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THIRTEENTH PARLIAMENT - THIRD SESSION

REPORT OF THE SENATE COUNTY PUBLIC ACCOUNTS COMMITTEE ON THE REPORTS OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF THE FOLLOWING COUNTY ASSEMBLIES:

COUNTY ASSEMBLY	FINANCIAL YEAR
MACHAKOS COUNTY ASSEMBLY	2019/2020 & 2020/2021
TURKANA COUNTY ASSEMBLY	2019/2020 & 2020/2021
KISII COUNTY ASSEMBLY	2020/2021 & 2021/2022
NYERI COUNTY ASSEMBLY	2020/2021
UASIN GISHU COUNTY ASSEMBLY	2019/2020 & 2020/2021
TANA RIVER COUNTY ASSEMBLY	2020/2021
KIRINYAGA COUNTY ASSEMBLY	2019/2020 & 2020/2021
NYERI COUNTY ASSEMBLY	2019/2020

PAPERS LAID
DATE 5/12/24
TABLED BY Sen. Ojienda
COMMITTEE –
CLERK AT THE TABLE Angela

VOLUME VII

Rt. Hon. Speaker
You may approve for tabling
J. M. Nyegenye, C.B.S.,
Clerk of the senate/ secretary, PSC
Date: 05/12/24

THE SENATE
PARLIAMENT BUILDINGS
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DECEMBER, 2024

Approved.
03.12.2024.

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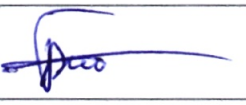
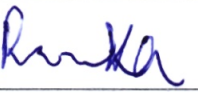
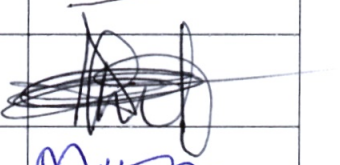
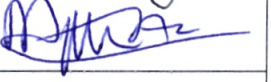
THE SENATE
THIRTEENTH PARLIAMENT - THIRD SESSION

ADOPTION OF THE REPORT OF THE SENATE COUNTY PUBLIC ACCOUNTS COMMITTEE ON THE CONSIDERATION OF THE REPORTS OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF MACHAKOS, TURKANA, KIRINYAGA, NYERI, AND UASIN GISHUCOUNTY ASSEMBLIES FOR THE FINANCIAL YEAR 2019/2020 & 2020/2021, NYERI AND TANA RIVER COUNTY ASSEMBLIES FOR THE FINANCIAL YEARS 2020/2021 AND KISII COUNTY ASSEMBLY FOR THE FINANCIAL YEARS 2020/2021 & 2021/2022

Adopted by;

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

Date..... 4th December 2024 .....

Table of Contents

ACRONYMS/ABBREVIATIONS 5

DEFINITION OF TERMS 6

PREFACE 7

ACKNOWLEDGEMENTS 15

CHAPTER ONE 16

REPORT OF THE SENATE COUNTY PUBLIC ACCOUNTS COMMITTEE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENT OF MACHAKOS COUNTY ASSEMBLY FOR THE FINANCIAL YEAR 2020/2021 16

CHAPTER TWO 28

REPORT OF THE SENATE COUNTY PUBLIC ACCOUNTS COMMITTEE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENT OF MACHAKOS COUNTY ASSEMBLY FOR THE FINANCIAL YEAR 2019/2020 28

CHAPTER THREE 53

REPORT OF THE SENATE COUNTY PUBLIC ACCOUNTS COMMITTEE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENT OF TURKANA COUNTY ASSEMBLY FOR THE FINANCIAL YEAR 2020/2021 53

CHAPTER FOUR 72

REPORT OF THE SENATE COUNTY PUBLIC ACCOUNTS COMMITTEE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENT OF TURKANA COUNTY ASSEMBLY FOR THE FINANCIAL YEAR 2019/2020 72

CHAPTER FIVE 96

REPORT OF THE SENATE COUNTY PUBLIC ACCOUNTS COMMITTEE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENT OF KISII COUNTY ASSEMBLY FOR THE FINANCIAL YEAR 2021/2022 96

CHAPTER SIX 111

REPORT OF THE COUNTY PUBLIC ACCOUNTS COMMITTEE ON AUDITED FINANCIAL STATEMENTS OF KISII COUNTY ASSEMBLY FOR FINANCIAL YEAR 2020/2021 111

CHAPTER SEVEN 125

REPORT OF THE SENATE COUNTY PUBLIC ACCOUNTS COMMITTEE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF NYERI COUNTY ASSEMBLY FOR FINANCIAL YEAR 2020/2021 125

CHAPTER EIGHT 135

REPORT OF THE SENATE COUNTY PUBLIC ACCOUNTS COMMITTEE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENT OF UASIN GISHU COUNTY ASSEMBLY FOR THE FINANCIAL YEAR 2019/2020 135

CHAPTER NINE 147

REPORT OF THE SENATE COUNTY PUBLIC ACCOUNTS COMMITTEE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENT OF UASIN GISHU COUNTY ASSEMBLY FOR THE FINANCIAL YEAR 2020/2021 147

CHAPTER TEN 170

REPORT OF THE SENATE COUNTY PUBLIC ACCOUNTS COMMITTEE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENT OF TANA RIVER COUNTY ASSEMBLY FOR THE FINANCIAL YEAR 2020/2021 170

CHAPTER ELEVEN **186**

REPORT OF THE SENATE COUNTY PUBLIC ACCOUNTS COMMITTEE ON THE REPORT OF THE AUDITOR GENERAL ON THE AUDITED FINANCIAL STATEMENTS OF KIRINYAGA COUNTY ASSEMBLY FOR THE FINANCIAL YEARS 2019/2020 186

CHAPTER TWELVE **199**

REPORT OF THE SENATE COUNTY PUBLIC ACCOUNTS COMMITTEE ON THE REPORT OF THE AUDITOR GENERAL ON THE AUDITED FINANCIAL STATEMENTS OF KIRINYAGA COUNTY ASSEMBLY FOR THE FINANCIAL YEARS 2020/2021 199

CHAPTER THIRTEEN **215**

REPORT OF THE SENATE COUNTY PUBLIC ACCOUNTS COMMITTEE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF NYERI COUNTY ASSEMBLY FOR THE FINANCIAL YEAR 2019/2020 215

ACRONYMS/ABBREVIATIONS

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

DEFINITION OF TERMS

Disclaimer

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

Adverse Opinion

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

Qualified Opinion

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

Unqualified Opinion

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

PREFACE

Mr. Speaker Sir,

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

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

a) Pursuant to Article 96(3) of the Constitution, to exercise oversight over national revenue allocated to the county governments;

b) Pursuant to Article 229(7) and (8) of the Constitution, to examine the reports of the Auditor-General on the annual accounts of the county governments;

c) To examine special reports, if any, of the Auditor-General on county government funds;

d) To exercise oversight over county public accounts.

Committee Membership

Mr. Speaker Sir,

The membership of the Committee comprises of the following Senators-

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

Committee Secretariat

The secretariat comprises of the following members of staff;

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

10)Ms. Keziah Muthama - Fiscal Analyst III
11)Ms. Sharon Rotino - Research Officer II
12)Ms. Joane Njeri Mahinda - Research Officer III
13)Ms. Annette Khayela - Research Officer III
14)Mr. Osman Hire - Research Officer III
15)Mr. Ibrahim Oruko - Media Relations Officer
16)Mr William Zenton - Audio Officer
17)Ms. Lorraine Nabwire - Procurement Officer III
18)Mr. Julius Maganga - Accountant III
19)Mr. Kirwa - Serjeant-at-Arms

Mr. Speaker Sir,

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

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

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

Mr. Speaker Sir,

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

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

Mr. Speaker Sir,

This report contains seventeen (17) County Assembly reports for the Financial Years 2019/2020, 2020/2021 & 2021/2022, listed as volume VII that were considered and adopted by the Committee.

The Committee examined the reports of the Auditor-General on the financial statements for Machakos, Turkana, Kirinyaga, Uasin Gishu, and Nyeri County Assemblies for The Financial Years 2019/2020 & 2020/2021, Nyeri, and Tana River County Assemblies for The Financial Years 2020/2021 And Kisii County Assembly for The Financial Years 2020/2021 & 2021/2022; and identified various fiduciary risks.

During the years under review, some of the seventeen (17) County Assemblies considered under this report had challenges with submission of documents to the auditors for verification during the audit exercise. The Committee noted that County Assemblies did not avail relevant supporting documents to the Auditor-General during the audit exercise, with only some managing to provide them at a later date. The non-provision of documents, therefore, left the entities unable to support expenditures of substantial amounts of funds. Further, the county assemblies had weak record management systems thus casting doubts on the suitability and qualifications of staff.

Mr. Speaker Sir,

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

The reports further showed that a number of County Assemblies had weaknesses in executing their budgets. The County entities did not adhere to their approved budget ceilings set for programs, votes and sub-votes. Thus, there was over-utilization or under-utilization of appropriated funds. The Committee noted that the main cause for under-utilization of budgets was delays in exchequer releases from the National Treasury thereby hampering program implementation and budget execution.

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

Management breached Regulations 93(6) by failing to recover the outstanding imprests from the salaries of the defaulters.

Mr. Speaker Sir,

During the years under review, the Committee noted that majority of the County Assemblies interrogated had not properly updated their assets registers despite the Inter-Governmental Technical Relations Committee (IGTRC) having handed over their report, hence exposing county assets to risk of loss, waste and misuse.

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

i. that some County staff were earning less than a third of their basic pay;
ii. Some County Assemblies were still processing salaries and other benefits outside the Integrated Payroll and Personnel Database (IPPD); and
iii. A number of County Assemblies did not meet the threshold on ethnic inclusivity stipulated under Section 7(2) of the National Cohesion and Integration Act, 2008.

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

Mr. Speaker Sir,

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

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

GENERAL OBSERVATIONS AND RECOMMENDATIONS

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

1. Lack of an updated fixed assets register

Committee Observation

The Committee observed that a number of the County Assemblies: -

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

Committee Recommendations

The Committee recommends that the-

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

2. Payment to the Society of Clerks at the Table (SOCATT) and County Assemblies Forum (CAF)

Committee Observation

The Committee noted that county assemblies made payments to the Society of Clerks at the Table (SOCATT) and County Assemblies Forum (CAF) were irregular and unlawful.

Committee Recommendation

The Committee recommends that the irregular payments to the Society of Clerks at the Table (SOCATT) and County Assemblies Forum (CAF) be stopped and further recommends the surcharge of any accounting officer who continues to make the irregular contribution.

3. Delay in submission of documents

Committee Observation

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

Committee Recommendation

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

4. Pending bills

Committee Observations

1. the accumulated pending bills in Counties have significantly affected service providers in the counties leading to closure of businesses, stalling of county projects, adversely affecting economic growth in counties, service delivery and ultimately slowing down the country's economic growth;
2. that most of the service providers in the counties are battling court cases lodged against them by their financiers and suppliers while others are languishing in poverty exacerbated by the increased cost of living, with increased mental health disease incidences and others dying as a result of the effects of colossal amounts of debt owed to them by county governments;

Committee Recommendations

The Committee therefore recommends that:

1. that all County Governments pay verified pending bills amounting to less than Ksh. 1 billion by the end of this financial year and those above Ksh.1 billion by the end of the financial year 2024/2025; and
2. Resolves that-
   i. pursuant to the provisions of Regulation 41(2) & (3) of the Public Finance Management (County Governments) Regulations, 2015, County Governments prepare and submit to the Controller of Budget, a payment plan, prioritizing payment of pending bills as a first charge on the County Revenue Fund, failure to which the subsequent quarter budget releases will not be done;
   ii. the Controller of Budget takes into consideration the efforts made by a county government to clear inherited pending bills when approving exchequer releases;
   iii. County Governments shall only pay pending Bills contained in their respective procurement plans pursuant to Regulation 50 (2) & (3) of the Public Finance Management (County Governments) Regulations;
   iv. Supplementary budgets for county governments are prepared in the 3rd Quarter to curb instances of arbitrary re-allocations out of the approved budget estimates;
   v. County governments, in consultation with the Controller of Budget, to provide a budget for completion of all existing projects and that initiation of new projects to cease until completion of the existing projects; and
   vi. County governments shall conduct public participation while formulating supplementary budgets, failure to which the Controller of Budget (CoB) shall not approve the supplementary budgets.

5. Budget Control and performance

Committee Observation

The Committee observed that the county assemblies did not receive exchequer releases from the National Treasury on time. These challenges hampered budget implementation in the affected county entities.

Committee Recommendation

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

6. Outstanding imprests

Committee Observations

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

Committee Recommendation

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

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

7. Lack of ethnic diversity in staff establishment

Committee Observations

The Committee observed that -

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

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

Committee Recommendations

The Committee recommends that-

a) The County Assembly should work progressively towards attaining the requirement of the provisions of Section 65(1) (e) of County Government Act on ethnic inclusivity; and

b) The Standing Committee on NCEORI to explore legal amendments to ensure progressive compliance with section 65(1)(e) of County Government Act, 2012.

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

Committee Observation

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

Committee Recommendations

The Committee therefore recommends that -

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

9. Prior Year Issues

Committee Observation

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

Committee Recommendation

The Committee recommends that the County entities should strictly comply with Section 53 of the Public Audit Act, 2015 by taking action on the issues raised by the Auditor General.

10. Failure to establish an Audit Committee

Committee Observations

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

Committee Recommendation

The Committee recommends that the county entities should expedite establishment of audit committees to enhance oversight over public resources and provide a status report to the Auditor General within sixty (60) days from the adoption of this report.

11. Lack of a Risk Management Policy

Committee Observations

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

Committee Recommendation

The Committee recommends that the Accounting Officer for all county entities should put in place a risk management policy and disaster recovery plan within sixty (60) days from the adoption of this report and submit the same to the Auditor General.

The committee further recommends that the Auditor General closely monitor the development, documentation and communication of these policies within the county entities in the subsequent audit cycles.

ACKNOWLEDGEMENTS

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

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

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

Mr. Speaker Sir,

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

Mr. Speaker Sir,

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

SIGNED: .....

DATE.....05 December 2024.....

SEN. MOSES OTIENO KAJWANG', CBS, MP

CHAIRPERSON

CHAPTER ONE

REPORT OF THE SENATE COUNTY PUBLIC ACCOUNTS COMMITTEE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENT OF MACHAKOS COUNTY ASSEMBLY FOR THE FINANCIAL YEAR 2020/2021

The Speaker of Machakos County Assembly **Hon Ann Kiusya** and the Clerk **Mr Joseph Mutisya** appeared before the Committee on Monday 23rd October, 2023 to respond (under oath) to audit queries raised in the Report of the Auditor General on Financial Statements for Machakos County Assembly for the Financial Year 2020/2021.

Qualified Opinion

EXECUTIVE SUMMARY OF UN-RESOLVED AUDIT QUERIES				
OTHER MATTERS				
S/No	**Query**	**Recommendation**	**Actor**	**Timeline**
1	**2.0 Pending Bills:** Pending accounts payable indicates that the County Assembly had pending bills amounting to Kshs. 107,771,910 includes bills amounting to Kshs 69,525,679 carried forward from the 2019/2020 financial year.	The Committee therefore recommends that: 1. that all County Governments pay verified pending bills amounting to less than Kshs. 1 billion by the end of this financial year and those above Ksh.1 billion by the end of the financial year 2024/2025; 2. County Assembly to make a provision in its budget for contingency liability in respect of legal fees pursuant to regulation 25(2)(e) of the Public Finance Management (County Government) Regulations, 2015; and	The Speaker and the Clerk, Machakos County Assembly COB The National Treasury	90 days from the adoption of this report

		3. Resolves that- i. pursuant to the provisions of Regulation 41(2) & (3) of the Public Finance Management (County Governments) Regulations, 2015, County Governments prepare and submit to the Controller of Budget, a payment plan, prioritizing payment of pending bills as a first charge on the County Revenue Fund, failure to which the subsequent quarter budget releases will not be done; ii. the Controller of Budget takes into consideration the efforts made by a county government to clear inherited pending bills when approving exchequer releases; iii. County Governments shall only pay		

		pending Bills contained in their respective procurement plans pursuant to Regulation 50 (2) & (3) of the Public Finance Management (County Governments) Regulations; iv. Supplementary budgets for county governments are prepared in the 3rd Quarter to curb instances of arbitrary re-allocations out of the approved budget estimates; v. County governments, in consultation with the Controller of Budget, to provide a budget for completion of all existing projects and that initiation of new projects to cease until completion of the existing projects; and vi. County governments shall conduct public participation		

		while formulating supplementary budgets, failure to which the Controller of Budget (CoB) shall not approve the supplementary budgets.		
REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES				
2.	**1.0 Non-compliance with the one-third basic salary rule:** Thirteen (13) employees earned a net salary of less than a third (1/3) of the basic Salary contrary to Section 19(3) of the Employment Act, 2007 and the County Assembly Human Resource Manual, 2015.	The Committee recommends that; 1. The county entities should configure their IPPD system such that it can lock out commitments beyond the accepted thresholds; and 2. The Office of the Auditor General should progressively review and report on the matter in the subsequent Financial Years.	The Clerk, Machakos County Assembly OAG	60 days from the adoption of this report
3.	**2.0 Irregular entity borrowing** Note 3 to the financial statements reflects other receipts totaling Kshs 4,500,000. The receipts relate to funds borrowed from the Housing Fund Account at KCB by the County Assembly over the years.	The Committee recommends that the Office of the Auditor General should progressively review and report on the matter in the subsequent Financial Years.	OAG	Continuous

Basis for Qualified Opinion

1.0 Accuracy of the Statement of Cash Flows

The statement of cash flows for the year under review reflects cash and cash equivalents at the end of the year amounting to Kshs 1,728. However, the statement of financial assets and liabilities reflects Kshs. 23,061,321 in respect of bank and cash balances, as broken down in Note 13A and 13B to the financial statements. The resultant difference of Kshs. 23,059,593 between the two statements was not explained or reconciled.

Consequently, accuracy of the statement of cash fowls for the year ended 30 June, 2021 could not be confirmed.

Management Response

During the financial year, the Assembly had a surplus of Kes. 1,728 as reported in the statement of financial performance. Since we are operating under Cash Accounting Basis, the statement of financial assets and liabilities as at 30 June 2021 reported the same amount of Kes. 1,728 as the total financial assets/net financial position.

The total cash and cash equivalents (bank balances) under the statement of financial assets and liabilities reflected Kes. 23,061,321 under bank balances which is different from the Kes. 1,728 reported in the statement of cashflows.

The reason for the difference is the Kes. 23,061,321 reported in the statement of financial assets and liabilities include 23,059,593 under retention and deposit account, which is money held by the assembly on behalf of third parties awaiting its release once the defective liability period lapse/term ends.

The same appeared in the statement as a contra entry i.e. as an asset and at the same time as liability. Therefore, our net financial position for the period under review was Kes. 1,728 as reported.

Committee Observation

The Committee noted that the matter was satisfactorily addressed.

Committee Recommendation

The Committee recommends that the matter be marked as resolved.

