall prepare an integrated city or urban area development plan in accordance with the Third Schedule to the Act’.

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

Management Response

The management has noted the audit observation. However the management (Board) has since developed and adopted the integrated development plan for Mwatate Municipality.

Committee Observations

The Committee noted that the Municipality did not have an approved Integrated Development plan as provided under Section 38 of the Urban Areas and Cities Act, 2011 at time of audit. However, the Integrated Development plan was later developed and approved. Hence, the matter was addressed

Committee Recommendations

The Committee recommends that the matter be marked as resolved.

2. Lack of Demonstrable Revenue Collection Potential

During the year under review, Special Municipality of Mwatate received Kshs.10,000,000 from the Kenya Urban Support Programme (KUSP) but failed to receive budgeted revenue from the County Treasury and from own sources, as similarly observed in the previous financial year. Consequently, the Municipality has not demonstrated its revenue collection potential, contrary to the provisions of Section 9(3) of the Urban Areas and Cities Act, 2011 which requires towns eligible for the conferment of municipal status under the Act to have demonstrable revenue collection potential.

In the circumstances, should the situation persist, the Municipality may not sustain its services, thereby threatening its status.

Management Responses

The management has noted the concern. However, the functions have already been transferred and the revenue sharing formula is under discussion. Management attached gazette notice, Mwatate Municipality Revenue A/c bank statement, organogram, cabinet memo.

Committee Observations

The Committee observed that the Municipality did not demonstrate its revenue collection potential, contrary to the provisions of Section 9(3) of the Urban Areas and Cities Act as it failed to receive budgeted revenue from the County Treasury and from own sources.

Committee Recommendations

The Committee recommends that the Municipality should strictly adhere to provisions of Section 9(3) of the Urban Areas and Cities Act, 2011, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences shall apply.

The committee recommends that the Governor of Taita Taveta County ensures Mwatate Municipality operational independence is fully actualized in line with sections 12 (management independence), 20 (functional independence), 45 and 46 (financial independence) of the Urban Areas and Cities Act, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences may apply.

CHAPTER TEN

REPORT ON THE AUDITED FINANCIAL STATEMENTS RONGO MUNICIPALITY FOR THE FINANCIAL YEAR 2021/2022

The Governor for Migori County, Hon. Dr. George Ochilo M. Ayacko, EGH, appeared before the Committee on Thursday, 8th August, 2024, to respond (under oath) to audit queries raised in the report of the Auditor-General on financial statements for the Rongo Municipality for the financial year 2021/2022. The Governor was accompanied by:

- | | | |
|-------------------------|---|--------------------------------|
| 1. Mr. Maurice Otunga | - | CECM-Finance |
| 2. Mrs. Tuphorser Adamo | - | Vice/Chair Migori Municipality |
| 3. Mr. Julius Awuor | - | CECM-Health |
| 4. Eng. David Ochola | - | Chair PSB |

REPORT ON THE FINANCIAL STATEMENTS

The Auditor-General rendered an **unqualified opinion** on the Financial Statements of the Rongo Municipality for the period under review on the following basis-

1. Budgetary Control and Performance

The statement of comparison budget and actual amounts reflects final receipts budget and actual on a comparable basis of Kshs. 99,731,975 and Kshs 94,128,175 respectively resulting to an underfunding of Kshs 5,603,800 or 6% of the budget. Similarly, the Municipality expended Kshs 85,093,389 against an approved budget of Kshs 99,731,975 resulting to an under-expenditure of Kshs. 14,639,586 or 10% of the budget.

The under realization of revenue and under-expenditure represents budgeted goods and services that were not delivered to the County residents of Rongo.

Management Response

The Management noted the Auditor's observation and wishes to state that the underfunding of **Ksh 5,603,800** was as a result of late Exchequer release by the National Treasury. In addition, the under expenditure of **Ksh 9,034,786** was occasioned by work in progress projects which were later completed and paid for in the subsequent financial year.

Committee Observations

The Committee observed that-

- i. The Municipality did not receive exchequer releases from the National Treasury on time;

- ii. The Municipality had an underfunding of Kshs 5,603,800 or 6% of the budget during the financial year under review; and
- iii. The Municipality had an under-expenditure of Kshs. 14,639,586 or 10% of the budget during the financial year under review.

Committee Recommendations

The Committee recommends that—

- i. **The Accounting Officer should ensure strict compliance with section 149(2) (h) and (i) of the Public Finance Management Act, Cap. 412A and the standards prescribed by the Public Sector Accounting Standards Board under IPSAS 24 on the presentation of budget information in the financial statements for an entity that prepares their financial statements under the accrual basis of accounting, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences shall apply; and**
- ii. **The Accounting Officer should comply with regulation 42(1) (b) of the Public Finance Management (County Government) Regulations, 2015 on exerting budgetary control measures, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences shall apply.**

CHAPTER ELEVEN

REPORT ON THE AUDITED FINANCIAL STATEMENTS FOR RUMURUTI MUNICIPALITY FOR THE FINANCIAL YEAR 2021/2022

The Governor of Laikipia County, Hon. Joshua Irungu, appeared before the Committee on Tuesday 17th September 2024, to respond (under oath) to audit queries raised in the report of the Auditor-General on financial statements for Municipality of Rumuruti for the financial year 2021/2022. He was accompanied by-

- | | |
|------------------------|-------------------------------------|
| 1. Mr. Wachira Gachigi | - CECM-Finance |
| 2. Mrs. Leah Njeru | - CECM-Water/Environment |
| 3. Mr. Koinange Wahome | - County Secretary |
| 4. Mr. Kamunya Karundo | - CEO-Laikipia County Revenue Board |

REPORT ON THE FINANCIAL STATEMENTS

The Auditor-General rendered a **qualified opinion** on the financial statements of Municipality of Rumuruti for the period under review on the following basis—

1. Unbalanced Budget

The Statement of Comparison of budget and actual amounts reflects Kshs. 54,455,676 and Kshs. 64,000,000 in respect to approved receipts and expenditure budgets, respectively. This results to Kshs 9,544,324 budgeted expenditure without corresponding budgeted receipts.

Management Response

The account opening balances (20,781,367) had not been included to show the accurate budget figures in the statement of comparison of budget. We have however made the necessary corrections.

Committee Observations

The Committee observed that an opening balance of Kshs. 20,781,367 had not been included to show the correct budget figures. The corrections were made by the Municipality.

Committee Recommendations

The Committee recommends that—

- i. The Accounting Officer should ensure strict compliance with section 149(2) (h) and (i) of the Public Finance Management Act, Cap. 412A and the standards prescribed by the Public Sector Accounting Standards Board under IPSAS 24 on the presentation of budget information in the

financial statements for an entity that prepares their financial statements under the accrual basis of accounting, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences shall apply; and

- ii. The Accounting Officer should comply with regulation 42(1) (b) of the Public Finance Management (County Government) Regulations, 2015 on exerting budgetary control measures, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences shall apply.**

APPENDICIES

ANNEX I: MINUTES OF THE COMMITTEE



13TH PARLIAMENT 3RD SESSION

MINUTES OF THE TWO HUNDRED AND TWENTY THIRD SITTING OF THE COUNTY PUBLIC INVESTMENTS AND SPECIAL FUNDS ON THE CONSIDERATION OF THE REPORTS ON THE SCRUTINY OF THE AUDITOR-GENERAL'S REPORTS ON MUNICIPALITIES IN COUNTIES HELD ON FRIDAY, 8TH NOVEMBER, 2024 AT PRIDE INN HOTEL, MACHAKOS COUNTY AT 10.00 A.M.