2.0 Difference Between Financial Statements and Integrated Financial Management Information System (IFMIS) Ledger

The statement of receipts and payments reflects expenditure on the use of goods and services and acquisition assets amounting to Kshs. 383,241,705 and Kshs. 147,552,898 respectively. Review of the amounts against the Integrated Financial Management Information System (IFMIS) ledger for the year under review revealed differences totaling Kshs. 38,718,095 which were not explained or reconciled as shown below;

Component	Financial Statement (Kshs.)	IFMIS Balance (Kshs)	Variance (Kshs)
Use of Goods and Services	383,241,705	336,054,590	47,187,115

Acquisition of Assets	147,552,898	156,021,918	(8,469,020)
Total	530,794,603	492,076,508	38,718,095

Consequently, the accuracy and completeness of the financial statements for the year ended 30 June, 2021 could not be confirmed.

Management Response

The County Assembly started using IFMIS system in the FY 2015/2016. During this time the Assembly did not go fully on IFMIS since the Department of Finance & Accounts had only two staff following the suspension of three of its officers. The two staff available were not adequately trained on the IFMIS system operations. The Assembly in preparing the financial statements for the period under review did not use the IFMIS ledger, but relied on the Excel ledger which was more accurate to prepare the financial statements. The Excel General Ledger was updated from the cash books and it completely reflected all the transactions done by the Assembly in the FY.

The variances were as a result of journal entries that were not passed in the IFMIS and reconciliations not doe. However, we have since written to the National treasury requesting for assistance and support in doing the IFMIS System reconciliation in a letter dated 6th March 2023, Ref; MKSCA/ADM/IFMIS/VOL. 1/109.

Two officers have been assigned to assist the Assembly and the exercise has begun from FY 2015/2016 and it's going on well, and once we are through with the reconciliations, we will be able to produce our financial statements from the IFMIS and the variance will have been cleared.

The officials from the National Treasury and our officers have since stared the reconciliations/passed some of the required journal entries, and currently we are in Finacial Year 2019/2020.

This is work in progress, and we are working tirelessly to ensure that the assembly starts to produce its Financial Statement from the IFMIS.

In addition, all the payments done by the Assembly are processed through the IFMIS. Further, following the reinstatement of the Officers and additional recruitment of accountants the department is now adequately staffed and a section has since been created purely for reporting purposes, and this will help to address the challenges that have been there in the past.

Committee Observation

The Committee notes that the matter has since been addressed.

Committee Recommendation

The Committee recommends that the matter be marked as resolved.

3.0 Unsupported Ward Office Expenditure

The statement of receipts and payments for the year under review reflects use of goods and services expenditure amounting to Kshs. 383,241,705. The expenditure, as further detailed in

Note 5 to the financial statements included Kshs. 28,695,000 incurred on ward office rent and expenses during the year. However, the expenditure was not supported by relevant documents including schedules, expenditure analysis, motor vehicle work tickets, rental invoices and petty cash surrender forms.
In the circumstances, the validity of the ward office rent and expenses for the year amounting to Kshs. 28,695,000 could not be confirmed.

Management Response
The total expenditure for use of goods for the period under review totaled to Kshs. 383,241,705. Included in this amount is Kshs. 28,695,00 forward offices rent and running expenses. The Assembly has 40 wards, and the budget for each was Kes 60,000 per month, so for the 12 months the total approved budget estimates were Kes 28.8 million.
The Kes. 60,000 covered both the monthly ward offices rent and office expenses. The amount of rent varied from one ward to the other depending on the demographics and therefore, the rate for the rent was determined by the forces of demand and supply and were within the prevailing market rates.

Rent agreements were signed between the landlords and the Assembly and the rent was paid directly to the landlords. The total annual amount paid as rent was Kes. 4,815,000

For the office running expenses, the ward office managers raised standing imprests at the beginning of the FY and reimbursement was only done at the end of the month for the amounts accounted for.

The total amount incurred under ward office running expenses totaled to Kes. 23,880,000 and attached are schedules, expenditure analysis summaries, sample of petty cash surrender forms and cash receipts.

The query on motor vehicle work tickets is not applicable because we do not have moto vehicles attached to the wards.

Currently, the Assembly has already constructed 29 ward offices and they are all in use. The CRA has also capped the ward office expenses to Kes 27,300 per month.

Committee Observation
The Committee notes that the matter has been addressed.
Committee Recommendation
The Committee recommends that the matter be marked as resolved.

KEY AUDIT MATTERS

1.0 Budgetary Control and Performance
The statement of comparison of budget and actual amounts of recurrent and development combined reflects final receipts budget and actual on a comparable basis of amounting to Kshs. 1,126,922,537 and Kshs. 1,019,710,816 respectively resulting in an under-funding of Kshs. 107,211,721 or 10% of the approved budget. Similarly, the County Assembly expended Kshs.

1,019,709,088 against an approved budget of Kshs. 1,126,922,537 resulting in an under-expenditure of Kshs. 107,213,449 or 10% of the budget.
The underfunding and underperformance affected the planned activities and may have impacted negatively on service delivery to the public.

Management Response
During the year under review the Assembly's total approved budget was Kes. 1,126,922,537, out of this Kes 911,145,156 formed the recurrent budget (including budgetary provision for loans of kes 50,000,000 and CRA ceiling of kes 861,145,156) and kes 215,777,381 was for development budget (a figure that is normally negotiated on with the County Executive).
The absorption rate for the recurrent budget was 100% while for the development budget, it was 62% i.e. only kes 134,065,167 out of a development budget of kes 215,777,381 was used in development programs.

The low absorption rate in the development budget reduced the overall absorption for the Assembly to 90%.

The reason why there was low absorption of the budgeted funds under the development budget is that some of the development programs that were earmarked for that Financial Year did not take off as planned while some were not completed by the end of the FY. Payments are only made for work certified by public works officials as done and completed.

Under the vote on transfers(loans), the amount is usually negotiated on with the County Executive. The under-utilization on the vote for other transfers by 20% was due to the failure by the County Treasury to fund the County Assembly fully as we had requested.

The reason being the County Treasury did not achieve the anticipated target under own source revenue streams, and this affected release of funds for development program/other transfers(loans).

In future the Assembly will always endeavor to initiate development projects in good time to ensure their timely completion and also avoid unnecessary locking of funds which can otherwise be applied to other programs.

Committee Observation
The Committee noted that the matter was satisfactorily addressed.
Committee Recommendation
The Committee recommends that the matter be marked as resolved.

2.0 Pending Bills
Note 1 of other disclosures to the financial statements reflect nil balances in respect of pending accounts payable. However, annex 1 to the financial statements containing an analysis of pending accounts payable indicates that the County Assembly had pending bills amounting to Kshs. 107,771,910 which includes bills amounting to Kshs 69,525,679 carried forward from 2019/2020 financial year. Management did not explain why the bills were not settled during the year when they occurred of paid as a first charge during the year under review. The County

Assembly is at risk of incurring significant interest costs and penalties with their continued delay in settling suppliers and contractors' invoices.
Failure to settle bills during the year to which they relate to distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

Management Response
During the FY under review, the cumulative pending bills totaled to Kshs.107,771,909.70 which included Kshs.69,525,679 relating to pending bills from the previous FYs. The kes 69,525,679 had accumulated over years i.e. since 2013 and is made up of the items as outlined on the attached schedule.
Due to budgetary constraints the Assembly was not able to settle all the pending bills as we had to balance the operations for the current financial year and the payment of the pending bills, this was to ensure the Assembly continues to operate smoothly throughout the FY.

The challenge with pending bills is still with us, and this is mainly due to budgetary constraints, but the Assembly is committed to ensure all the eligible pending bills are settled within reasonable time by carefully balancing their payments with the current FY operations.

In an effort to ensure the issue is resolved, the Assembly has also initiated discussions on how our Budget Ceiling can be enhanced by CRA/Senate to ensure all the outstanding amounts are settled within reasonable period.

Further, the Assembly is planning to appear before the Senate Finance Committee during the 2024 county Allocation Revenue Bill (CARB) public participation and present our case on the same before the Committee. We hope the Senate/CRA will consider our request so as to facilitate the settlement of the long outstanding bills.

The Assembly seeks the guidance of the committee on how to handle the outstanding bills were there was documented gaps.

Committee Observations
The Committee noted that;

1) The assembly had a pending bill of Kshs.69,525,679 and has paid out Kshs.21 million. The current outstanding pending bill was Kshs.47 million
2) the county assembly has a huge legal pending bill of Kshs.36 million owing to litigation fees.
3) the County Assembly was at risk of being sued and ended up paying interest on the unpaid invoices after the lapse of the credit period.

Committee Recommendations
The Committee therefore recommends that:

1) **that all County Governments pay verified pending bills amounting to less than Kshs. 1 billion by the end of this financial year and those above Ksh.1 billion by the end of the financial year 2024/2025; and**

2) **Resolves that-**

i. **pursuant to the provisions of Regulation 41(2) & (3) of the Public Finance Management (County Governments) Regulations, 2015, County Governments prepare and submit to the Controller of Budget, a payment plan, prioritizing payment of pending bills as a first charge on the County Revenue Fund, failure to which the subsequent quarter budget releases will not be done;**

ii. **the Controller of Budget takes into consideration the efforts made by a county government to clear inherited pending bills when approving exchequer releases;**

iii. **County Governments shall only pay pending Bills contained in their respective procurement plans pursuant to Regulation 50 (2) & (3) of the Public Finance Management (County Governments) Regulations;**

iv. **Supplementary budgets for county governments are prepared in the 3rd Quarter to curb instances of arbitrary re-allocations out of the approved budget estimates;**

v. **County governments, in consultation with the Controller of Budget, to provide a budget for completion of all existing projects and that initiation of new projects to cease until completion of the existing projects; and**

vi. **County governments shall conduct public participation while formulating supplementary budgets, failure to which the Controller of Budget (CoB) shall not approve the supplementary budgets.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

1.0 Non-Compliance with One-Third of basic Salary Rule

During the year ended 30 June, 2021, thirteen (13) employees earned a net salary of less than a third (1/3) of the basic salary contrary to Section 19(3) of the Employment Act, 2007 and the County Assembly Human Resource Manual, 2015.

In the circumstances, the County Assembly contravened Section 19(3) of the Employment Act 2007, and the County Assembly Human Resource Manual,2015 which may expose the staff to pecuniary embarrassment.

Management Response

During the FY under review, some staff members over committed their pay slips hence violating to some extent the 1/3 of Basic Salary rule. This was to facilitate them to settle critical financial obligations. The Assembly in the subsequent FYs ensured no salary deductions were affected in the IPPD system in violation of the 1/3 Basic Salary rule.

Committee Observations.

The Committee observed that thirteen (13) county employee were earning less than a third of their basic pay contrary to Section 19 (3) of the Employment Act 2007.

Committee Recommendations

The Committee therefore recommends that -

1) **The county entities should configure their IPPD system such that it can lock out commitments beyond the accepted thresholds; and**
2) **The Office of the Auditor General should progressively review and report on the matter in the subsequent Financial Years.**

2.0 Irregular Inter-Entity Borrowing

Note 3 to the financial statements reflects other receipts totaling Kshs 4,500,000. The receipts relate to funds borrowed from the Housing Fund Account at KCB by the County Assembly over the years. However, Inter-entity borrowing was prohibited according to Regulation 71(4) of the Public Finance Management (County Governments) Regulation, 2015 which provides that a county government entity is not allowed to give a county government entity cash donation to augment the budgetary resources of designated departments.
Consequently, the County Assembly was in breach of the law.

Management Response

During the financial year, the Assembly borrowed kes 4,500,000 from the Housing Fund Account to facilitate the payment of urgent financial obligations then. The borrowing was necessitated by the delay in release of funds by the National Treasury to Counties during the peak of COVID-19 pandemic. The borrowing was reflected as part of our receipts in the financial statements.

This was not an inter-entity borrowing but a borrowing from an Account that also belongs to the County Assembly, and the amount was repaid to the Account in the following Financial Year.

Committee Observations

The Committee noted that;

1) The Committee noted that the Assembly continuously borrowed from the Housing fund account.
2) The OAG stated that it had confirmed that the amount had been repaid, however, the Inter-entity borrowing was prohibited according to Regulation 71 (4) of the Public Finance Management (County Governments) regulations, 2015 and management was in breach of the law.

Committee Recommendation

The Office of the Auditor General should progressively review and report on the matter in the subsequent Financial Years.

CHAPTER TWO

REPORT OF THE SENATE COUNTY PUBLIC ACCOUNTS COMMITTEE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENT OF MACHAKOS COUNTY ASSEMBLY FOR THE FINANCIAL YEAR 2019/2020

The Speaker of Machakos County Assembly **Hon Ann Kiusya** and the Clerk **Mr Joseph Mutisya** appeared before the Committee on Monday 23rd October, 2023 to respond (under oath) to audit queries raised in the Report of the Auditor General on Financial Statements for Machakos County Assembly for the Financial Year 2019/2020.

Qualified Opinion

EXECUTIVE SUMMARY OF THE UNRESOLVED ISSUES				
S/No	**Query**	**Recommendation**	**Actor**	**Timeline**
1	**1.0 Pending Accounts Payable** **5.0 Unconfirmed Balance:** Included in the pending accounts payables balances are bills totaling Kshs 22,167,265 which were committed through Local Purchase Orders, Local Service Orders after 31 may, 2020 and Kes 500,000 paid to SOCATT which was part payment for the annual subscription	The Committee recommends that the irregular payments to the Society of Clerks at the Table (SOCATT) and County Assemblies Forum (CAF) be stopped and further recommends the surcharge of any accounting officer who continues to make the irregular contribution.	The Speaker and the Clerk, Machakos County Assembly	60 days from the adoption of this report
2.	**5.2 Long outstanding payables:** Payables totaling Kshs 46,654,658 that had been outstanding for more than one year as of 30 June 2020 with some incurred in the 2013/2014 financial year.	The Committee therefore recommends that: 1) that all County Governments pay verified pending bills amounting to less than Kshs. 1 billion by the end of this financial year and those above Ksh.1 billion by	The Clerk of the County assembly OCOB	90 days from the adoption of this report

		the end of the financial year 2024/2025; and 2) Resolves that- i. pursuant to the provisions of Regulation 41(2) & (3) of the Public Finance Management (County Governments) Regulations, 2015, County Governments prepare and submit to the Controller of Budget, a payment plan, prioritizing payment of pending bills as a first charge on the County Revenue Fund, failure to which the subsequent quarter budget releases will not be done; ii. the Controller of Budget takes into consideration the efforts made by a county government to clear inherited pending bills when approving exchequer releases; iii. County Governments shall only pay pending Bills contained in their respective		

		procurement plans pursuant to Regulation 50 (2) & (3) of the Public Finance Management (County Governments) Regulations; iv. Supplementary budgets for county governments are prepared in the 3rd Quarter to curb instances of arbitrary re-allocations out of the approved budget estimates; v. County governments, in consultation with the Controller of Budget, to provide a budget for completion of all existing projects and that initiation of new projects to cease until completion of the existing projects; and vi. County governments shall conduct public participation while formulating supplementary budgets, failure to which the Controller of		

		Budget (CoB) shall not approve the supplementary budgets		
OTHER MATTERS				
3	**1.0 Budgetary Control and Performance:** The revenue shortfall and under-expenditure constrained the capacity of the County Assembly to implement its plans for the year under review.	The Committee recommends that the National Treasury should ensure timely release of funds to county Governments in line with the cash disbursement schedules approved by the Senate and comply with Article 219 of the Constitution and Section 17(6) of the Public Finance Management Act, 2012.	The National Treasury	Continuous
4	**1.0 Unresolved Prior Year Matters:** The report for the previous year highlighted several matters that included a lack of ethnic diversity in staffing, non-submission of the County Performance Report for the year, inter-account borrowing and irregular re-allocation of funds from compensation of employees' budget to other expenditures. The matters had not been resolved as at 30 June, 2019	The County Assembly takes action on the issues raised by the Auditor General and submit a status report to the Auditor General sixty (60) days after the adoption of this report.	The Clerk, Machakos County Assembly	60 days from the adoption of this report
5	**Implementation of projects**	The Committee recommends that;	The Clerk, Machakos	Continuous

	1) **Delayed Construction of ward offices:** The Committee noted that the assembly failed to undertake public participation and did not provide title deeds for the places where the ward offices were built on.	1) The County Assembly establishes a project management and monitoring System to help in proper project conceptualization, planning, execution and timely completion of projects as well as realization of value for money as provided for in the Public Finance Management Act, 2012 and the Public Finance Management (County Government) Regulations, 2015 within 60 Days from the date of adoption of this report; 2) The OAG to keep the matter in view and provide a status update to the Committee in the subsequent audit cycle.	County Assembly OAG	

Basis for Qualified Opinion

1.0 Variances between Financial statements and IFMIS Balances

Several balances reflected in the financial statements differ with identical accounts balances reflected in the Integrated Financial Management Information Systems (IFMIS) trial balances as indicated.

In view of the unexplained differences, the accuracy of the financial statements could not be confirmed.

Management Response

The County Assembly started using the IFMIS system in the FY 2015/2016. During this time the Assembly did not go fully on IFMIS since the Department of Finance & Accounts had only two staff following the suspension of three of its officers. The two staff available were not adequately trained on the IFMIS system operations. The Assembly in preparing the financial statements for the period under review did not use the IFMIS ledger, but relied on the Excel ledger which was more accurate to prepare the financial statements. The Excel General ledger was updated from the cash books and it completely reflected all the transactions done by the Assembly in the FY.

The variances were as a result of journal entries that were not passed in the IFMIS and reconciliations not done. However, we have since written to the National treasury requesting for assistance and support in doing the IFMIS System reconciliation on a letter dated 6th March 2023, Ref; MKSCA/ADM/IFMIS/VOL.1/109. Two officers have been assigned to assist the Assembly and the exercise has begun from FY 2015/2016 and it's going on well, and once we are through with the reconciliations, we will be able to produce our financial statements from the IFMIS and the variance will have been cleared.

The officials from the National Treasury and our officers have since started the reconciliations/passed some of the required journal entries, and currently, we are in FY 2019/20. This is a work in progress, and we are working tirelessly to ensure that the assembly produces its financial statements from the IFMIS.

In addition, All the payments done by the Assembly are processed through the IFMIS. Further, following the reinstatement of the Officers and additional recruitment of accountants, the department is now adequately staffed and a section has since been created purely for reporting purposes. This will help to address the challenges that have been there in the past.

Committee Observation

The Committee noted that the matter was satisfactorily addressed.

Committee Recommendation

The committee recommends that the matter be marked as resolved.

2.0 Discrepancies in Bank Balances

The statement of financial assets and liabilities reflects bank balances totaling Kshs. 88,059,091 as at 30 June 2019, and also disclosed in Note 13A to the financial statements. However, examination of records on the balances revealed the following unsatisfactory issues.

2.1 Variances in Bank Balances

Bank reconciliation statements for the accounts reflected cash book balances totaling Kshs. 24,109,309 as at30 June, 2020 against Kshs 88,059,901 reflected in the financial statements, as detailed below;

Account Name	A/C No.	Financial Statements (Kshs)	Bank Reconciliation (Kshs)	Variance (Kshs)
Development	1000264578	88,058,929	18,558	88,040,371
Recurrent	1000240393	162	23,941,928	(23,941,766)
Imprest	01141277998902	0	148,824	(148,824)

Further, Management did not provide a Board of Survey report to support the reported balances and as a result, their accuracy, validity and completeness could not be confirmed.