PRESENT

- | | |
|--|--------------------|
| 1. Sen. Godfrey Atieno Osotsi, MP | - Chairperson |
| 2. Sen. (Prof.) Tom Odhiambo Ojienda, MP | - Vice-Chairperson |
| 3. Sen. William Kipkemoi Kisang, MP | - Member |
| 4. Sen. Maureen Tabitha Mutinda, MP | - Member |
| 5. Sen. Miraj Abdillahi Abdulrahman, MP | - Member |
| 6. Sen. Hamida Kibwana Ali, MP | - Member |

ABSENT WITH APOLOGY

- | | |
|----------------------------------|----------|
| 1. Sen. Ledama Olekina, MP | - Member |
| 2. Sen. Paul Karungu Thangwa, MP | - Member |
| 3. Sen. Eddy Gicheru Oketch, MP | - Member |

SECRETARIAT

- | | |
|------------------------|-----------------------|
| 1. Mr. Yussuf Shimoy | - Clerk Assistant I |
| 2. Mr. David Angwenyi | - Clerk Assistant I |
| 3. Mr. Erick Njogu | - Clerk Assistant II |
| 4. Mr. Godfrey Nyaga | - Clerk Assistant III |
| 5. Ms. Zeinab Jirma | - Legal counsel |
| 6. CPA. Kennedy Owuoth | - Fiscal Analyst |
| 7. Ms. Raisa Mwithi | - Researcher |
| 8. Ms. Linet Aseka | - Researcher |
| 9. Mr. Martin Mulandi | - Researcher |
| 10. Mr. Joseph Otieno | - Audio officer |
| 11. Mrs. Julia Gachoki | - Serjeant-at-arms |

IN ATTENDANCE

A. OFFICE OF THE AUDITOR GENERAL

- | | |
|----------------------|-------------------|
| 1. Mr. Mark Gachanja | - Liaison Officer |
|----------------------|-------------------|

B. OFFICE OF THE CONTROLLER OF BUDGET

1. Ms. Nancy Kendi - Liaison Officer

C. OFFICE OF THE NATIONAL TREASURY

1. Dr. Jackson Ndungu - Liaison Officer

MIN. NO. SEN/CPICSF/10264/2024 PRAYER

The meeting was called to order by the Chairperson at ten O'clock followed by a word of prayer.

MIN. NO. SEN/CPICSF/10265/2024 ADOPTION OF THE AGENDA

The agenda of the meeting was adopted having been proposed by Sen. William Kipkemoi Kisang, MP and seconded by Sen. Maureen Tabitha Mutinda, MP, as follows –

1. Prayer;
2. Adoption of the Agenda;
3. Consideration of reports on the scrutiny of audited reports of municipalities in counties;
4. Any Other Business; and
5. Date of the Next Meeting and Adjournment.

MIN. NO. SEN/CPICSF/10266/2024 CONSIDERATION OF THE DRAFT REPORTS OF THE AUDITOR-GENERAL ON VARIOUS MUNICIPALITIES IN COUNTIES

The Committee considered the draft reports on the scrutiny of Auditor-General's reports on financial statements of the under listed municipalities in counties-

a. Financial Year 2020/2021

NO.	MUNICIPALITY	COUNTY
1.	Eldoret Municipality	Uasin Gishu
2.	Kisii Municipality	Kisii
3.	Kitale Municipality	Trans Nzoia
4.	Lamu Municipality	Lamu
5.	Mwatate Municipality	Taita Taveta
6.	Rumuruti Municipality	Laikipia

b. Financial Year 2021/2022

NO.	MUNICIPALITY	COUNTY
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1.	Eldoret Municipality	Uasin Gishu
2.	Kakamega Municipality	Kakamega
3.	Kisii Municipality	Kisii
4.	Kitale Municipality	Trans Nzoia
5.	Lamu Municipality	Lamu
6.	Migori Municipality	Migori
7.	Mumias Municipality	Kakamega
8.	Muranga Municipality	Muranga
9.	Mwatate Municipality	Taita Taveta
10.	Rongo Municipality	Migori
11.	Rumuruti Municipality	Laikipia

c. Financial Year 2022/2023

NO.	MUNICIPALITY	COUNTY
1.	Eldoret Municipality	Uasin Gishu
2.	Kakamega Municipality	Kakamega
3.	Kitale Municipality	Trans Nzoia
4.	Migori Municipality	Migori
5.	Mumias Municipality	Kakamega
6.	Muranga Municipality	Muranga
7.	Rongo Municipality	Migori
8.	Rumuruti Municipality	Laikipia

The Committee directed the secretariat to incorporate the amendments given by the members of the Committee and present the aforementioned reports for adoption in the subsequent meetings.