Management Response

The financial statements reflected bank balances after the close of the financial year on 30th June 2020. The Controller of Budget released funds in July 2020 (which was in FY 2020/2021), and the National Treasury allowed Counties to continue incurring expenditures in July but using FY 2019/2020 approved budget estimates up to 15th July 2020 when the IFMIS system was closed.

In view of the above, the correct figures were used in the preparation of the financial statements making the balances as at 3oth June 2020 immaterial in terms of FY 19/20 financial reporting.

The balances of Kes 88,059,091.55 reported in the financial statements represent the funds that were unspent after the closure of the FY in July 2020, and therefore the balances are correct and they were swept back to the CRF Account.

On 16th June 2020 the Assembly appointed a Board of Survey Committee to carry out the board of survey, the exercise was undertaken and the report forwarded on 19 August 2020. The report is attached for review and we regret the omission that it was not provided at the time of the audit.

Committee Observation

The Committee noted that the matter was satisfactorily addressed.

Committee Recommendation

Committee recommends that he matter be marked as resolved.

2.2 Undisclosed Deposits and Retentions Bank Balances

The reported cash and cash equivalents balance totaling Kshs. 88,059,091 excludes a sum of Kshs 2,472,429 held under deposits account at the Central bank of Kenya. Although Note 13A to the financial statements was disclosed under the funds held in the account belong to third parties, the deposits were part of the financial assets and liabilities of the County Executive as

at 30 June, 2020 should therefore have been disclosed in the financial statements as part of bank balances and accounts payable-deposits and retentions, respectively.

In the circumstances, the bank balances totaling Kshs. 88,059,091 and the nil accounts payable-deposits and retentions balances reflected in the statement of financial position as at 30 June, 2020 are not fairly stated.

Management Response

As disclosed in the financial statements, the Assembly had kes 2,472,429.15 in its Retention Account at Central Bank of Kenya. This amount as reported belongs to third parties and the Assembly only disclosed then in the financial statements as shown on page 25 under note 13A of the amended financial statements.

Since this is a liability to the Assembly, we ought to have reported it as accounts payable under liabilities and as well as an asset under the bank balances as recommended by the auditors. During the subsequent FY's financial statements (FY 2020/2021), we reported the deposits and retentions amount held at the close of the FY as both part of Current Assets and Liabilities.

Committee Observation

The Committee observed that the matter has since been addressed.

Committee Recommendation

Committee recommends that the matter be marked as resolved

3.0 Opening Fund and Cash Equivalent Balances

The statement of financial assets and liabilities does not reflect an opening balance for the fund account even though the audited financial statements for the year ended 30 June 2019 reflected closing balance of Kshs 421,325 in respect to the account. The balance should have been reflected as the opening balance for the year under review. No satisfactory explanation was provided by management for the omission of the opening balance from the financial statements.

As a result, the presentation of the fund balance in the financial statements is incorrect.

Management Response

Section 136(2) of the PFM Act 2012, requires that any amounts that are up spent at the end of any FY be swept back to the County Revenue Account, and during the FY 2018/2019, the closing balances were Kshs 421,325 which was broken down as follows;

a) Kshs. 141,001.15 held at the CBK Development account,

b) Kshs. 140.40 held at CBK Recurrent Account

c) Kshs. 280,183 held at Imprest account in Co-operative bank

In compliance with the law, the Assembly swept back the full amounts to the County Revenue Fund Account at CBK. The FY 2019/2020 was therefore started with nil balances. The Assembly under the notes to financial statements disclosed that the amounts that it closed with in FY 2018/2019 were swept back to the CRF in compliance with the law.

Committee Observation

The Committee noted that the matter was satisfactorily addressed.

Committee Recommendation

Committee recommends that he matter be marked as resolved.

4.0 Unsupported Training Expenses

Expenditure records indicated that during the year under review, the County Assembly incurred training expenses totaling Kshs. 32,542,895 as disclosed in Note 5 to the financial statements. However, payments totaling Kshs. 3,921,936 were not adequately supported with relevant documents including records on travel and attendance at the indicated training sites. As a result, it was not possible to confirm the occurrence and validity of the expenditure totaling Kshs. 3,291,936 incurred on the training expenses.

Management Response

During the FY, the Assembly conducted different training sessions for both MCAs and staff at different places. For instance;

a) In June 2019, the Assembly Internal Audit Committee was facilitated to attend a training programme in Singapore on emerging issues in audit. The training took place as planned and a report was prepared by the audit committee secretariat and tabled before the Board of management. The total cost of per diems for the training was Kshs 1,346,136.00. Attached for review are the travel documents which includes; travel clearance letter from the Ministry of Devolution and stamped passports copies.
b) The Assembly paid Kshs 975,000 to the Institute of capacity development (INCAD) for the training of House Leadership on County Public Financial Management and Planning in Arusha, Tanzania during the month of May 2019. Members of the House Leadership attended the training as approved and attached for review travel documents which includes; invoice, invitation letter, travel clearance letter from the Ministry of Devolution and stamped passports copies.
c) During the FY, the Assembly paid Kshs 1,600,800 to In-depth Research Services for workshop on Trade Development and Regulations for Markets, outdoor advertising and licensing in Arusha, Tanzania during the month of May 2019. Members of the Trade committee attended the training as approved and attached for review are the travel documents which includes; Invoice, Invitation letter, travel clearance letter from the Ministry of Devolution and stamped passports copies.

Committee Observation

The Committee noted that the matter was satisfactorily addressed.

Committee Recommendation

Committee recommends that he matter be marked as resolved

5.0 Pending Accounts Payable

5.1 Unconfirmed Balance

Note 7.10-other important disclosures 1- reflects a nil pending accounts payable balance. However, Annex 1- Analysis to the financial statements reflects accounts payables balance totaling Kshs. 102,923,622 as at 30 June, 2020.

Further, comparison of pending payables reflected in Annex 1 with records on the balances revealed the following inconsistencies:

a) Records on Kshs 4,129,939 shown as owed to tour services firm under Annex 1 indicated that the amount owed to the firm was Kshs 3,222,439. Therefore, the financial statements balance is overstated by Kshs 907,500

b) An amount of Kshs 287,600 reflected in Annex 1 was not supported with records on the goods or services supplied by the creditor company

c) Records on Kshs 12,600 reported as due to a motor-vehicle repair garage indicated that the garage was owed Kshs 21,600 and therefore the liability was understated by Kshs 9000.

d) Included in the pendig accounts payables balances are bills totaling Kshs 22,167,265 which were committed through Local Purchase Orders and Local Service Orders after 31 may, 2020. However, the commitments were made without the written approval of the Accounting Officer contrary to Regulation 50(1) of the Public Finance Management (County Governments) Regulations, 2015. As a result, the expenditure incurred thereon were irregular.

From the foregoing, the accuracy and completeness of the pending accounts payables totaling Kshs 102,923,622 disclosed in Annex 1 to the financial statements could not be confirmed.

Management Response

The Management responded that;

a) During the previous year, the Assembly incurred some expenditure related to air travel. Simply Travel & Tours Company was contracted by the County Assembly to offer these services on various occasions. As at the close of the FY, the pending bills for the said service provider totaled to Kshs 4,129,939 and not the Kshs 3,22,439 as indicated in the audit query. This was adequately disclosed under annex 1 on page 39 as reflected in the financial statements and the statement from the service provider.

b) During FY 2017/2018, Scofex Ltd supplied to the Assembly drinking water at a cost of Kshs 287,600. Although the delivery was done and inspected, the same has not been paid to date since the supplier's PIN was suspended by KRA and the payment could not be processed through IFMIS when the pin is inactive. The procurement method used to identify the supplier was request for quotation. The supplier provided drinking water to the Assembly and the same was received and issued for use from the stores.
c) Vekaria Garage offered moto vehicle repair services to the assembly and by the close of the FY we had a pending bill of Kshs. 21,600. This amount was erroneously indicated as Kshs. 12,600, the financial statements were amended to correct the under casted figure of the pending bills under other disclosures.
d) The kes 22,167,265 included in the pending accounts payables comprises of payments done in the month of June, 2020 and whose commitment were done earlier on within the FY. They include:
e) Kes 3.9 million- This was paid to Kensum Enterprises Ltd which was part payment for the supply and installation of Gym Equipments
f) Kes 500,000 paid to SOCATT which was part payment for annual subscription
g) Kes 6,134,418 paid Top Choice Surveillance Ltd which was part payment for the supply and installation of lift
h) Kes 10 million was paid to APA Insurance which was part payment for medical insurance cover
i) Kes 2 million was paid to County Assemblies Forum CAF) which was part payment for annual subscription

Committee Observations

The Committee noted that;

1) The matter on pending accounts payables has been addressed.
2) The Assembly made payments to the Society of Clerks at the Table (SOCATT) and County Assemblies Forum (CAF) were irregular and unlawful.

Committee Recommendations

The Committee recommends that the irregular payments to the Society of Clerks at the Table (SOCATT) and County Assemblies Forum (CAF) be stopped and further recommends the surcharge of any accounting officer who continues to make the irregular contribution.

5.2 Long Outstanding Accounts Payables

Included in the pending accounts payables balance totaling Kshs. 102,923,622 disclosed in Annex 1 to the financial statements are payables totaling Kshs 46,654,658 that had been outstanding for more than one year as at 30 June 2020 with some incurred in 2013/2014 financial year. Management has not explained why the long outstanding payables have not been paid.

In addition, failure to pay pending bills in due time slows down economic activity and denies local businesses funds for working capital and investment.

Management Response

As reported in the financial statements, the Assembly's pending bills totaled to Kes 102,923,622.24. This amount included kes 46,654,658 for pending legal fees most of which were incurred during FY 2013/2014 and 2014/2015 when the County Assemblies had several litigation matters. The amount has been outstanding for a while due to some gaps in their documentation and once the documentation gaps are addressed the amounts will be settled in installments due to budgetary constraints.

The Assembly continued to engage suppliers/other service providers throughout the FY, and after 31st May 2020 it went slow in engaging new suppliers/other service providers to give room for their timely payment, and for the ones which the Assembly was not able to pay for, they were settled in the subsequent FYs.

The Assembly seeks guidance from the committee on how to handle this matter.

Committee Observations

The Committee noted that

1) the management did not submit all relevant documents and information to the Auditor General at the time of the audit per section 62 of the Public Audit Act, 2015.

2) The Assembly has pending legal fees dating back to 2013/2014 and 2014/2015.

Committee Recommendations

The Committee recommends that;

1) **that all County Governments pay verified pending bills amounting to less than Kshs. 1 billion by the end of this financial year and those above Ksh.1 billion by the end of the financial year 2024/2025; and**
2) **Resolves that-**
   - i) **pursuant to the provisions of Regulation 41(2) & (3) of the Public Finance Management (County Governments) Regulations, 2015, County Governments prepare and submit to the Controller of Budget, a payment plan, prioritizing payment of pending bills as a first charge on the County Revenue Fund, failure to which the subsequent quarter budget releases will not be done;**
   - ii) **the Controller of Budget takes into consideration the efforts made by a county government to clear inherited pending bills when approving exchequer releases;**
   - iii) **County Governments shall only pay pending Bills contained in their respective procurement plans pursuant to Regulation 50 (2) & (3) of the Public Finance Management (County Governments) Regulations;**

iv) **Supplementary budgets for county governments are prepared in the 3rd Quarter to curb instances of arbitrary re-allocations out of the approved budget estimates;**

v) **County governments, in consultation with the Controller of Budget, to provide a budget for completion of all existing projects and that initiation of new projects to cease until completion of the existing projects; and**

vi) **County governments shall conduct public participation while formulating supplementary budgets, failure to which the Controller of Budget (CoB) shall not approve the supplementary budgets**

KEY AUDIT MATTERS

1.0 Budget Control and Performance

The statement of comparison of budget and actual amounts recurrent and development combined reflects budgeted receipts and actual on a comparable basis totaling Kshs 1,298,145,156 and Kshs 1,001,910,088 respectively resulting in a revenue shortfall of Kshs 296,235,068 or 23% of the approved budget, management attributed the shortfall to underfunding of exchequer releases. In addition, only Kshs 913,850,996 of the revenue totaling Kshs 1,001,910,088 was spent resulting to under-absorption of Kshs 88,059,092 equivalent to 9% of the receipts.

The revenue shortfall and under-expenditure constrained the capacity of the County Assembly to implement its plans for the year under review.

Management Response

The statement of comparison of Budget and Actual amounts correctly captured the total budget estimates for the FY as kes 1,298,145,156. Out of this amount, only kes 997,410,087.70 was received from the County Treasury, the Assembly further borrowed kes 4.5m from the Housing Scheme Fund Account to settle some recurrent financial obligations then, this brought the total receipts to kes 1,001,910,087.70. This translated to an overall absorption rate of 77%.

Under recurrent budget, the absorption rate was 100%, while under the development budget it was 12%. For other recurrent transfers (loans) it was 40% as indicated.

The reason as to why there was low absorption rate under development budget was that, the outbreak of Covid-19 in March 2020 greatly affected the implementation/execution of the development projects in the 3rd and 4th quarters of the financial year. Most of the development projects were initiated late in the FY hence no payments were done during the period under review i.e. Construction of a New Modern Chamber which had a budget of kes 200 million, Supply of Gym Equipment's kes 16 million, installation of lift kes 2.6m, Installation of Hansard Equipment's kes 20 million, Construction of Speakers Official residence kes 35 million, Construction of Ward Offices kes 100 million.

Other projects in the budget were canceled i.e purchase of land for construction of speaker's official residence with a budgetary allocation of kes 25 million. The kes 88,059,092 equivalent

to 9% of the total receipts was not spent owing to some technicalities emanating from the project implementation and contract management and was swept back to CRF.

In the future FYs, the Assembly will strive to initiate the development projects in good time to ensure timely completion before the FY ends.

Committee Observations

The Committee observed that the county assembly did not receive exchequer releases from the National Treasury on time. These challenges hampered budget implementation in the affected assembly.

Committee Recommendations

The Committee recommends that the National Treasury should ensure timely release of funds to county Governments in line with the cash disbursement schedules approved by the Senate and comply with Article 219 of the Constitution and Section 17(6) of the Public Finance Management Act, 2012.

2.0 Unresolved Prior Year Matters

The report for the previous year highlighted several matters that included lack of ethnic diversity in staffing, non-submission of the County Performance Report for the year, inter-account borrowing and irregular re-allocation of funds from compensation of employees' budget to other expenditures. The matters had not been resolved as at 30 June, 2019.

Management Response

The Assembly responded adequately to the issues raised and also addressed the same at the Senate County Public Accounts Committee on 18th November 2021 as evidenced by the invitation letter attached. Included in the unresolved prior year matters were;

i) Lack of ethnic diversity in staffing

During the period under review, the Assembly had a total of 212 employees in its establishment, and 120 out of this were ward employees working in the varios wards within the County. The remaining 92 employees were working at the Assembly Headquarters and their composition then was as follows;

- Employees from Machakos County – 63(sixty-three) i.e 68%
- Employees from other places __29 (twenty-nine) i.e 32%

Therefore, the Assembly didn't breach the Act on National Cohesion and Integration and will always work in compliance with the Act regarding recruitments in the public service.

ii) No submission of County Assembly performance report

The Assembly has in place a Performance Contracting System whereby performance is measured against set targets/objectives; the same guides the Assembly in undertaking its programs/activities and it's normally agreed on at the beginning of every financial year.

During the time of audit, the performance report for the period under review was in draft from awaiting approval by the County Assembly Service Board, the approval was later on gotten and the report availed for review.

iii) Inter-account borrowing

During the financial year under review, the Assembly borrowed some monies to fund its operations when there were delays in release of funds. The borrowing of Ksh. 10 million was not repaid back to where it was borrowed by the close of period under review (Housing Fund Account), hence it was reported as part of Receipts under Inter Account borrowing otherwise its omission would have understated the receipts/and we would have had unexplained deficit (where Expenditure are more than Receipts).

The borrowing of Kes 10 m was later on refunded back to the Housing Fund Account in September 2019.

iv) Irregular reallocation of funds from compensation of employees' budget to offer expenses.

During the FY under review, the Assembly through a supplementary budget reallocated some monies from the compensation of employees to other recurrent votes totaling to Kshs. 75,040,000. The reason as to why this was done is because during the initial budget preparation process, the Assembly had provided for full allowable amounts for MCAs sitting allowances but in between the financial year, we realized that we were not likely to use all the budgeted amount for this purpose, and based on the usage trend, we found we were not likely to spend Kshs. 75,040,000 and thus why we reallocated the same to other votes within the budget in line with the provisions of the PFM Act, 2012 Section 154 2(a).

The County Assembly made the request for the reallocation in writing to the County Treasury, which was then later forwarded to the County Assembly for consideration by the house. This was approved by the Assembly through a supplementary budget process and appropriated through a Supplementary Appropriation Act.

Committee Observations

The Committee noted that the report for the previous year highlighted several matters that included lack of ethnic diversity in staffing, non-submission of the County Performance Report for the year, inter-account borrowing and irregular re-allocation of funds from compensation of employees' budget to other expenditures. The matters had not been resolved as of 30 June, 2019.

Committee Recommendations

The County Assembly takes action on the issues raised by the Auditor General and submit a status report to the Auditor General sixty (60) days after the adoption of this report.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

1.0 Unsatisfactory Implementation of Projects

1.1 Delayed Construction of Ward Offices

Procurement records indicated that Management awarded contracts for construction of twelve (12) Ward Offices commencing July, 2019. The Projects were to be completed in December, 2019 but at the time of the audit in October 2020, none had been completed. An additional nine (9) such contracts were awarded in June, 2020 under Phase Two of the project. The works were to be completed after five months' time. However, only one of the nine projects had been completed at the time of the audit in October, 2020.

In addition, contrary to Section 207(2) of Public Finance Management Act, 2012, there was no evidence that public participation activities were carried out to identify locations for the Ward Offices. Further, architectural designs and approvals for the projects and the title deeds for the plots of land on which the Offices were constructed were not provided for audit review and as a result, ownership of the respective lands by the County Government of Machakos could not be confirmed.

In view of these issues, it was not possible to confirm the regularity of the contracts and whether value for money and the utility level desired would be obtained from the expenditure incurred in building the Ward Offices.

Management Response

During the period under review, the Assembly budgeted kes 2.5 m for construction of ward offices in each of the 40 wards, therefore the total budget for the same was kes 100m.

The department of Public Works & Housing was charged to come up with a single standard design for the same. They came up with the design which was considered and approved by the CASB before tenders were floated and the same available for review. Appendix 16- approved architectural plan.

The County Assembly Service Board had further resolved that the construction of the ward offices shall not involve the procurement of land instead the ward offices shall be constructed on public land. Therefore, while identifying the places where the offices were to be constructed, the Assembly involved different stakeholders e.g Area Chiefs, Assistant Chiefs, chairpersons of markets, ward residents, County Ward Administrators, Assistant County Commissioners and Members of the Country Assembly for the respective ward.

In commencing this process, each elected Member of County Assembly was issued with a letter by the County Assembly Clerk, requesting them to identify suitable public land for construction of the said ward offices. The members had to further get an authorization letter from the County Administrators who were in custody of those particular pieces of land. However, in some wards the Assembly is yet to get land and we are still engaging the provincial administration on the same.

For the wards where land was promptly identified, tenders were floated, evaluation done, bidders identified and construction contracts signed. See attached letters Appendix 17(b)-Sample of ward offices that land was identified.

The Assembly undertook this as a rolling project (multi-year project) that has taken some years before its full implementation. The construction process has been affected by so many factors some even out of our control but we will endeavor to have the projects completed in good time. To date, twenty-nine (29) ward offices have been fully completed and occupied, six (6) are under construction while for the remaining five (5) land is yet to be identified.

As earlier indicated, all the ward offices are being constructed on public land, and the Assembly is still pursuing to see whether it can get copies of title deeds of the said pieces of lands.

Committee Observation

The Committee noted that the assembly failed to undertake public participation and did not provide title deeds for the places where the ward offices were built on.

Committee Recommendations

The committee recommends that;

1) **The County Assembly establishes a project management and monitoring System to help in proper project conceptualization, planning, execution and timely completion of projects as well as realization of value for money as provided for in the Public Finance Management Act, 2012 and the Public Finance Management (County Government) Regulations, 2015 within 60 Days from the date of adoption of this report;**
2) **The OAG to keep the matter in view and provide a status update to the Committee in the subsequent audit cycle.**

1.2 Failure to Install Gymnasium Equipment

In June 2019, Management contracted a local company to supply and install gymnasium equipment and accessories at a contract sum of Kshs. 19,923,116. An advance payment amounting to Kshs. 3,984,623 was made to the supplier who was expected to complete the project on 15 September, 2019 but delivered the equipment one week later.

The contractor, however, did not install the equipment in the designated gymnasium area located in the 5th floor of Administrative Block A. The equipment could, reportedly, not fit in the lift for delivery to the designated floor. Information available indicate that the Company had sued the County Assembly for breach of contract for failure to pay the balance of the contract sum.

In view of the failure to install the equipment, the benefits due to the County Assembly from the equipment were not realized in spite of the expenditure commitment totaling Kshs. 19,923,116 and the advance payment of Kshs. 3,984,623 to the contractor.

Management Response

The Assembly engaged Kensun Enterprises to supply, install and commission gym equipment's accessories and sound system for kes 19,923,116. The same were delivered on 27th September 2019 and had not been installed by 30th June 2020 as expected. The reason being that the items were delivered while packaged and it was not possible for some due to their heavy weight/size to be taken to 5th floor where the gym was situated. The Assembly was then forced to look for alternate area where the identified heavy equipment was installed, however the installation had to await the process of preparing a suitable floor for the gym to be concluded. The rest of the gym equipment was installed in the gym space provided on the 5th Floor.

In addition, the signed contract was to supply, install and commission the gym equipment, but the supplier upon delivery asked to be paid the full amount, of which it was not possible because the installation and commissioning parts were still pending. He chose to go for arbitration after numerous meetings on the same with the Assembly.

The Assembly paid supplier 20% (kes 3,984,623) upon delivery and the balance of 80% was still pending by 30th June 2020. The process of arbitration was later on completed and the statement resolved on the 21st January, 2021. The contractor the installed the Gym equipment and the same was then commissioned and payment done during FY 2020/2021. The gym is now fully operational.

Committee Observation

The Committee noted that the matter was satisfactorily addressed.

Committee Recommendation

The committee recommends that the matter be marked as resolved.

1.3 Failure to Install Passenger Lift

The County Assembly contracted a firm to supply and install a 10-passenger capacity lift at a cost of Kshs. 8,763,454. However, the contract agreement provided for audit review was undated and it did not specify the contract duration. The lift was delivered on 26 July, 2019 after which Kshs. 6,134,418 equivalents to 70% of the contract price was paid to the contractor as provided in the contract agreement.

Although it was thereafter installed, the lift had not been inspected and put to use by the tome of audit in October, 2020 in spite of a request for its inspection having been made to the County Public Works Office on 10 July, 2020. However, unconfirmed information obtained during

the audit indicated that the design of the lift's housing area was inappropriate and the electric supply in the building was not sufficient for its operation.

In view of lack of proper planning that resulted in the failure to install the lift, no benefits were realized on the expenditure totaling Kshs. 6,134,418 spent on its procurement.

Management Responses

The Assembly engaged Top Choice Surveillance Ltd. to supply and install a Lift with a capacity of 10 persons at a cost of kes 8,763,454 and a contract was signed which was dated 9th April 2019 although the contract duration was not specified. The same was supplied and installed, and kes 6,134,418 (representing 70%) paid leaving a balance of 30% (kes 2,629,036.27) which is not paid to date.

The Assembly engaged the County Department of Public Works to give an inspection and technical report on the Lift installed before commissioning, handing over and the eventual payment of the balance, and the same has not yet been received. Once the pending inspection report is received, the balance will be paid out to the contractor.

At the time of the audit i.e. October 2020, the lift was not yet operational as it required a power stabilizer to address power fluctuations that affected the efficient operation of the lift. The power stabilizer has since been installed and the lift is now fully operational.

Committee Observation

The Committee noted that the matter was satisfactorily addressed.

Committee Recommendation

The Committee recommends that the matter be marked as resolved.

2.0 Irregularities in Procurement Activities

2.1 Procurement of Car Hire Services

Expenditure records indicated that in May, 2020 a local firm was paid Kshs 501,206 for provision of car hire services to the County Executive. However, records on requisition for the services by the user-department, and on the process applied to select the firm, were not provided for audit.

Consequently, it was not possible to confirm the regularity of the payments and whether value for money was realized on the expenditure totaling Kshs. 501,206.

Management Response

The Assembly engaged Wamu Logistics to provide motor vehicle on hired basis when some of the Assembly's Motor Vehicles were broken down. Wamu Logistics was engaged competitively (Quotation method) at a cost of kes 510,000 in compliance with the procurement

laws, and the procurement documents in support of this are available for review. Appendix 21 copy of the requisition, Evaluation Report and Professional Opinion.

Committee Observation

The Committee noted that the matter was satisfactorily addressed.

Committee Recommendations

The Committee recommends that the matter be marked as resolved.

2.2 Training Workshop Payment

Imprest records indicated that Kshs. 300,000 was issued to and Officer in November, 2019 to arrange a workshop held in Mombasa for Members of the County Assembly. The sum was paid to a hotel in cash. No explanation was provided as to why the officer was issued with an imprest to pay for the workshop whereas a cheque or remittance made to the hotel would have been the easier and more secure mode of payment.

In this circumstance, the propriety and value for money on the expenditure could not be confirmed.

Management Response

The Assembly issued an imprest of Kes 300,000.00 to an officer during a MCAs training workshop on Stress and Financial management. The imprest was used to pay for some hospitality expenses and other identical costs incurred by the Assembly during the said workshop and the same was authorized before the payment was done.

Committee Observation

The Committee noted that the matter was satisfactorily addressed.

Committee Recommendation

The Committee recommends that the matter be marked as resolved.

2.3 Fuels and Oils

The County Assembly spent Kshs. 3,243,771 on purchases of fuels and oils during the year under review, as disclosed in Note 5 to the financial statements. However, the firm appointed to supply the items was not in the list of the County Assembly's prequalified suppliers and further, records on the process followed in making the appointment were not provided for audit. As a result, the validity of expenditure totaling Kshs. 3,243,771 spent on the contract could not be confirmed.

Management Response

The Assembly reported kes 431,742,461 under the use of goods and services, included in this amount was kes 3,243,771 being the annual expenditure on motor Vehicle fuels and oils.

The Assembly over the years had been advertising for this item but all the times, the tender returned non-responsive, with no bidder expressing interest to supply the Assembly with fuel/oils.

The Assembly had been getting the fuel/oils from Better Masaku Kenol Service Station (under kenol Kobil brand now Rubis) for most of the FYs, and the same was provided at the prevailing market prices as guided by EPRA (Energy and Petroleum Regulatory Authority) and at any given time fuel was supplied within the given market prices. During FY2021/2022, the Assembly floated another tender for supply of fuel and oil and only one bidder (Better Masaku Kenol Service Station) having responded. He won the tender and has been supplying the Assembly with fuel/oils as per the prices issued by EPRA.

Committee Observation

The Committee noted that the matter was satisfactorily addressed.

Committee Recommendation

The Committee recommends that the matter be marked as resolved.

2.4 Ward Office Expenditure

Examination of expenditure records indicated that the County Assembly spent Kshs. 28,788,000 on Ward Office rent and other expenses. The records indicated that Kshs. 413,500 was spent on monthly rent for each of the forty (40) Ward Offices used by Members of County Assembly (MCA's) and a further Kshs 1,985,500 on salaries for staff posted to the Offices. In addition, personal assistants to the MCA's were issued with imprests totaling Kshs 60,000 each month for Ward Office operational expenses.

However, the following records on the expenditure were not provided for audit.

a) The recommendations made by the department of Public Works on the rent payable for each of the Offices

b) Guidelines indicating the maximum monthly payments authorized forward office rent and other operational expenses

c) Building inspection records to confirm that the Ward Offices were inspected and certified by the relevant Government departments a ssafe and fit for occupation; and

d) Lease agreements between the county Assembly and the respective landlords' premises

Further, personnel records indicated that the Ward Office employees' salaries were paid by the county Assembly Service Board. However, records on their identities, their mode of recruitment and terms of service were not provided for audit.

In view of these issues, the validity and value for money on the expenditure totaling Kshs 28,788,000 incurred on the Ward Offices in the year under review could not be confirmed.

Management Response

During the period under review, the Assembly budgeted kes 60,000 per month per ward to cater for payment of ward offices monthly rent and running expenses. The office rent was paid directly to the landlords, and there were signed lease agreements between the Assembly and the landlords. *See attached Appendix 24- sample of the lease agreements*. The amounts for ward rent vary from one ward to the other depending on the demographics for each ward.

The Assembly then did not have regulations governing the maximum rent payable and also on maximum ward office running expenses. The amount payable for each ward is dictated by the forces of demand and supply and varies from one ward to the other. For the amount of ward running expenses, this is dictated by the budgetary ceiling provided by CRA. Currently CRA capped the monthly ward office expenses to kes 27,300 per ward.

The buildings hosting the ward offices were not inspected by the relevant bodies hence no reports were filled with the office. The Assembly will consider engaging the respective County Officers for the inspections in the future, but generally the offices are in good locations and they are all fit for human habitation.

Further, the offices were not valued by the government valuer to confirm the market value of the properties, but we were guided by the forces of demand and supply on the same. As indicated earlier, lease agreements were signed between the Assembly and the landlords and are available for review.

For the ward running expenses, the ward office managers have standing imprests which are normally raised at the beginning of the FY, and subsequently reimbursed after usage at the end of every month. The imprests given to the ward office managers are normally accounted for on monthly basis before reimbursement.

The ward employees are paid by the Assembly at the end of every month together with the other Head Quarter members of staff and Members of the County Assembly. The ward office regulations give guidelines on the process of recruitment and terms of employment for the ward office staff. As provided in the said regulations, the ward employees were engaged by the Members of the County Assembly, and they signed contracts between themselves and the respective Members. Copies of the signed contracts were brought to the office for safe custody.

Committee Observation

The Committee noted that the matter was satisfactorily addressed.

Committee Recommendation

The Committee recommends that the matter be marked as resolved. However, The Office of the Auditor General should progressively review and report on the matter in the subsequent Financial Years.

3.0 Compensation of Employees

3.1 Failure to Adhere to the One-third of Basic Rule pay

Thirteen (13) employees were paid net salaries that were less than one-third of their basic pay contrary to the provisions of Section 19(3) of the Employment Act, 2007 and the County Assembly Human Resource Manual of 2015, which provide that, total deductions from an employee's wages should not exceed two-thirds of such wages.

Management Response

During the FY under review, some staff members over committed their payslips hence violating to some extent the 1/3 of Basic Salary rule. This was to facilitate them to settle critical financial obligations. The Assembly in the subsequent FYs ensured no salary deductions were effected in the IPPD system in violation of the 1/3 of the basic salary rule.

Committee Observation

The Committee noted that the matter was satisfactorily addressed.

Committee Recommendation

The Committee recommends that the matter be marked as resolved.

3.2 High Wage Bill

The compensation of employees' costs totaling Kshs. 387,763,769 incurred during the year were equivalent to 39% of the revenue receipts for the year totaling Kshs. 1,001,910,088. The ratio was above the threshold of 35 % prescribed in Section 25(1)(b) of the Public Finance Management (county Governments) Regulations, 2015.

Therefore, management did not adhere to the law. Further, the high wage bill may constrain the ability of the County Assembly to fund its legislative and governance activities.

Management Response

The Assembly budget has 3 components i.e. the Recurrent budget, other Recurrent Transfers (loans) and Development budget. For the budget estimates for other recurrent transfers (loans) and development, it's normally negotiated between us and the County Treasury, and it is generally guided by the needs which are there during that particular period.

For the recurrent budget, our ceiling is given by CRA and it's costed for all the expenditure line items. With our recurrent budget mostly cost, the clause on gross personnel emoluments not exceeding 35% of total receipts may not apply to us and generally all the Assemblies because of their costed budgets.

Assuming there are no developments/other recurrent transfers (loans) provisions for the Assembly, and it's only the recurrent budget, with the ceiling given by CRA, operations &

Maintenance (O&M0 constitutes only 40%, leaving the salaries taking approximately 60% of the total budget.

Committee Observation

The Committee noted that the matter was satisfactorily addressed.

Committee Recommendations

The Committee recommends that the matter be marked as resolved.

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

1.0 Failure to Maintain Creditors' Ledgers

The County Assembly did not maintain individual creditors ledger or register during the year under review. As a result, Management's control on movement in creditors balances was weak.

Management Response

During the FY, the department prepared several books of accounts among them the creditors ledger. At the time of the audit, the same was not up to date since the department was understaffed and the few staff who were available were not able to update the creditors ledger on a timely manner.

The Assembly has already engaged additional accountants and all primary books are updated on timely basis.

Committee Observation

The Committee noted that the matter was satisfactorily addressed.

Committee Recommendation

The Committee recommends that the matter be marked as resolved.

2.0 Failure to Maintain Proper Store Records

A review of the stores' records indicated that Management did not maintain ledgers to keep track of receipts, issues and balances on assorted stationery and cleaning materials purchased during the year under review at a cost of Kshs. 5,149,001. As a result, it was not possible to confirm outstanding stock balances, and whether the items issued were used for the intended purposes. Further, the risk of sock-outs and loss of stock was high.

Management Response

The Assembly engaged several suppliers for supply of assorted stationaries and cleaning materials during the FY amounting to Kshs. 5,149,001.00. During the period under review, it is regrettable that the store's ledgers were not updated fully, however the Assembly had

inspection and acceptance committees that inspected the goods on delivery to ensure goods of the right quality and quantity were supplied and received. As at that time, the Assembly used counter book registers to receive and issue stores.

Currently, the Assembly updates the store's records i.e. store ledger, S13 (receiving stores in) and S11 (issuing stores out) on timely basis. This has helped the Assembly to keep track on stock levels and usage of various items stocked by us.

Committee Observation

The Committee noted that the matter was satisfactorily addressed.

Committee Recommendation

The Committee recommends that the matter be marked as resolved.

CHAPTER THREE

REPORT OF THE SENATE COUNTY PUBLIC ACCOUNTS COMMITTEE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENT OF TURKANA COUNTY ASSEMBLY FOR THE FINANCIAL YEAR 2020/2021

The Speaker of Turkana County Assembly Hon Christopher Nakeleu and the Clerk Mr. Linus Lokawa, appeared before the Senate County Public Accounts Committee on Tuesday 26th September 2023, to respond to the queries raised by the auditor general on the financial statements of Turkana County Assembly for the financial year 2019/2020 and 2020/2021.

Qualified Opinion

EXECUTIVE SUMMARY OF UNRESOLVED AUDIT QUERIES				
S/NO	**QUERY**	**RECOMMENDATIONS**	**ACTOR**	**TIMELINE**
1.	**1.0 Variances Between the Financial Statements and IFMIS Figures** There are unexplained nor reconciled variances between IFMIS schedules and the financial statements totaling Kshs.153,725,698.	The committee recommends that the 1) The Institute of Certified Public Accountants of Kenya (ICPAK) undertakes disciplinary procedure (s) under section 32 and 33 of Accountants Act CAP 531 and provide a status update to the Senate within 60 days of adoption of this report. 2) EACC initiate an investigation with a view to prosecution of the responsible officers for the possible loss of monies amounting to Kshs.153,725,698.	ICPAK EACC	Within sixty (60) days from the adoption of this report Immediate
2.	**2.0 Unsupported Bank Balances:** The bank balance of Kshs.32,823,521 as of 30 June 2021 not supported by IFMIS bank reconciliation statements as of 30 June 2021 for the	The Committee recommends that; 1) The Accounting Officer undertakes administrative action against the responsible officer(s) for failure to undertake reconciliation of financial statements within the stipulated timelines and	The Clerk, County Assembly ICPAK	60 days from the adoption of this report

	four bank accounts were not attached as annexures to the financial statements contrary to the guidelines issued by Public Sector Accounting Standards Board.	submit a report to the Committee within 60 days of adoption of this report; 2) Institute of Certified Public Accountants of Kenya (ICPAK) undertakes disciplinary procedure (s) under section 32 and 33 of Accountants Act CAP 531. 3) The Accounting Officer to identify the training needs of its staff serving in the Finance Department and initiate capacity building and training in conjunction with the National Treasury within 60 days of the adoption of this report.		
Other Matters				
3.	**Pending bills**	The Committee recommends that 1) pursuant to the provisions of Regulation 41(2) & (3) of the Public Finance Management (County Governments) Regulations, 2015, County Governments prepare and submit to the Controller of Budget, a payment plan, prioritizing payment of pending bills as a first charge on the County Revenue Fund, failure to which the	The Clerk of the County Assembly The National Treasury COB	Within ninety(90) days from the adoption of this report.

		subsequent quarter budget releases will not be done; 2) the Controller of Budget takes into consideration the efforts made by a county assembly to clear inherited pending bills when approving exchequer releases; 3) County assembly shall only pay pending Bills contained in their respective procurement plans pursuant to Regulation 50 (2) & (3) of the Public Finance Management (County Governments) Regulations.		
4.	**3.1Implementation of projects: Lack of a Project Status Report:** A project implementation status report for the year under audit was not provided for audit review; therefore, it was not possible to confirm how many projects were to be implemented by the County Assembly nor how many completed, ongoing or stalled projects.	The Committee recommends that; 1) The county assembly should undertake proper project conceptualization, planning and execution to ensure timely completion of the project as well as realization of value for money as provided for in the Public Finance Management Act, 2012 and the Public Finance Management (County Government) Regulations, 2015; and	County Assembly OAG	60 days from the adoption of this report