MIN. NO. SEN/CPICSF/10267/2024 ANY OTHER BUSINESS

There was no any other business.

MIN. NO. SEN/CPICSF/10268/2024 DATE OF NEXT MEETING & ADJOURNMENT

The Chairperson adjourned the meeting at two o'clock in the afternoon. The next meeting would be called by notice.



2/12/2024

**SIGNED: DATE:
(CHAIRPERSON: SEN. GODFREY ATIENO OSOTSI, MP.)**



13TH PARLIAMENT 3RD SESSION

MINUTES OF THE TWO HUNDRED AND THIRTY FIRST SITTING OF THE COUNTY PUBLIC INVESTMENTS AND SPECIAL FUNDS ON THE CONFIRMATION OF MINUTES AND THE ADOPTION OF THE REPORTS, HELD ON MONDAY, 2ND DECEMBER, 2024 AT COMMITTEE ROOM 10, SECOND FLOOR, BUNGE TOWER AT 1.30 P.M.

PRESENT

- | | |
|---|---------------|
| 1. Sen. Godfrey Atieno Osotsi, MP | - Chairperson |
| 2. Sen. William Kipkemoi Kisang, MP | - Member |
| 3. Sen. Eddy Gicheru Oketch, MP | - Member |
| 4. Sen. Hamida Kibwana Ali, MP | - Member |
| 5. Sen. Miraj Abdillahi Abdulrahman, MP | - Member |
| 6. Sen. Maureen Tabitha Mutinda, MP | - Member |

ABSENT WITH APOLOGY

- | | |
|--|--------------------|
| 1. Sen. (Prof.) Tom Odhiambo Ojienda, MP | - Vice-Chairperson |
| 2. Sen. Ledama Olekina, MP | - Member |
| 3. Sen. Paul Karungu Thangwa, MP | - Member |

SECRETARIAT

- | | |
|------------------------|-----------------------|
| 1. Mr. Yussuf Shimoy | - Clerk Assistant I |
| 2. Mr. David Angwenyi | - Clerk Assistant I |
| 3. Mr. Erick Njogu | - Clerk Assistant II |
| 4. Mr. Godfrey Nyaga | - Clerk Assistant III |
| 5. Mr. Andrew Nyairo | - Legal counsel |
| 6. CPA. Kennedy Owuoth | - Fiscal Analyst |
| 7. Ms. Raisa Mwithi | - Researcher |
| 8. Ms. Winnie Atieno | - Audio officer |
| 9. Mr. Julia Gachoki | - Serjeant-at-arms |

IN ATTENDANCE

A. OFFICE OF THE AUDITOR GENERAL

- | | |
|----------------------|-------------------|
| 1. Mr. Tom Ratemo | - OAG |
| 2. Mr. Mark Gachanja | - Liaison Officer |

B. OFFICE OF THE CONTROLLER OF BUDGET

1. Ms. Constance Wasike - Liaison Officer

C. THE NATIONAL TREASURY

1. Ms. Edith Nkanata - Liaison Officer

MIN. NO. SEN/CPICSF/10310/2024 PRAYER

The meeting was called to order by the Chairperson at thirty minutes past one O'clock in the afternoon followed by a word of prayer.

MIN. NO. SEN/CPICSF/10311/2024 ADOPTION OF THE AGENDA

The agenda of the meeting was adopted having been proposed by Sen. William Kipkemoi Kisang, MP and seconded by Sen. Maureen Tabitha Mutinda, MP, as follows –

1. Prayer;
2. Adoption of the Agenda;
3. Confirmation of Minutes;
4. Matters arising from the Previous Minutes;
5. Adoption of Reports on Bursary Funds, Hospitals and Municipalities;
6. Any Other Business; and
7. Date of the Next Meeting and Adjournment.