		2) the OAG follows up on the matter in its next audit cycle and provides a status report on the completion of projects of the County Assembly to the committee.		
REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES				
5.	**1.0 Failure to Submit Accounts of the County Assembly Services Board:** The Management did not prepare and submit the financial statements to the County Assembly Service Board to the Auditor General contrary to Section 32 (1) and 32(2) (a) of The County Assembly Services Act,2017	1) The county assembly undertakes administrative action against the responsible officer(s) who failed to provide the documents to the auditors at the time of audit in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report. 2) The committee recommends that the county assembly complies to the law and prepare the accounts of the County Assembly Service Board, separate from that of the county Assembly, in accordance with the International Public Service Accounting Standards.	The Clerk, Turkana County Assembly.	60 days from the adoption of this report
6.	**2.0 Over Expenditure on Wage Bill**	The Committee recommends that the County Assembly takes steps to ensure that they adhere to the provision of	The Clerk, Turkana County Assembly.	Continuous

	Expenditure of Kshs. 539,417,527 in compensation of employees represents 44% of the total receipts of Kshs. 1,219,159,744 contrary to the provision of Regulation 25(i)(a) of the Public Finance Management (County Governments) Regulations, 2015 which provides that expenditure on wages and benefits should not exceed 35% of the total revenue.	paragraph 25(1)(b) of the PFM Act (county government) regulations, 2015 which stipulate that the county wage bill should not exceed 35 percent of the county total revenue.		
7.	**5.0 Non-Compliance to the Law on Ethnicity:** Assembly has employed 95% of the total number employees from the dominant ethnic community Further, review of records indicated that during the year under review, the County Assembly Service Board recruited nine (9) new officers on contract all whom	The Committee recommends 1) The County Assembly should work progressively towards attaining the requirement of the provisions of Section 65(1)(e) of the County Government Act 2012 on ethnic inclusivity. 2) The County Assembly and CASB should provide to the Auditor General a five-year strategy of measures it will put in place to ensure compliance with Section 65 (1) (e) of the County	The Clerk of the County Assembly	Within sixty(60) days from the date of adoption of this report.

	were from the same ethnic community	Government Act 2012 within sixty (60) days of the adoption of this report.		
8.	**Account Receivables – Long Overdue Imprests:** Issues raised in the audit report for 2019/2020 financial year for which no report or recommendations from the County Assembly Management and oversight bodies were submitted for audit verification and clearance. The issues remain unresolved contrary to section 149(2)(l) of the public finance management act, 2012.	The Committee recommends that; 1) The Accounting Officer undertakes administrative action against the responsible officer(s) who failed to provide documents to the auditors at the time of audit in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report; 2) The Committee recommends that the Accounting Officer(s) recover the outstanding imprests with interest as per provisions Regulation 93 (6) of the Public Finance Management (County Governments) Regulation. 3) The Committee further recommends the sanction and surcharge of Accounting Officers who fail to recover outstanding imprests	The Clerk, Turkana County Assembly	60 days from the adoption of this report

		in line with Regulation 93(7) of the PFM (County Government) Regulations, 2015.		
9.	**7.0 Unresolved Prior Year Audit Matters** Issues raised in the audit report for 2019/2020 financial year for which no report or recommendations from the County Assembly Management and oversight bodies were submitted for audit verification and clearance. The issues remain unresolved contrary to section 149(2)(l) of the public finance management act, 2012.	The Committee recommends that the County Assembly complies with section 53 of the Public Audit Act, 2015 by taking action on the issues raises by the Auditor General and submits a report to the Auditor General within 60 days of the adoption of this report.	The Clerk, Turkana County Assembly	60 days from the adoption of this report
REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE				
10.	**1.0 Lack of an Independent Internal Audit Function:** Internal audit department was reporting both functionally and administratively to the accounting officer as there	The Committee thus recommends that the County Assembly should establish an Audit Committee and submit a status report to the Auditor General within sixty (60) days from the date of adoption of this report.	The Clerk, Turkana County Assembly	60 days from the adoption of this report

	was no audit committee in place. contrary to Sec155(1) Public Finance Management (County governments) Regulation 2015.			
11.	**2.0 Lack of Risk Management Policy** County Assembly of Turkana did not have risk management policy in place during the year ended 30 June, 2021 contrary to regulation 158(1) of the Public Finance Management County Government Regulations, 2015.	The Committee recommends that; 1) The Accounting Officer should put in place a risk management policy and disaster recovery plan within sixty (60) days from the adoption of this report and submit the same to the Auditor General. 2) The Auditor General should closely monitor the development, documentation and communication of the policies within the county assembly in the subsequent audit cycle.	The Clerk, Turkana County Assembly	60 days from the adoption of this report
12.	**4.0 Failure to Tag Fixed Assets:** Management has not tagged/ branded its assets as required under regulation 132(1) of the Public Finance Management (County Government) Regulations, 2015.	The Committee recommends that; 1) County Assembly should update and present their Fixed Assets Register in the format prescribed by the Public Sector Accounting Standards Board; 2) County Assembly should adopt and implement the report of the Inter-Governmental Technical	The Clerk, Turkana County Assembly	90 days from the adoption of this report

		Relations Committee (IGTRC) on assets and liabilities from defunct Local Authorities and provide a status update to the Office of the Auditor General within 90 days of adoption of this Report; and 3) The Office of the Auditor General should progressively review and report on the matter in the subsequent Financial Years.		

Basis for a Qualified Opinion.

1.0Variances Between the Financial Statements and IFMIS Figures

There are unexplained nor reconciled variances between IFMIS schedules and the financial statements totaling Kshs.153,725,698.

Management Responses

The variances between IFMIS schedules and the financial statements are due to the following reasons; The management of Turkana County Assembly borrowed a total of Ksh 73,594,986 from the Car Loan and Mortgage funds scheme. The borrowings were due to a delay in exchequer releases that affected the operations of the institution. These borrowings were not returned owing to budget constraints. Most of the payments for DSA were done outside IFMIS since the funds were obtained from the Fund Account. Bank statements for car loan and mortgage Account (Cooperative), KCB and sampled DSA vouchers were attached for the committee verification.

Committee Observations

The committee observed that the management failed to provide documentary evidence to support the reconciliation and explain the variances of Ksh.153,725,698 at the time of the audit.

Committee Recommendation

The committee recommends that;

1) **The Institute of Certified Public Accountants of Kenya (ICPAK) undertakes disciplinary procedure (s) under section 32 and 33 of Accountants Act CAP 531 and provide a status update to the Senate within 60 days of adoption of this report.**

2) **the EACC initiate an investigation with a view to prosecution of the responsible officers for the possible loss of monies amounting to Kshs.153,725,698.**

2. Unsupported Bank Balances

The bank balance of Kshs.32,823,521 as at 30 June, 2021 not supported by IFMIS bank reconciliation statements as at 30 June, 2021 for the four bank accounts were not attached as annexures to the financial statements contrary to the guidelines issued by the Public Sector Accounting Standards Board.

Management Responses

As disclosed in Note 13A to the financial statements, the statement of financial assets and liabilities reflects a bank balance of Kshs.32,823,521 as at 30 June, 2021, held in four bank accounts operated and maintained by the County Assembly. However, the IFMIS bank reconciliation statements as at 30 June, 2021 for the four (4) bank accounts were not attached as annexures to the financial statements contrary to the guidelines issued by the Public Sector Accounting Standards Board and communicated vide The National Treasury Circular No. AG. 4/16/3 Vol.1(9) of 24 June, 2020. In the circumstances, the accuracy and completeness of the bank balance of Kshs.32,823,521 could not be confirmed.

Committee Observation

The committee noted that the management failed to provide the IFMIS Bank reconciliations for three accounts owned by the county assembly.

Committee Recommendations

The committee recommends that; -

1) **The Accounting Officer undertakes administrative action against the responsible officer(s) for failure to undertake reconciliation of financial statements within the stipulated timelines and submit a report to the Committee within 60 days of adoption of this report;**
2) **The Committee therefore recommends that the Institute of Certified Public Accountants of Kenya (ICPAK) undertakes disciplinary procedure (s) under section 32 and 33 of Accountants Act CAP 531.**
3) **The Accounting Officer to identify the training needs of its staff serving in the Finance Department and initiate capacity building and training in conjunction with the National Treasury within 60 days of the adoption of this report.**

3.0 Assets Management.

Non-current assets register reflects historical cost as at 30 June, 2021 carried forward balance of Kshs.1,373,737,828 which includes Land, Buildings and structures, and transport equipment valued at Kshs.28,000,000, Kshs.623,858,876 and Kshs.76,689,551 respectively. However, title deeds, logbooks and other ownership documents were not availed for audit review.

Management Responses

The non-current assets register historical cost as at 30 June, 2021 of Kshs 1,373,737,828 which includes Land, Buildings structures and transport equipment was availed for audit. A copy of the Logbooks for vehicles was attached therein. However, The National Government is in the process of regularizing land ownership in Turkana County and Turkana County Assembly will also undergo the same process.

Committee Observations

The committee noted that the matter was satisfactorily addressed as the management provided ownership documents for the vehicles, and correspondences to support the National Government initiative to regularize land ownership in the county.

Committee Recommendation

The Committee recommended that the matter be marked as resolved.

Key Audit Matter

Other Matters

1.0 Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects a final expenditure budget of Kshs. 1,406,574,821 and actual expenditure of Kshs. 1,211,989,371 resulting to under expenditure of 194,585,450 or 14%.

Management Responses

The underspent was brought by the fact that some developmental projects were incomplete and could not warrant payment as payments are based on the engineer's interim certificate which was not provided during the year in review.

Committee Observation

The committee noted that the matter was satisfactorily addressed.

Committee Recommendation

The committee recommends that the matter be marked as resolved.

2. Pending bills

Pending bills amounting to Kshs. 26,115,914 as at 30 June, 2021. However, the schedule lacked information on the date the suppliers/ contractors were contracted, while the aging analysis of pending bills was not provided for audit verification. Treasury circular No 10/2020 of 16 June, 2020 Ref DGIPE/A/80 which required Accounting Officers to ensure pending bills are treated as a first charge on their 2020-2021 financial year approved budget.

Management Responses

There was an oversight in provision of the aging analysis however, 95% of the bills have already been paid as indicated in Annex 6 (a-b) (Pending bills payment report (a) and Evidence of payment vide the attached CBK statement (b), The 5% not paid is attributed to the fact that the suppliers could not be identified by the IFMIS system and the same as not been provided by the suppliers to date.

Committee Observations

The Committee observed that the County Assembly had not settled pending bills at the time of the audit; and

Committee Recommendations

The Committee therefore recommends that:

1) **npursuant to the provisions of Regulation 41(2) & (3) of the Public Finance Management (County Governments) Regulations, 2015, County Governments prepare and submit to the Controller of Budget, a payment plan, prioritizing payment of pending bills as a first charge on the County Revenue Fund, failure to which the subsequent quarter budget releases will not be done;**
2) **the Controller of Budget takes into consideration the efforts made by a county assembly to clear inherited pending bills when approving exchequer releases;**
3) **County assembly shall only pay pending Bills contained in their respective procurement plans pursuant to Regulation 50 (2) & (3) of the Public Finance Management (County Governments) Regulations.**

3. Implementation of Projects

3.1 Lack of a Project Status Report

A project implementation status report for the year under audit was not provided for audit review; therefore, it was not possible to confirm how many projects were to be implemented by the County Assembly nor how many completed, ongoing, or stalled projects.

Management Responses

The full report could not be provided during the year under review since the project status implementation committee was not fully constituted but currently the committee is fully functional and the current project status report was provided for the committee verification.

Committee Observation

The committee noted that the management provided certificates of completion for the construction of the New County Assembly Chambers and the Speakers Residence which were not signed by the Inspection clerk.

Committee Recommendations

The Committee recommends that;

1) **the county assembly should undertake proper project conceptualization, planning and execution to ensure timely completion of the project as well as realization of value for money as provided for in the Public Finance Management Act, 2012 and the Public Finance Management (County Government) Regulations, 2015; and**
2) **the OAG follows up on the matter in its next audit cycle and provides a status report on the completion of projects of the County Assembly to the committee.**

3.2 Projects Verification

The assembly had projects totaling to Kshs.158,007,732 relating to the construction of buildings. Physical verification on the construction of the County Assembly Chambers and cafeteria project at Kanamkemer/ Takwel Ward revealed that the project had not been completed and was still– ongoing with Payments made during the year amounting to Kshs.26,646,141. Delays in the timely implementation of projects could have denied the residents of Turkana County services or benefits accruing from completed projects.

Management Responses

The contractor had some delay owing to COVID-related restrictions but later resumed the works to completion as evidenced by the completion certificate whose copy was attached for the committee verification.

Committee Observation

The committee noted that the county assembly offices were complete and in use, and verified the completion certificate provided by the management.

Committee Recommendation

The committee recommends that the matter be marked as resolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES.

1.0 Failure to Submit Accounts of the County Assembly Services Board

The Management did not prepare and submit the financial statements to the County Assembly Service Board to the Auditor General contrary to Section 32 (1) and 32(2) (a) of The County Assembly Services Act,2017.

Management Responses

CRA Calculates County Assemblies Ceiling County Assembly service board inclusive. Since the budget is one, it was difficult to do separate statements. Consultations with CRA & COB to separate the budget for the county Assembly Service board and County Assembly of Turkana didn't bear fruits.

Committee Observation

The committee noted that the management failed to prepare statements of accounts for the County Assembly Service Board and provide the relevant documents to support the accounts.

Committee Recommendations

The Committee recommends that;

1) **The County CEO undertakes administrative action against the responsible officer(s) who failed to provide the documents to the auditors at the time of audit in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report.**
2) **The committee recommends that the management comply with the law and prepare the accounts of the County Assembly Service Board, separate from that of**

the county Assembly, in accordance with the International Public Service Accounting Standards.

2.0 Over Expenditure on Wage Bill

Expenditure of Kshs. 539,417,527 in compensation of employees represents 44% of the total receipts of Kshs. 1,219,159,744 contrary to the provision of Regulation 25(i)(a) of the Public Finance Management (County Governments) Regulations, 2015 which provides that expenditure on wages and benefits should not exceed 35% of the total revenue.

Management Responses

In 2019, the CASB reviewed employee grades downwards which ran for twenty-two months. After lengthy engagements between staff and the board, the CASB rescinded their earlier decision and reverted to their earlier job groups and as a result, salary arrears were paid to all the affected staff.

During the same period, elected MCAs through CAF went to court against SRC and the Court granted them their wishes by asking assemblies to pay their salaries using the 2013 circular which had higher salaries, committee sittings and plenary sitting allowances hence increasing our wage bill. This decision also attracted salary arrears. In the same period, the nominated MCAs were granted their wishes in a Nakuru county assembly court case where the court ordered that they be paid the same as their elected counterparts.

As a result, the nominated MCAs were paid claimable mileage allowance, plenary sitting allowance, as well as committee sittings, changed for chairpersons and vice chairperson's rates. The total of those court decisions hurt the wage bill. The net effect of this is that it contributed to the increase in the wage bill Annex 9(a-b) is the Court Ruling(a) and Analysis of all arrears(b).

Committee Observation

The Committee observed that the County Assembly's wage bill during the FY 2020/2021 stood at 44% of the Assembly's total receipts which was above the threshold of 35% stipulated under Regulation 25 (1) (b) of the Public Finance Management (County Governments) Regulations, 2015.

Committee Recommendations

The Committee recommends that the County Assembly takes steps to ensure that they adhere to the provision of paragraph 25(1)(b) of the PFM Act (county government) regulations, 2015 which stipulate that the county wage bill should not exceed 35 percent of the county total revenue.

3.0 Employment of persons with Disabilities

The County Assembly of Turkana had one hundred and twenty-six (126) employees out of which only 2% were persons with disabilities. Consequently, management was in breach of the law.

Management Responses

The county assembly of Turkana is an equal opportunity government institution which gives everyone an equal chance to work in it. In the recent establishment we can report that there is a positive deviation from the last FY 2022/2023 where we were having only 1 employee with disability to 6 employees for PWDs for FY 2023/2024 Copy of Disability Cards(a) and tax-exempt letters(b) to prove the same were attached for the committee verification.

Committee Observation

The committee noted that the management failed to provide the documents to show that it had raised the number of PLWD staff in its establishment from 1 to 6, as it explained.

Committee Recommendation

The management submits documentary evidence to indicate the plans in place and effort to comply to the Section 12(1) of the County Assembly Human Resource Manual, 2018, and allocate 30% of the employment opportunities to people living with disabilities, 60 days from date of the adoption of this report. However, the committee recommends the matter be marked as resolved.

4.0 Overpayment of Mileage Allowances to the Nominated Members

Seventeen (17) nominated Members of County Assembly were paid backdated mileage allowances in arrears amounting to Kshs.20,788,458, computed from 6 September, 2017 to 19 May, 2021. This is contrary to the advisory of the Salaries and Remuneration Commission (SRC) communicated through circular ref.CAT/SRC/Vol.4 (01-2020) dated 23 October, 2020 which authorized mileage allowance to be paid from 21 August, 2019 with no arrears or backdating.

Management Responses

The county assembly of Turkana has complied with the SRC advisory by recovering all the monies paid to the nominated MCAs through their service gratuity at the end of their term in 2022. This decision was arrived at by both parties through mutual written consent to recover. Attached in were a copy of bank statements showing refund from Lap-Fund(a), Consent Letters(b) and Agreements for Nominated MCAs.

Committee Observation

The committee noted that the Management provided a Copy of Bank statement showing the refund from Lap-fund, Consent letters, and agreements for nominated MCAs to support the refund of the paid allowances.

Committee Recommendation

The committee recommends that matter be marked as resolved.

5.0 Non- Compliance to the Law on Ethnicity

Assembly has employed 95% of the total number employees from the dominant ethnic community Further, review of records indicated that during the year under review, the County

Assembly Service Board recruited nine (9) new officers on contract all whom were from the same ethnic community. This is contrary to section 7(1) and (2) of the National Cohesion and Integrity Act,2008.

Management Responses

Officers inherited from the defunct local authorities who were retained after their functions were all locals. During the year under review also, one hundred and fifty staff were employed as partisan staff who were a prerogative of the area MCAs to decide the staff to work under them. These staffs were recruited locally from the ward level. Most advertisements were not responsive since they did attract fewer applicants whom were not able to agree to the offers given. Most of them were discouraged by the harsh climatic conditions in Turkana County. From the few non locals we had in our establishment, some of them transferred to the county executive and some went back to their home counties after securing employment back home

Committee Observations

The Committee observed that ;-

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

Committee Recommendation

The Committee recommends that-

1) **The County Assembly should work progressively towards attaining the requirement of the provisions of Section 65(1)(e) of the County Government Act 2012 on ethnic inclusivity.**
2) **The County Assembly and CASB should provide to the Auditor General a five-year strategy of measures it will put in place to ensure compliance with Section 65 (1) (e) of the County Government Act 2012 within sixty (60) days of the adoption of this report.**

6.0 Account Receivables – Long Overdue Imprests

Outstanding imprests balance of Kshs.6,750,500 held by various officers was not surrendered in time contrary to regulation 93(5) of the Public Finance Management (County Governments) Regulations, 2015.

Management Responses

The various officers later surrendered their outstanding Imprest as per the Public Finance Management (County Governments) Regulations, 2015. Annex 12(a-e) show the evidence of Surrendered imprest Vouchers.