MIN. NO. SEN/CPICSF/10312/2024 CONFIRMATION OF THE MINUTES

The Committee confirmed the following sets of minutes-

- i) The Minutes of the Two Hundred and Twentieth Sitting held on Wednesday, 6th November, 2024; were confirmed as a true record of the proceedings and signed by the Chairperson after being proposed by Sen. Maureen Tabitha Mutinda, MP and seconded by Sen. Miraj Abdillahi Abdulrahman, MP.
- ii) The Minutes of the Two Hundred and First Sitting held on Wednesday, 6th November, 2024; were confirmed as a true record of the proceedings and signed by the Chairperson after being proposed by Sen. William Kipkemoi Kisang, MP and seconded by Sen. Miraj Abdillahi Abdulrahman, MP.
- iii) The Minutes of the Two Hundred and Second Sitting held on Thursday, 7th November, 2024; were confirmed as a true record of the proceedings and signed by the Chairperson after being proposed by Sen. Maureen Tabitha Mutinda, MP and seconded by Sen. William Kipkemoi Kisang, MP.
- iv) The Minutes of the Two Hundred and Third Sitting held on Friday, 8th November, 2024; were confirmed as a true record of the proceedings and signed by the Chairperson after being proposed by Sen. Maureen Tabitha Mutinda, MP and seconded by Sen. Miraj Abdillahi Abdulrahman, MP.

MIN. NO. SEN/CPICSF/10313/2024 MATTERS ARISING FROM THE PREVIOUS MINUTES

There was no matter arising from the previous minutes.

MIN. NO. SEN/CPICSF/10314/2024

**ADOPTION OF THE REPORTS OF
AUDITOR-GENERAL'S REPORTS
ON THE FINANCIAL
STATEMENTS ON BURSARY
FUNDS, HOSPITALS AND
MUNICIPALITIES**

The Committee adopted the following reports on audited financial statements of Bursary Funds, Hospitals and Municipalities in counties having been proposed by Sen. Maureen Tabitha Mutinda, MP and seconded by Sen. Miraj Abdillahi Abdulrahman, MP-

1. Reports of the Select Committee on County Public Investments and Special Funds on The Consideration of the Audit Reports of the following County Bursary Funds for the Financial Year 2019/202, 2020/2021 and 2021/2022

NO.	BURSARY FUND	COUNTY
1.	Baringo County Education Bursary and Scholarship Fund	Baringo
2.	Bomet County Bursary Fund	Bomet
3.	Bomet County Education Revolving Fund	Bomet
4.	Bungoma County Education Support Scheme	Bungoma
5.	Elgeyo Marakwet County Education Fund	Elgeyo Marakwet
6.	Garissa County Scholarship Fund	Garissa
7.	Homa Bay County Bursary Fund	Homabay
8.	Kajiado County Bursary Grants and Scholarship Fund	Kajiado
9.	Kericho County Bursary Fund	Kericho
10.	Kiambu County Education Bursary Fund	Kiambu
11.	Kilifi Ward Scholarship Fund	Kilifi
12.	Kirinyaga County Education Bursary Fund	Kirinyaga
13.	Kisii County Bursary Fund	Kisii
14.	Kwale County Bursary Fund	Kwale
15.	Laikipia County Bursary Fund	Laikipia
16.	Lamu County Bursary and Scholarship Fund	Lamu
17.	Machakos County Bursary Fund	Machakos
18.	Makueni County Bursary Fund	Makueni

19.	Mandera County Education Bursary Fund	Mandera
20.	Marsabit County Education Fund Migori	Marsabit
21.	County Ward Development Fund	Migori
22.	Mombasa County Elimu Fund	Mombasa
23.	Nakuru County Bursary Fund	Nakuru
24.	Nandi County Education Fund	Nandi
25.	Narok County Bursary Fund	Narok
26.	Nyamira County Education Bursary Fund	Nyamira
27.	Nyandarua County Bursary Fund	Nyandarua
28.	Nyeri County Elimu Fund	Nyeri
29.	Samburu County Bursary Fund	Samburu
30.	Siaya County Education Bursary Fund	Siaya
31.	Taita Taveta County Education Fund	Taita Taveta
32.	Tana River County Ward Bursary Fund	Tana River
33.	Tharaka Nithi County Bursary Development Fund	Tharaka Nithi
34.	Trans Nzoia County Elimu Bursary Fund	Trans Nzoia
35.	Turkana County Education and Skills Development Fund	Turkana
36.	Uasin Gishu County Bursary and Skills Development Support Fund	Uasin Gishu
37.	Uasin Gishu County Education Revolving Fund	Uasin Gishu
38.	Vihiga County Education Fund	Vihiga
39.	Wajir County Bursary Fund	Wajir
40.	West Pokot County Bursary Fund	West Pokot

2. Report of the Select Committee on County Public Investments and Special Funds on the Consideration of the Audit Reports of the following County Hospitals for the Financial Year 2021/2022.

NO.	HOSPITAL	COUNTY
1.	Kapsabet County Referral Hospital	Nandi
2.	Karatina Sub County Hospital	Nyeri
3.	Kilifi Health Improvement Fund	Kilifi
4.	Kinango Sub-County Hospital	Kwale
5.	Kwale Sub County Hospital	Kwale
6.	Longisa County Referral Hospital	Bomet
7.	Lunga Lunga Sub County Hospital	Kwale
8.	Migori County Level 4 Hospital	Migori

9.	Msambweni Sub-County Hospital	Kwale
10.	Mt. Kenya Sub County Hospital	Nyeri
11.	Mukurweini Sub County Hospital	Nyeri
12.	Othaya Sub County Level 4 Hospital	Nyeri

3. Reports of the Select Committee on County Public Investments and Special Funds on the Consideration of the Audit Reports of the following Municipalities for Financial Years 2020/2021, 2021/2022 and 2022/2023.

a. Financial Year 2020/2021

NO.	MUNICIPALITY	COUNTY
1.	Eldoret Municipality	Uasin Gishu
2.	Kisii Municipality	Kisii
3.	Kitale Municipality	Trans Nzoia
4.	Lamu Municipality	Lamu
5.	Mwatate Municipality	Taita Taveta
6.	Rumuruti Municipality	Laikipia

b. Financial Year 2021/2022

NO.	MUNICIPALITY	COUNTY
1.	Eldoret Municipality	Uasin Gishu
2.	Kakamega Municipality	Kakamega
3.	Kisii Municipality	Kisii
4.	Kitale Municipality	Trans Nzoia
5.	Lamu Municipality	Lamu
6.	Migori Municipality	Migori
7.	Mumias Municipality	Kakamega
8.	Muranga Municipality	Muranga
9.	Mwatate Municipality	Taita Taveta
10.	Rongo Municipality	Migori
11.	Rumuruti Municipality	Laikipia

c. Financial Year 2022/2023

NO.	MUNICIPALITY	COUNTY
1.	Eldoret Municipality	Uasin Gishu

2.	Kakamega Municipality	Kakamega
3.	Kitale Municipality	Trans Nzoia
4.	Migori Municipality	Migori
5.	Mumias Municipality	Kakamega
6.	Muranga Municipality	Muranga
7.	Rongo Municipality	Migori
8.	Rumuruti Municipality	Laikipia

MIN. NO. SEN/CPICSF/10315/2024 ANY OTHER BUSINESS

There was no any other business.

MIN. NO. SEN/CPICSF/10316/2024 DATE OF NEXT MEETING & ADJOURNMENT

The Chairperson adjourned the meeting at fifteen minutes to two o'clock in the afternoon. The next meeting would be on Thursday, 5th, December 2024 at 9:00 am.



2/12/2024

**SIGNED: DATE:
(CHAIRPERSON: SEN. GODFREY ATIENO OSOTSI, MP.)**