Committee Observation

The Committee noted that that:

1) County Assembly did not have an imprest register. Further, there were delays in surrendering imprest contrary to imprest regulations.
2) The management delayed to submit documents to the Auditor General during the audit exercise.

Committee Recommendation

The Committee recommends that; -

1) **The Accounting Officer undertakes administrative action against the responsible officer(s) who failed to provide documents to the auditors at the time of audit in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report;**
2) **The Committee recommends that the Accounting Officer(s) recover the outstanding imprests with interest as per provisions Regulation 93 (6) of the Public Finance Management (County Governments) Regulation.**
3) **The Committee further recommends the sanction and surcharge of Accounting Officers who fail to recover outstanding imprests in line with Regulation 93(7) of the PFM (County Government) Regulations, 2015.**

7.0 Unresolved Prior Year Audit Matters

Issues raised in the audit report for 2019/2020 financial year for which no report or recommendations from the County Assembly Management and oversight bodies were submitted for audit verification and clearance. The issues remain unresolved contrary to section 149(2)(l) of the public finance management act, 2012.

Management Responses

No responses were provided for this query.

Committee Observation

The committee noted that the County Assembly did not take actions on the issues raised on the report of the Auditor General for Financial Year 2019/2020

Committee Recommendation

The Committee recommends that the County Assembly complies with section 53 of the Public Audit Act, 2015 by taking action on the issues raises by the Auditor General and submits a report to the Auditor General within 60 days of the adoption of this report.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

1.0 Lack of an Independent Internal Audit Function

Internal audit department was reporting both functionally and administratively to the accounting officer as there was no audit committee in place. contrary to Sec155(1) Public Finance Management (County governments) Regulation 2015.

Management Responses

An advert has been placed to put Audit committee in place as evidenced in the attached copies of the advertisement.

Committee Observation

The Committee observed that the County Assembly does not have an Audit Committee in place.

Committee Recommendation

The Committee thus recommends that the County Assembly should establish an Audit Committee and submit a status report to the Auditor General within sixty (60) days from the adoption of this report.

2.0 Lack of an IT Steering Committee

The County Assembly did not have an IT steering committee

Management Responses

As at the time of Audit under review the committee was not properly constituted but as at now the committee is in place and operational as evidenced by copies of appointment letters were attached for the committee verification.

Committee Observation

The committee noted that this matter was satisfactorily addressed.

Committee Recommendation

The committee recommends that the matter be marked as resolved.

3.0 Lack of Risk Management Policy

The County Assembly of Turkana did not have risk management policy in place during the year ended 30 June, 2021 contrary to regulation 158(1) of the Public Finance Management County Government Regulations, 2015.

Management Responses

Risk Management policy is being developed as evidenced by the attached copies of the Draft Risk Management Policy for the committee verification.

Committee Observation

The committee noted that the county assembly did not have a risk policy framework in place.

Committee Recommendations

The Committee recommends that:

1) **The Accounting Officer should put in place a risk management policy and disaster recovery plan within sixty (60) days from the adoption of this report and submit the same to the Auditor General.**
2) **The Auditor General should closely monitor the development, documentation and communication of the policies within the county assembly in the subsequent audit cycle.**

4.0 Failure to Tag Fixed Assets

Management has not tagged/ branded its assets as required under regulation 132(1) of the Public Finance Management (County Government) Regulations, 2015.

Management Responses

The management is in the process of tagging all its assets and updating the assets register as per the stated Laws and regulations above.

Committee Observations

The Committee observed that; -

1) The Assembly was acquiring the ownership documents for the assets, and identification features for the machines and furniture.
2) No documents were submitted to show that the Assembly was in the process of acquiring ownership documents for the assets.

Committee Recommendations

The Committee recommends that;

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

CHAPTER FOUR

REPORT OF THE SENATE COUNTY PUBLIC ACCOUNTS COMMITTEE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENT OF TURKANA COUNTY ASSEMBLY FOR THE FINANCIAL YEAR 2019/2020

The Speaker of Turkana County Assembly Hon Christopher Nakeleu and the Clerk Mr. Linus Lokawa, appeared before the Senate County Public Accounts Committee on Tuesday 26th September 2023, to respond to the queries raised by the auditor general on the financial statements of Turkana County Assembly for the financial year 2019/2020.

Qualified Opinion

EXECUTIVE SUMMARY OF UNRESOLVED AUDIT QUERIES				
S/NO	**QUERY**	**RECOMMENDATIONS**	**ACTOR**	**TIMELINE**
1.	**1.0 Unreconciled Difference Between the Financial Statements Figures and IFMIS Reports:** The statement of receipts and payments reflects total payments of Kshs.1,140,597,031 for the year ended 30 June, 2020 while the IFMIS reports reflects total payments of Kshs.733,764,833 resulting in unexplained and unreconciled difference of Kshs.406,832,198	1) The Institute of Certified Public Accountants of Kenya (ICPAK) undertakes disciplinary procedure (s) under section 32 and 33 of Accountants Act CAP 531 and provide a status update to the Senate within 60 days of adoption of this report. 2) The Accounting officer undertakes administrative action against officers who failed to provide the documents to the auditors at the time of audit in accordance with section 156 of the Public Finance	ICPAK The Clerk, Turkana County Assembly	60 days from the adoption of this report

		Management Act, 2012 and provides a status report to the Committee within sixty (60) days from the adoption of this report; and		
2.	**2.0 Unreconciled Bank Balances:** The statement of financial assets and liabilities and as disclosed in Note 13A to the financial statements reflects bank balance of Kshs.12,463,785 as at 30 June, 2020. However, the IFMIS bank reconciliation statements were not attached as annexures to the financial statements. This was contrary to the guidelines issued by Public Sector Accounting Standards Board through Circular No. AG. 4/16/3 Vol.1(9) of 24 June, 2020	1) The Institute of Certified Public Accountants of Kenya (ICPAK) undertakes disciplinary procedure (s) under section 32 and 33 of Accountants Act CAP 531 and provide a status update to the Senate within 60 days of adoption of this report 2) The Accounting officer undertakes administrative action against officers who failed to provide the documents to the auditors at the time of audit in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Committee within sixty (60) days from the adoption of this report	ICPAK The Clerk, Turkana County Assembly	60 days from the adoption of this report

3.	**3.0 Irregular Use of Deposits and Retentions Monies:** The statement of financial assets and liabilities reflects accounts payable - deposits and retentions monies balance of Kshs.39,117,572 . However, the deposits bank account reflects a balance of Kshs.10,367,469 resulting in an unexplained and unreconciled variance of Kshs.28,750,103	1) The Accounting officer undertakes administrative action against officers who failed to provide the documents to the auditors at the time of audit in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Committee within sixty (60) days from the adoption of this report 2) The Accounting Officer to identify training needs of its staff serving in the Finance Department and initiate capacity building and training in conjunction with the National Treasury within 60 days of adoption of this report.	The Clerk, Turkana County Assembly	60 days from the adoption of this report
Other Matter				
4.	**1.0 Budgetary Control and Performance:** The statement of comparative budget and actual amounts reflects final receipts budget and actual on comparable	The National Treasury should ensure timely release of funds to county Governments in line with the cash disbursement schedules approved by the Senate and comply with Article 219 of the Constitution and Section 17(6) of the Public Finance Management Act, 2012.	The National Treasury	Continuous

	basis of Kshs.1,360,793,832 and Kshs.1,140,177,985 respectively resulting to an under-funding of Kshs.220,615,847 or 16% of the budget. Similarly, the County Assembly expended Kshs.1,140,597,031 against an approved budget of Kshs.1,360,793,832 resulting to an under-expenditure of Kshs.220,196,801 or 16% of the budget.			
REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES				
5.	**1.0 Non-Compliance with Law on Fiscal Responsibility - Wage Bill** The statement of receipts and	The Committee recommends that the County Assembly takes steps to ensure that they adhere to the provision of paragraph 25(1)(b) of the PFM Act (county government) regulations,	The Clerk, Turkana County Assembly	Continuous

	payments for the year ended 30 June, 2020 reflects compensation of employees' expenditure of Kshs.537,579,799. This amount is approximately 48% of the total revenue of Kshs.1,130,179,194 and thus exceeds the limit of 35% stipulated in Regulation 25(1) of the Public Finance Management (County Governments) Regulations, 2015.	2015 which stipulate that the county wage bill should not exceed 35 percent of the county total revenue.		
6.	**2.0 Non-Compliance with Law on Ethnic Composition** the County Assembly had a total of three hundred and seventy-one (371) employees out of whom three hundred and twelve (312) or approximately 98% were from the dominant	1) The County Assembly should work progressively towards attaining the requirements of the provisions of the County Government Act, 2012 and the National Cohesion and Integration Act (2008) on ethnic inclusivity. 2) The County Assembly Service Board (CASB) should provide to	Clerk of the County Assembly The County Assembly Service Board (CASB	60 days from the date of adoption of this report.

	community. This was contrary to the provisions of Section 65(1)(e) of the County Governments Act, 2012 which requires the County Public Service Board to ensure that at least thirty percent (30%) of the vacant posts at the entry level are filled by candidates who are not from the dominant ethnic community.	the Auditor General a five-year strategy of measures it will put in place to ensure compliance is achieved within sixty (60) days of the adoption of this report		
7.	**3.0 Non-Compliance with the One Third of Basic Salary Rule** There were thirty-two (32) employees who earned a net salary of less than a third (1/3) of the basic salary during the year under review. The was contrary to Section 19(3) of the Employment Act, 2007 provides that the total amount of all deductions	1) The county assembly should configure their Integrated Payroll and Personnel Database (IPPD) system such that it is able to lock out commitments beyond the accepted thresholds and; 2) the Auditor General should continue monitoring the issue in subsequent financial years.	The Clerk of the County Assembly The Office of Auditor General	60 days from the date of adoption of this report

	made by an employer from the wages of his employee at any one time should not exceed two thirds of such wages.			
7.	**5.0Construction of County Assembly Office Annex-Treasury Building:** An amount of Kshs.65,570,881 was paid in respect of construction of County Assembly Office Annex Treasury Building. The contract was varied from Kshs.65,000,000 to Kshs.72,854,312 .45. However, approval for contract variation was not provided for audit review. Audit verification of the project revealed that the building was about 70% complete and the	The Committee recommends that; 1) The County Assembly establishes a project management and monitoring System to help in proper project conceptualization, planning, execution and timely completion of projects as well as realization of value for money as provided for in the Public Finance Management Act, 2012 and the Public Finance Management (County Government) Regulations, 2015 within 60 Days from the date of adoption of this report; 2) The OAG to keep the matter in view and provide a status update to the Committee in the	The Clerk of the County Assembly OAG	Within sixty(60)days from the day of adoption of this report

	contractor was not on site	subsequent audit cycle.		
8	**6.0 Stalled Construction of Speaker's Residence** The County Assembly entered into a contract for the construction of Speaker's Residence at a contract sum of Kshs.75,016,755 .68. Physical verification of the project carried out in November, 2020 revealed that the works were about 40% complete and the contractor was not on site	The Committee recommends that the EACC causes an investigation on to the expenditure of Kshs.281, 016,755.68 to ascertain if there was an intent to defraud the county through the varied contract sum for the construction of the speaker's residence, and submit a report to the committee upon completion of the investigations.	EACC	Immediate
9	**8.0 Unutilized Gymnasium Equipment** The County Assembly incurred expenditure of Kshs.7,500,000 on the procurement of gymnasium equipment. Audit verification revealed that although the	The Committee recommends that the EACC causes an investigation on to the expenditure of Kshs.7,500,000 to ascertain if there was an intent to defraud the county through the misplaced priority to the purchase of gymnasium equipment without construction of a gymnasium room, without approvals, and submit a report to the committee	EACC	Immediate

	equipment had been received, they had not been installed as the County Assembly did not have a gymnasium room	upon completion of the investigations.		
10	**10.0 Account Receivables - Outstanding Imprests** Review of documents provided for audit revealed that an amount of Kshs.26,234,741 held by various officers was not surrendered on time. This was contrary to Regulation 93(5) of the Public Finance Management (County Governments) Regulations, 2015	1) The accounting officer undertakes administrative actions against the officers who failed to provide the documents to the auditors in accordance with section 62 of the Public Audit Act and provides a status report to the Committee within 60 days from the adoption of this report; 2) The Committee recommends that the Accounting Officer(s) recover the outstanding imprests with interest as per provisions Regulation 93 (6) of the Public Finance Management (County Governments) Regulations, 2015; and 3) The Committee further recommends sanction and surcharge of Accounting Officers who fail to recover outstanding imprests in line with Regulation 93(7) of the PFM	The Clerk, Turkana County Assembly	60 days from the date of adoption of this report.

		(County Government) Regulations, 2015.		
REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE				
11.	**1.0 Lack of Risk Management Policy** The County Assembly Management had not put in place risk management policy, strategies and risk register to mitigate against risk. It was, therefore, not clear how the Management manages risk exposures. This is in contravention of Regulation 158 (1)(a) and (b) of the Public Finance Management (County Governments) Regulations, 2015	1) The Accounting Officer should put in place a risk management policy and disaster recovery plan within sixty (60) days from the adoption of this report and submit the same to the Auditor General. 2) The Auditor General should closely monitor the development, documentation and communication of the policies within the county assembly in the subsequent audit cycle.	The Clerk, Turkana County Assembly The Auditor General	60 days from the adoption of this report
12	**2.0 Tagging of Fixed Assets** The County Assembly had assets with a historical cost balance of Kshs.1,209,818, 353 as at 30 June, 2020.	1) The County Assembly should update and present their Fixed Assets Register in the format prescribed by the Public Sector Accounting Standards Board;	The Clerk, Turkana County Assembly. Senate OAG	60 days from the adoption of this report

	Physical inspection of the assets revealed that the County Assembly Management has not tagged/ branded its assets. This was contrary to Regulation 132(1) of the Public Finance Management (County Governments) Regulations, 2015	2) The County Assembly should adopt and implement the report of the Inter-Governmental Technical Relations Committee (IGTRC) on assets and liabilities from defunct Local Authorities and provide a status update to the Office of the Auditor General within 90 days of the adoption of this Report; and 3) The Office of the Auditor General should progressively review and report on the matter in the subsequent Financial Years.		

Basis for Qualified Opinion

1.0 Unreconciled Difference Between the Financial Statements Figures and IFMIS Reports

The statement of receipts and payments reflects total payments of Kshs.1,140,597,031 for the year ended 30 June, 2020 while the IFMIS reports reflects total payments of Kshs.733,764,833 resulting in unexplained and unreconciled difference of Kshs.406,832,198 as detailed below:

Payments	**IFMIS Reports (Ksh.)**	**Financial Statements (Ksh**	**Difference (Ksh.)**
Compensation of Employees	245,764,196	537,579,799	291,815,603
Use of Goods and Services	254,136,365	339,622,339	85,485,974
Social Security Benefits	1,231,575	-	1,231,575

Acquisition of Assets	232,632,696	6 142,812,925	89,819,771
Finance Costs	-	1,853,133	1,853,133
Other Payments	-	118,728,835	118,728,835

Consequently, the accuracy of total payments of Kshs.1,140,597,031 reflected in the financial statements for the year ended 30 June, 2020 could not be confirmed.

Management Response

The statements of receipts and payments reflects a total payment of Ksh. 1,140,597,031 against the IFMIS report of Ksh 733,764,833. The unreconciled difference of Ksh. 406,832,198 was due to the following reasons:

a) The Kenya Revenue Authority deducted Ksh. 118,728,835 from the Turkana County Assembly recurrent account. The amount deducted which was recoveries for tax related issues for previous years didn't pass through IFMIS system hence causing a bigger variance. KRA Letter evidenced in Annex 1 (a)and Bank Statement showing the Amount Recovered by KRA 1 (b).

b) The Turkana County Executive bailed the County Assembly Ksh. 173,474,887 as part of their pending bills towards the assembly's current recurrent budgetary requirements and this caused the IFMIS unreconciled amount since the figures passed through the executive systems as it was paid directly form the County Treasury Annex 2 Shows the copy of minutes between the County Executive Management, CRA and County Assembly management.

c) The Turkana County Assembly Management did an internal borrowing of Ksh. 45,998,555. The internal borrowings were done due to deductions of Kenya Revenue Authority which also affected operations of the institution.

d) The Turkana County Assembly was granted a salary advance of Ksh. 60,000,000 by Kenya Commercial Bank to pay for salaries. The salary's payment was due to delay of exchequer release form the National Treasury. This resulted to an interest of Ksh 1,853,133.

Committee Observations

The Committee noted that; -

1) the Turkana County Executive paid salaries amounting to Ksh.173,474,887 to the staff and MCAs of the Turkana County Assembly.
2) The management failed to provide the documents to support the reconciliation of the financial statements.

Committee Recommendations

The Committee recommends that

1) **The Institute of Certified Public Accountants of Kenya (ICPAK) undertakes disciplinary procedure (s) under section 32 and 33 of Accountants Act CAP 531 and provide a status update to the Senate within 60 days of adoption of this report.**
2) **The Accounting officer undertakes administrative action against officers who failed to provide the documents to the auditors at the time of audit in accordance**

with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Committee within sixty (60) days from the adoption of this report; and

2.0 Unreconciled Bank Balances

The statement of financial assets and liabilities and as disclosed in Note 13A to the financial statements reflects bank balance of Kshs.12,463,785 as at 30 June, 2020. However, the IFMIS bank reconciliation statements were not attached as annexures to the financial statements. This was contrary to the guidelines issued by Public Sector Accounting Standards Board through Circular No. AG. 4/16/3 Vol.1(9) of 24 June, 2020.

In the absence of IFMIS bank reconciliation statements, the accuracy and completeness of the bank balance of Kshs.12,463,785 as at 30 June, 2020 could not be confirmed.

Management Response

The management concurred with the auditor's observation the IFMIS Bank reconciliations were not attached to the financial statements as at 30 June 2020. This was attributed by the Assembly not having an expert of IFMIS leading to untimely update of the system and system technicalities. Currently the management as organized for IFMIS training to enrich capacity of the officers involved in the system.

However, Annex 3(a-d) (Summaries of Statement Balances(a), KCB Bank Statement(b), Development A/c Reconciliation(c) and Deposits A/c Reconciliation(d) supports the reason for the unreconciled amount.

Committee Observation

The Committee noted the delay in submission of documents to the Auditor General at the time of audit.

Committee Recommendations

The Committee recommends that;

1) **The Institute of Certified Public Accountants of Kenya (ICPAK) undertakes disciplinary procedure (s) under section 32 and 33 of Accountants Act CAP 531 and provide a status update to the Senate within 60 days of adoption of this report**
2) **The Accounting officer undertakes administrative action against officers who failed to provide the documents to the auditors at the time of audit in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Committee within sixty (60) days from the adoption of this report**

3.0 Irregular Use of Deposits and Retentions Monies

The statement of financial assets and liabilities reflects accounts payable - deposits and retentions monies balance of Kshs.39,117,572. However, the deposits bank account reflects a balance of Kshs.10,367,469 resulting in an unexplained and unreconciled variance of Kshs.28,750,103.

Consequently, the accuracy and completeness of the accounts payable - deposits and retentions balance of Kshs.39,117,572 could not be confirmed.

Management Response

Turkana County Assembly Opened its development account on December 2017 and deposit account on February 2020. The Projects began way back in 2014 and payments were done by executive arm of the government. Part of the funds that bring the Variance in the Accounts Payable and Cash at had (Deposit A/C balances) is withheld by the Deposits & Retentions accounts of the executive arm.

The delayed opening of the Deposits Account also necessitated nonpayment of Retentions that was to be paid after the Development account of Turkana County Assembly was done. Copies of the accounts opening letters were attached for the committee verification.

Committee Observations

The Committee observed that-

1) the annexures provided by the Management during interrogation with the Committedid not address the audit query; and
2) the management was facing capacity challenges in the accounts department.

Committee Recommendations

The Committee recommends that; -

1) **The Accounting officer undertakes administrative action against officers who failed to provide the documents to the auditors at the time of audit in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Committee within sixty (60) days from the adoption of this report**
2) **The Accounting Officer to identify the training needs of its staff serving in the Finance Department and initiate capacity building and training in conjunction with the National Treasury within 60 days of the adoption of this report.**

Key Audit Matters

Other Matter

1.0 Budgetary Control and Performance

The statement of comparative budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.1,360,793,832 and Kshs.1,140,177,985 respectively resulting to an under-funding of Kshs.220,615,847 or 16% of the budget. Similarly, the County Assembly expended Kshs.1,140,597,031 against an approved budget of Kshs.1,360,793,832 resulting to an under-expenditure of Kshs.220,196,801 or 16% of the budget.

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

Management Response

The management stated that it the under-funding of the budget was due to late disbursement of funds from the County Executive.

Committee Observation

The Committee noted that delays in receiving exchequer releases and under-funding from the County Executive hindered optimal program implementation and budget execution.

Committee Recommendations

The Committee recommends that the National Treasury should ensure timely release of funds to county Governments in line with the cash disbursement schedules approved by the Senate and comply with Article 219 of the Constitution and Section 17(6) of the Public Finance Management Act, 2012.

2.0 Pending Bills

Note 7.9 on Other Disclosures to the financial statements reflects pending accounts payables amount of Kshs.41,173,476 comprising of Kshs.8,464,188 in respect of construction of buildings, Kshs.4,432,808 in respect of construction of civil works and Kshs.28,276,480 in respect of supply of goods and services.

Failure to settle bills during the year to which they relate distorts the financial statements for that year and adversely affects the provisions for the subsequent year to which they have to be charged.

Management Response

The management stated that the failure to settle the pending in time was due to the late exchequer releases from the County Executive. However, the management was in the process of settling the bills in line with the schedules adopted by the pending bills committee that was formed to confirm the pending bills owed by the County Assembly.

Committee Observations

The committee noted that the matter was addressed satisfactorily.

Committee Recommendations

The committee recommends that: -

1) **the management considers settling of the bills on first charge, in line with the schedules adopted by the pending bill's committee and approved by the County Assembly.**
2) **The matter be marked as resolved.**

3.0 Unresolved Prior Year Audit 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. Management has indicated that the issues have remained unresolved as the Senate has not met to deliberate on the same.

Management Response

The issues have remained unresolved as the Senate has not met to deliberate on the same.

Committee Observations

The committee noted that the management provided documents to show measures in place to address the previous year issues raised by the auditors. Therefore, the matter was satisfactorily addressed.

Committee Recommendations

The committee recommends that the mater be marked as resolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

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

The statement of receipts and payments for the year ended 30 June, 2020 reflects compensation of employees' expenditure of Kshs.537,579,799. This amount is approximately 48% of the total revenue of Kshs.1,130,179,194 and thus exceeds the limit of 35% stipulated in Regulation 25(1) of the Public Finance Management (County Governments) Regulations, 2015.

Consequently, the County Assembly Management was in breach of law.

Management Response

In 2019, the CASB reviewed employee grades downwards which ran for twenty-two months. After lengthy engagements between staff and the board, the CASB rescinded their earlier decision and reverted to their earlier job groups and as a result, salary arrears were paid to all the affected staff.

During the same period, elected MCAs through CAF went to court against SRC and the Court granted them their wishes by asking assemblies to pay their salaries using the 2013 circular which had higher salaries, committee sittings and plenary sitting allowances hence increasing our wage bill. This decision also attracted salary arrears.

In the same period, the nominated MCAs were granted their wishes in a Nakuru county assembly court case where the court ordered that they be paid the same as their elected counterparts. As a result, the nominated MCAs were paid claimable mileage allowance, plenary sitting allowance as well as committee sittings changed for chairpersons and vice chairperson's rates. The sum total of those court decisions had a negative impact on the wage bill.

The net effect of this is that it contributed to the increase in the wage bill. A copy of the court order was attached for the committee verification.

Committee Observations

The committee noted that the management is struggling to meet the 35 % salary threshold, currently standing at 48%. However, the management it committed to compliance with the law, by providing a roadmap for implementation to achieve the threshold.

Committee Recommendations

The committee recommends that the Committee recommends that the County Assembly takes steps to ensure that they adhere to the provision of paragraph 25(1)(b) of the PFM Act (county government) regulations, 2015 which stipulate that the county wage bill should not exceed 35 percent of the county total revenue.

2.0 Non-Compliance with Law on Ethnic Composition

Audit review of personnel records for the year ended 30 June, 2020 revealed that, the County Assembly had a total of three hundred and seventy-one (371) employees out of whom three hundred and twelve (312) or approximately 98% were from the dominant community. This was contrary to the provisions of Section 65(1)(e) of the County Governments Act, 2012 which requires the County Public Service Board to ensure that at least thirty percent (30%) of the vacant posts at the entry level are filled by candidates who are not from the dominant ethnic community.

Consequently, the County Assembly Management was in breach of law.

Management Response

The County assembly of Turkana through the county assembly service board always strives to attract and recruit its employees with considerations to compliance with 30% rule by ensuring adverts are circulated widely through all the available channels.

However, officers inherited from the defunct local authorities who were retained after their functions were all locals.

During the year under review also, one hundred and fifty staff were employed as partisan staff who were a prerogative of the area MCAs to decide the staff to work under them. These staffs were recruited locally from the ward level.

Most advertisements were not responsive since they did attract fewer applicants whom were not able to agree to the offers given. Most of them were discouraged by the harsh climatic conditions in Turkana County. From the few non locals we had in our establishment, some of them transferred to the county executive and some went back to their home counties after securing employment back home.

Committee Observations

The Committee observed that ;-

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

Committee Recommendation

The Committee recommends that-

1) **The County Assembly should work progressively towards attaining the requirements of the provisions of the County Government Act, 2012 and the National Cohesion and Integration Act (2008) on ethnic inclusivity.**
2) **The County Assembly Service Board (CASB) should provide to the Auditor General a five-year strategy of measures it will put in place to ensure compliance is achieved within sixty (60) days of the adoption of this report**

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

Analysis of the payroll revealed that there were thirty-two (32) employees who earned a net salary of less than a third (1/3) of the basic salary during the year under review. The was

contrary to Section 19(3) of the Employment Act, 2007 provides that the total amount of all deductions made by an employer from the wages of his employee at any one time should not exceed two thirds of such wages.

Consequently, the Management was in breach of law.

Management Response

During the period under review, the County Assembly Service Board reviewed salaries and allowances of staff after doing an HR audit with effect from 1st July 2019. As a result, staff job groups were reduced hence affecting their earnings. Since most of the staff had taken other financial obligations deducted in their salaries, downgrading them meant that the affected staff fell below the 1/3 basic salary rule.

After a lengthy process of engagement with the county assembly service board, the board decided to rescind its earlier decision and restored back all the staff job groups and paid all the twenty-two-month salary arrears to staff.

Committee Observation

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

Committee Recommendation

The Committee recommends that -

1) **The county assembly should configure their Integrated Payroll and Personnel Database (IPPD) system such that it is able to lock out commitments beyond the accepted thresholds and;**
2) **the Auditor General should continue monitoring the issue in subsequent financial years.**

4.0 Acquisition of ICT Equipment and Software (e-Parliament/e-Horizon)

The County Assembly incurred expenditure of Kshs.15,567,032 on purchase of ICT equipment and acquisition of intangible assets. Review of documents on professional opinion provided for audit revealed that only one bid was received. The evaluation Committee recommended that negotiation be carried out which ended with the service provider agreeing to a contract amount of Kshs.19,999,840 from the initial amount Kshs.22,033,040. Audit verification confirmed implementation of the software was about 90% complete. However, the following anomalies were observed: -

i) The signed agreement indicates the agreed price of Kshs.19,999,840 was a onetime cost and an amount of Kshs.6,480,630 for post implementation support. However, no explanation or justification was provided as to why the Management agreed to an annual maintenance fee of Kshs.5,832,500.

Management Response

E-parliament is not offered as a one-time, perpetual software license. Instead, it operates as a subscription-based service, renewed on an annual basis. It's worth noting that the subscription price remains consistent over time.

Crucially, we successfully renegotiated the license cost to 3,800,000.00 Kenyan shillings per annum.

This software has proven to be a cost-effective solution for us, as it has significantly reduced our expenses related to printers, printing paper, toners, and the time previously spent on these tasks.

Copies of the bid security(a), negotiation minutes(b), procurement requisition(c) and site meeting minutes were attached for the committee verification.

ii) Management did not provide for audit review the performance security together with the tender documents, signed tender opening minutes and register, appointment letters of evaluation committee members and site visit/pre-bid meeting certificate.

Management Responses

By the time of the Audit Under review the IT steering committee was not properly constituted but currently the committee is fully constituted as evidenced by A copy of evaluation committee appointment letters, tender documents for E-parliament, Tender Opening register and Tender opening minutes, which may have been omitted during submission of documents for audit review.

i) The contract was signed after the lapsed of the 30 days of the letter of notification dated 22 January, 2020 contrary to the provisions of Section 135(3) of the Public Procurement and Assets Disposal Act, 2015 which provides that the written contract shall be entered into within the period specified in the notification but not before fourteen days have elapsed following the giving of that notification provided that a contract shall be signed within the tender validity period.

Consequently, the County Assembly Management was in breach of procurement laws and value for money has not been realized in the implementation of the system.

Management Response

There was an oversight on this, however, the documents were signed and executed within 120 days of the contract validity period.

Committee Observation

The committee noted that the matter was satisfactorily addressed.

Committee Recommendation

The committee recommends that the matter be marked as resolved.

5.0 Construction of County Assembly Office Annex-Treasury Building

As reported in the previous year, an amount of Kshs.65,570,881 was paid in respect of construction of County Assembly Office Annex Treasury Building. The contract was varied from Kshs.65,000,000 to Kshs.72,854,312.45. However, approval for contract variation was not provided for audit review. Audit verification of the project revealed that the building was about 70% complete and the contractor was not on site.

Consequently, value for money has not been realized in the implementation of the project.

Management Response

It's true that the Project stalled for a while owing to the changes identified by the architect and management that necessitated variation of works.

However, the variation was approved and the contractor continued with the works to completion as evidenced by inspection report by Project inspection committee(a), Letter of approval(b) and bill of quantities(c) showing the variance of Ksh. 7,854,312.45.

Committee Observations

The committee noted that the management submitted the documents to support completion and use of the County Assembly Chambers, thus addressing the matter satisfactorily. However. The Certificate of completion was not provided.

Committee Recommendations

The Committee recommends that;

1) **The County Assembly establishes a project management and monitoring System to help in proper project conceptualization, planning, execution and timely completion of projects as well as realization of value for money as provided for in the Public Finance Management Act, 2012 and the Public Finance Management (County Government) Regulations, 2015 within 60 Days from the date of adoption of this report;**
2) **The OAG to keep the matter in view and provide a status update to the Committee in the subsequent audit cycle.**

6.0 Stalled Construction of Speaker's Residence

The County Assembly entered into a contract for the construction of Speaker's Residence at a contract sum of Kshs.75,016,755.68. Physical verification of the project carried out in November, 2020 revealed that the works were about 40% complete and the contractor was not on site.

Consequently, value for money has not been realized in the implementation of the project.

Management Response

However, the contract was retendered and, the works are ongoing as evidenced by new contract awarded (a)and interim certificates (b-c) of works already done and paid in but the current status of the Speakers residence is at 82% and still on going.

Committee Observations

The committee noted that the Speakers Residence was at 78% level of completion despite the contractor having received more than 200% of the allocated contract fee after several contract variations. The contractor was not on site during the committees site visit.

Committee Recommendations

The Committee recommends that the EACC causes an investigation on to the expenditure of Kshs.281, 016,755.68 to ascertain if there was an intent to defraud the county through the varied contract sum for the construction of the speaker's residence, and submit a report to the committee upon completion of the investigations.

7.0 Construction of New County Assembly Offices

As reported in the previous year, the County Assembly entered into a contract for the construction of the County Assembly Offices at a contract sum of Kshs.179,736,282 on 28

June, 2016. Physical verification conducted in December, 2020 revealed that the restaurant works were about 90% and the County Assembly building was about 70% complete. However, the contractor was not on site and there was no work in progress.

Consequently, value for money has not been realized in the implementation of the project.

Management Response

It's true that the contractor was not on site during Physical verification. Inquiry on the same ascertained that he was short of materials but later resumed the works to completion as evidenced by completion certificate submitted to the committee for verification.

Committee Observations

The committee noted that the county assembly offices were complete and in use, and verified the completion certificate provided by the management.

Committee Recommendations

The committee recommends that the matter be marked as resolved.

8.0 Unutilized Gymnasium Equipment

As reported in the previous year, the County Assembly incurred expenditure of Kshs.7,500,000 on the procurement of gymnasium equipment. Audit verification revealed that although the equipment had been received, they had not been installed as the County Assembly did not have a gymnasium room.

Consequently, value for money has not been realized in the implementation of the project.

Management Response

The Utilization of gymnasium equipment has taken longer than expected owing to limitation of space. However, the management is putting measures to budget for erection of gymnasium room to enable utilization of the said equipment.

Committee Observations

The committee noted that; -

1) the management failed to explain why it prioritized the purchase of the gymnasium equipment without planning for the construction of the gymnasium room.
2) The management failed to provide documents to support approvals and resolutions to spend Kshs.7,500,000 on the procurement of gymnasium equipment.

Committee Recommendations

The Committee recommends that the EACC causes an investigation on to the expenditure of Kshs.7,500,000 to ascertain if there was an intent to defraud the county through the misplaced priority to the purchase of gymnasium equipment without construction of a gymnasium room, without approvals, and submit a report to the committee upon completion of the investigations.

9.0 Recovery of Unremitted Tax Deductions

The statement of receipts and payments and as disclosed in Note 12 to the financial statements reflects other payments amounting to Kshs.118,728,853. Included in this amount is Kshs.118,728,835 being deduction by the Kenya Revenue Authority from the County Assembly's recurrent operational account because of non-remittance of Value Added Tax

(VAT), Withholding income tax and Pay As You Earn (PAYE) for the period between July, 2016 to June, 2018.

Consequently, the Management was in breaching the law by failing to deduct and remit taxes whose recovery affected which in turn affected service delivery at County Assembly.

Management Response

Kenya revenue Authority recovered Kshs 118,728,835 which was as a result of

1) Unremitted fringe benefits: This was not budgeted for in the said year and hence couldn't be paid as required by Law.
2) Penalties on PAYE: Government Exchequers delay in most cases causing penalties in non-timely payment of PAYE.
3) Taxes on DSA: It wasn't clear if facilitative travel allowances were taxed or not, but currently this has been rectified and Taxes are remitted correctly

Committee Observation

The committee observed that;

1) there were penalties incurred by the county assembly due to late remittances of statutory deductions to Kenya Revenue Authority (KRA);
2) The penalties were occasioned by late exchequer releases by the National Treasury to the county government and thus to the County Assembly.

Committee Recommendation

The Committee recommends that the matter be marked as resolved as the corrective mechanism has since put in place by the County Treasury.

10.0 Account Receivables - Outstanding Imprests

The statement of financial assets and liabilities and as disclosed in Note 14 to the financial statements reflects account receivables - outstanding imprests balance of Kshs.26,234,741. Review of documents provided for audit revealed that an amount of Kshs.26,234,741 held by various officers was not surrendered on time. This was contrary to Regulation 93(5) of the Public Finance Management (County Governments) Regulations, 2015 which provides that a holder of a temporary imprest shall account or surrender the imprest within seven working days after returning to duty station.

Consequently, Management was in breach of law.

Management Response

It is true the account receivables-outstanding imprest balance of Ksh. 6,750,500 held by various officers was not surrendered as at 30 June 2021. However, the various officers later surrendered their outstanding Imprest as per the Public Finance Management (County Governments) Regulations, 2015.

Copies of the Surrendered imprest Vouchers were attached for the committee verification.

Committee Observation

The Committee noted that that:

1) County Assembly did not have an imprest register. Further, there were delays in surrendering imprest contrary to imprest regulations.

2) The management delayed to submit documents to the Auditor General during the audit exercise.

Committee Recommendation

The Committee recommends that; -

1) **The accounting officer undertakes administrative actions against the officers who failed to provide the documents to the auditors in accordance with section 62 of the Public Audit Act and provides a status report to the Committee within 60 days from the adoption of this report;**
2) **The Committee recommends that the Accounting Officer(s) recover the outstanding imprests with interest as per provisions Regulation 93 (6) of the Public Finance Management (County Governments) Regulations, 2015; and**
3) **The Committee further recommends sanction and surcharge of Accounting Officers who fail to recover outstanding imprests in line with Regulation 93(7) of the PFM (County Government) Regulations, 2015.**

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1.0 Lack of Risk Management Policy

The County Assembly Management had not put in place risk management policy, strategies and risk register to mitigate against risk. It was, therefore, not clear how the Management manages risk exposures. This is in contravention of Regulation 158 (1)(a) and (b) of the Public Finance Management (County Governments) Regulations, 2015 which requires the Accounting Officer to ensure that the county government entity develops risk management strategies, which include fraud prevention mechanism; and the county government entity develops a system of risk management and internal control that builds robust business operations.

Management Response

Risk Management policy is being developed as copies of the Draft Risk Management Policy was attached for verification.

Committee Observation

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

Committee Recommendation

The Committee recommends that; -

1) **The Accounting Officer should put in place a risk management policy and disaster recovery plan within sixty (60) days from the adoption of this report and submit the same to the Auditor General.**
2) **The Auditor General should closely monitor the development, documentation and communication of the policies within the county assembly in the subsequent audit cycle.**

2.0 Tagging of Fixed Assets

Annex 4-summary of fixed asset register shows that the County Assembly had assets with a historical cost balance of Kshs.1,209,818,353 as at 30 June, 2020. Physical inspection of the assets revealed that the County Assembly Management has not tagged/ branded its assets. This was contrary to Regulation 132(1) of the Public Finance Management (County Governments) Regulations, 2015 which requires the Accounting Officer of a county government to take full responsibility and ensure that proper control systems exist for assets and that preventative mechanisms are in place to eliminate theft, security threats, losses, wastage and misuse, and to ensure that movement and conditions of assets can be tracked.

Management Response

The management is in the process of tagging all its assets and updating the assets register as per the stated Laws and regulations above.

Committee Observations

The Committee observed that; -

1) The Assembly was in the process of acquiring the ownership documents for the assets, and identification features for the machines and furniture.
2) No documents were submitted to show that the Assembly was in the process of acquiring ownership documents for the assets.

Committee Recommendations

The Committee recommends that;

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

CHAPTER FIVE

REPORT OF THE SENATE COUNTY PUBLIC ACCOUNTS COMMITTEE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENT OF KISII COUNTY ASSEMBLY FOR THE FINANCIAL YEAR 2021/2022

The Speaker of Kisii County Assembly, Hon. Dr. Phillp Nyanumba, and the Clerk Mr. Jacob Onkeo, appeared before the Committee on, Thursday 20th November 2023 to respond (under oath) to audit queries raised in the Report of the Auditor General on Financial Statements for Kisii County Assembly for the Financial Year 2021/2022.

Qualified Opinion

EXECUTIVE SUMMARY OF UNRESOLVED AUDIT QUERIES				
S/NO	**Query**	**Recommendation**	**Actor**	**Timeline**
1.	**1.0 Unexplained Voided Transactions:** A review of the Integrated Financial Management Information System (IFMIS) payments indicated that nine hundred and ninety-nine (999) transactions amounting to Kshs.179,292,886 which the Controller of Budget had approved, were voided during the year under review. Management has	1) The Committee requests the Controller of Budget to liaise with the Auditor General to confirm whether the payments were canceled after the approval and there was no notification or due process. 2) The County CEO undertakes administrative action against the accounting officers for voiding payments without approval and diverting funds 3) The Finance sub-committee of the Council of Governors should call for a tripartite meeting between the Senate, Council of Governors,	The Clerk, Kisii County Assembly The Office of Auditor General	60 Days from the adoption of this report

	attributed the voiding of these transactions to a lack of funds to pay and an error in one of the payment request batches However, no evidence was provided to show that the voided transactions were paid in the financial 2022/ 2023.	and National Treasury to make progress regarding automating manual or physical processing of payments. 4) The Committee recommends that the EACC should expedite investigations on the matter in line with the Controller of Budget Act. 5) The Office of the Auditor General should progressively review and report on the matter in the subsequent Financial Years.		
Other Matter				
2.	**1.0 Budgetary Control and Performance:** The summary of appropriation: recurrent and development reflects budgeted receipts of Kshs.1,101,585,582 and actual receipts of Kshs.960,962,827, resulting in a budget shortfall of Kshs.140,622,755 (or 13%) of the budget. Similarly, the Assembly spent Kshs.960,968,829 against an approved budget of Kshs.1,101,585,582, resulting to an	The Committee recommends that the National Treasury should ensure the timely release of funds to county Governments in line with the cash disbursement schedules approved by the Senate and comply with Article 219 of the Constitution and Section 17(6) of the Public Finance Management Act, 2012.	The National Treasury	Continuous

	under-expenditure of Kshs.140,616,753 (or 13%) of the budget.			
REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES				
3.	**Irregular Payments to Interdicted Employees** Review of personnel and payment records revealed that the Assembly had six (6) employees who were interdicted between 4 August, 202.1 and 25 April, 2022, pending investigations but continued to draw full basic salaries up to the time of audit, contrary to the Paragraph D33 of the Terms and Conditions of Service of the County Assembly of Kisii Human Resource Manual, 2021, which requires an interdicted officer to receive half basic salary, full house allowance and medical benefits, while other benefits be withheld. In the circumstances, Management was in	The Committee recommends that the County Chief Executive Officer (CEO) undertakes administrative action(s) against the responsible officer(s) who failed to provide documents at the time of audit to the auditors in accordance with section 156 of the Public Finance Management Act, 2012. and provide a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report.	The Clerk, Kisii County Assembly	60 Days from the adoption of this report

	breach of the Terms and Conditions of Service of the Assembly.			
4.	**Failure to Observe One-Third Rule in Employment:** A review of the Assembly's staff establishment and employment records for the year under review revealed that the Assembly had four hundred and twenty-seven (427) employees. However, out of this number, four hundred and nineteen (419) employees or 98% were from the dominant ethnic community in the County, while only six (6) employees or 2% were from the other ethnic communities, contrary to the provisions of Section 65(1)(e) of the County Government Act, 2012 which state that there is need to ensure that at least thirty percent of the vacant posts at entry level are filled by candidates who	1) The county assembly should work progressively towards attaining the requirement of the provisions of Section 65(1)(e) of the County Government Act on ethnic inclusivity; and 2) The County Assembly and CASB should provide to the OAG a five-year strategy of measures it will put in place to ensure compliance is achieved within sixty (60) days of the adoption of this report.	The Clerk of the County Assembly County Assembly Service Board (CASB)	Continuous Within sixty(60)days from the date of adoption of this report.

	are not from the dominant ethnic community in the county.			
5	**Irregular payment of Subscription Fees:** The statement of receipts and payments reflects expenditure on the use of goods and services totalling Kshs.285,763,173 which includes an amount of Kshs.27,331,024 in respect of other operating expenses. Included in this balance is an amount of Kshs1,500,000 paid as subscription fees to the Society of Clerks-At-The-Table in Kenyan Legislatures ((SOCATT (K)). However, acknowledgment receipt of the subscription fees was not provided for audit review. Further, the subscription was not based on any law.	The Committee recommends that the irregular payments to the Society of Clerks at the Table (SOCATT) be stopped and further recommends the surcharge of any accounting officer who continues to make the irregular contribution.	The Clerk, Kisii County Assembly	Immediate

Basis for Qualified Opinion

1.0 Unexplained Voided Transactions

Review of the Integrated Financial Management Information System (IFMIS) payments indicated that nine hundred and ninety-nine (999) transactions amounting to Kshs.179,292,886 which had been approved by the Controller of Budget, were voided during the year under review. Management has attributed voiding of these transactions to lack of funds to pay and an error in one of the payments request batches However, no evidence was provided to show that the voided transactions were paid in the financial 2022/ 2023.

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

Management Response

An analysis of the Integrated Financial Management Information System payments indicated that transactions totaling Kshs.**179,292,886** were voided during financial year 2021/2022. This was due to the following three major reasons:

a) Variations of Monthly Exchequer Requisitions. There were exchequer requisition variations in development expenditure applications. The County Assembly made exchequer requisitions based on approved certificates of payments from the work officers. However, approvals by the Executive Committee Executive member for finance were based on available funds. This led to the voiding of a number of transactions amounting to **Kshs.90,966,354.65**.

b) Error in payment request batch. Transactions in the Integrated Financial Management system (IFMIS) is normally processed and transferred in batches to the Internet banking (IB) interface. In this case, if any single transaction in a given batch has an error it affects the whole batch and the user is forced to void (cancel) all transactions in the batch to rectify the error. In the financial year 2021/2022 a payment request number "Kisii Assembly 30/08/2021/001" created on 30th August 2021 had an error which led to voiding of transactions of a total of Kshs.19,675,052. This error was rectified and the transactions were reprocessed and paid in the same financial year 2021 /2022.

c) End of financial year. Transactions worth Kshs.68,651,480 were voided at the end of the financial year 2021 /2022 due to lack of funds. These included Ksh.28,136,619 declared as pending bills in the financial Year 2022/2023. Other reasons for voiding transactions included the change of circulars and reprioritization of committee programs and activities.

Committee Observations

The Committee noted that:

1) The management diverted the funds for other uses or purposes not originally budgeted, contravening Section 22 of the Controller of Budget Act.

2) The management did not write a letter to the National Treasury justifying the need to void a payment.

Committee Recommendations

The Committee recommends that:

1) **The Committee requests the Controller of Budget to liaise with the Auditor General to confirm whether the payments were canceled after the approval and there was no notification or due process.**

2) **The County CEO undertakes administrative action against the accounting officers for voiding payments without approval and diverting funds**

3) **The Finance sub-committee of the Council of Governors should call for a tripartite meeting between the Senate, Council of Governors, and National Treasury to make progress regarding automating manual or physical processing of payments.**

4) **The Committee recommends that the EACC should expedite investigations on the matter in line with the Controller of Budget Act.**

5) **The Office of the Auditor General should progressively review and report on the matter in the subsequent Financial Years.**

Key Audit Matters

Other matter

1.0 Budgetary Control and Performance

The summary statement of appropriation: recurrent and development reflects budgeted receipts of Kshs.1,101,585,582 and actual receipts of Kshs.960,962,827, resulting to a budget shortfall of Kshs.140,622,755 (or 13%) of the budget. Similarly, the Assembly spent Kshs.960,968,829 against an approved budget of Kshs.1,101,585,582, resulting to an under-expenditure of Kshs.140,616,753 (or 13%) of the budget.

In circumstances, the underfunding and under-expenditure could have adversely affected the provision of services

Management Response

The underfunding expenditure of 13% of the budget during the year under review was as a result of delayed exchequer releases from the National Treasury to the County Assembly. This was more evident towards the end of the financial year whereby the Assembly did not receive its allocation for June 2022.

Committee Observation

The Committee observed that there was under-utilization of appropriated funds by the County Assembly as a result of the delay in exchequer releases by the National Treasury.

Committee Recommendation

The Committee therefore recommends that the National Treasury should ensure timely release of funds to county Governments in line with the cash disbursement schedules approved by the Senate and comply with Article 219 of the Constitution and Section 17(6) of the Public Finance Management Act, 2012.

2.0 Unresolved Prior Matters

The Public Sector Accounting Standard Board (PSASB) financial reporting template issued in June, 2021 stipulates that the Management should reflect a

progress on follow up on auditor's recommendations indicating issues raised by the auditor, status and timeframe when the issues are expected to be resolved.

However, note 16 on other disclosures to the financial statements shows that seven (7) issues raised by the Auditor General in the report for 2020/2021 had been resolved

However, Management did not provide supporting documents to prove the status. No reason was given for the omission.

Management Response

The seven (7) prior year matters that remained unresolved as of 30th June 2022 have since been acted upon by the management as indicated in the amended Note 16 on the disclosures to the financial statements awaiting the auditors' review.

Committee Observation

The Committee noted that the matter was addressed satisfactorily.

Committee Recommendation

The Committee recommends that the matter be marked as resolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

1.0 Irregular Recruitment of Ward Employees

Review of the County Assembly's personnel records revealed that during the year under review, Members of the County Assembly (MCAs) had directly employed sixteen (I 6) Ward staff without involving the Management, contrary to Section 25 (1) (a) of the County Assembly Service Act, 2017 which provides that Management is responsible for the appointment and confirmation in the appointment of officers and other staff.

Management Response

The members of the County Assembly are allowed to be assisted by three (3) partisan staff at their ward offices. The employees are mainly recruited to serve the members and therefore, they are given an opportunity to participate in their selection. Employment contracts were indeed executed between the ward staff and members of the County Assembly. However, the Board resolved to ratify the contracts signed between ward employees and their respective MCAs.

Committee Observation

The Committee noted that the matter was addressed satisfactorily.

Committee Recommendation

The Committee recommends that the matter be marked as resolved.

2.0 Irregular Payments to Interdicted Employees

A review of personnel and payment records revealed that the Assembly had six (6) employees who were interdicted between 4 August, 202.1 and 25 April 2022, pending investigations but continued to draw full basic salaries up to the time of audit, contrary to the Paragraph D33 of the Terms and Conditions of Service of the County Assembly of Kisii Human Resource Manual, 2021, which requires an interdicted officer to receive half basic salary, full house allowance and medical benefits, while other benefits be withheld. In the circumstances, Management was in breach of the Terms and Conditions of Service of the Assembly.

Management Response

During the period of audit review, the Assembly had interdicted six (6) employees on 4th August, 2021 and were put on half basic salaries. The officers proceeded to the Magistrate's court at Kisii and obtained a court order reinstating them to work on 14th October 2021.

Committee Observation

The Committee noted that the interdicted employees were recalled, but no evidence was provided on how their issue before the court was handled or whether the employees withdrew the case.

Committee Recommendation

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

3.0 Failure to Observe One-Third Rule in Employment

Review of the Assembly's staff establishment and employment records for the year under review revealed that the Assembly had four hundred and twenty-seven (427) employees.

However, out of this number, four hundred and nineteen (419) employees or 98% were from the dominant ethnic community in the County, while only six (6) employees or 2% were from the other ethnic communities, contrary to the provisions of Section 65(1)(e) of the County Government Act, 2012 which state that there is need to ensure that at least thirty percent of the vacant posts at entry level are filled by candidates who are not from the dominant ethnic community in the county;

Management Response

The Management acknowledged that the Kisii County Assembly staff composition is made up of members of the dominant ethnic community in the County. However, out of the 427 employees, 71 are Members of the County Assembly and the speaker while 210 are ward office staff on contract and are usually recruited from their wards of origin by the Members of the County Assembly. The remaining 146 employees were recruited by the County Assembly Service Board. Some of the staff members were inherited from the defunct Municipal Council while nearly all applicants for jobs when devolved governance was established were from the local community. However, the Management has taken note of the auditor's recommendation and shall endeavour to correct the situation in future appointments.

Committee Observations

The Committee noted that;

1) There was no ethnic diversity among employees of county assemblies as employees were mainly drawn from the dominant community in the county; and
2) Due to the homogeneous ethnographic population in most counties, it may not be feasible for them to attain the threshold provided under Section 7(2) of the National Cohesion and Integration Act, 2008 which states that *no public establishment shall have more than one-third of the staff from the same ethnic community.*

Committee Recommendations

The Committee recommends that-

1) **The county assembly should work progressively towards attaining the requirement of the provisions of Section 65(1)(e) of the County Government Act on ethnic inclusivity; and**
2) **The County Assembly and CASB should provide to the Auditor General a five-year strategy of measures it will put in place to ensure compliance is achieved within sixty (60) days of the adoption of this report.**

4.0 Non-Compliance with One-Third Basic Salary Rule

Review of the payroll for the month of June, 2022 revealed that the Assembly made deductions on the basic salaries of fifteen (15) employees in excess of two-thirds of their basic salaries, contrary to Section 19(3) of the Employment Act, 2007, which requires that the total amount of all deductions which may be made by an employer from the wages of his employee at any one time shall not exceed two-thirds of such wages or such additional or other amount as may be prescribed.

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

Management Response

The 15 employees were reported to be earning less than a third of their basic salary contrary to section 19 (3) of the Employment Act 2007. Six officers namely; Omwoyo Mbaka, Rages Kerubo, Geofrey Ontere, Andrew O. Ondimu, Thomas T. Mogendi, and Arnold N. Onkoba were on interdiction which caused their net salary to be less than a third. The amount indicated as their basic salary was ½ of their basic salaries. The other nine (9) officers' salaries were affected after the review of the relief of PAYE granted by the National government during the Covid-19 period was lifted (w.e.f. 1 /I /2021). The officers made various commitments in their pay slips during the grace period as the margin of their wages shot up. This was resolved after the reinstatement of full salary for the officers who were on interdiction, and for the rest, after they gained annual increments or as soon as they cleared their commitments to third parties.

Committee Observation

The Committee noted that the matter was addressed satisfactorily.

Committee Recommendation

The Committee recommends that the matter be marked as resolved.

5.0 Irregular payment of Subscription Fees

The statement of receipts and payments reflects expenditure on the use of goods and services totalling Kshs.285,763,173 which includes an amount of Kshs.27,331,024 in respect of other operating expenses. Included in this balance is an amount of Kshs1,500,000 paid as subscription fees to the Society of Clerks-At-The-Table in Kenyan Legislatures ((SOCATT (K)).

However, acknowledgment receipt of the subscription fees was not provided for audit review. Further, the subscription was not based on any law.

Management Response

Society of Clerks at The Table is registered under the Societies Act Cap 108 of the Laws of Kenya. Its main objective is to harmonize the County Assemblies' operations and capacity development of both Members and Staff of the County Assemblies. Attached herewith is the registration Certificate for SOCATT and a copy of a receipt of payment of Kshs.1,500,000.

Committee Observation

The Committee observed that the payments to the County Assemblies Forum (CAF) were not supported by any law.

Committee Recommendation

The Committee recommends that the irregular payments to the Society of Clerks at the Table (SOCATT) be stopped and further recommends the surcharge of any accounting officer who continues to make the irregular contribution.

6.0 Unutilized Buildings

The statement of receipts and payments and Note 10 to the financial statements reflect acquisition of assets balance of Kshs.67,267,587. Included in the balance is an amount of Kshs.65,640,018 incurred on extension of the library, ICT Centre Procurement Offices and Members of the County Assembly Offices. According to the tender documents, the contract was awarded to a construction company at a contract sum of Kshs.195,000,000 for a contract period of about thirty (30) months from 8 January 2019 to 30th June, 2021. Audit inspection of the works on 12 October 2022 revealed that the project was complete. However, the final completion certificate and handover minutes were not provided for audit review.

Further, review of records revealed that the contract for proposed renovation, furnishing and alteration to County Assembly of Kisii Chambers including installation of video and audio equipment was awarded to a company at a contract sum of Kshs.39,5997,968. The contract was to be completed by 30th June, 2022 and the contractor had been cumulatively paid an amount of Kshs.34,613,217. However, physical verification of the works on 12 October, 2022 revealed that the works had been completed but the final certificate of completion and handover minutes were not provided for audit review.

In the circumstances, value for money on the expenditure of Kshs.98,253,235 on the two (2) projects could not be confirmed.

Management Response

In the year under review, the County Assembly incurred a development expenditure of Kshs.63,640,018 for extension of the library, ICT Centre, Procurement Offices and

Members of the County Assembly Offices. The contract period was three years; commencing 8th January, 2019. At the time of audit inspection on 12/ 10/2022, the project was complete and the building was in use. The final completion and occupancy certificates are hereby attached for verification.

Further, it is also true that the Assembly contracted a company named Worldmax Holdings (K) Ltd of P.O. BOX 41068-00100 Nairobi for the proposed renovation, furnishing and alteration of Kisii County Assembly Chambers at a contract sum of Kshs.39,997,968. This contract was to be completed by 30/6/2022. By the time of audit inspection on 8/7/2022 the project was incomplete and refurbishment and furnishing works valued at Kshs.15,729,752 were pending. Purchase and installation of video and audio equipment worth Kshs.12, 236,000 were also pending. Further, inspection conducted on 12/10/2022 revealed that the refurbishment and furnishing works valued at Kshs. I5,729,752 were complete. On 25/5/2022, citing logistical challenges in the importation of the audio-visual system and auditorium seats, the contractor requested for extension of time from the client. The project manager granted the request in his letter dated 9/6/2022.

Committee Observation

The Committee noted that the matter was addressed satisfactorily.

Committee Recommendation

The Committee recommends that the matter be marked as resolved.

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

1.0 Non- Functional Audit Committee

Information provided indicated that the term of the County Assembly's Internal Audit Committee expired in December 2021 and had not been renewed at the time of audit in June, 20222. Further, before the expiry of its term, the Audit Committee had been non-functional as it failed to approve Internal Audit Charter, audit plans and programs and to discuss the audit reports of both internal and external auditors as required by Regulation 168 of the Public Finance Management (County Governments) Regulations, 2015.

In the circumstances, the County Assembly had weak internal controls with respect to oversight of its activities.

Management Response

It is true that the term of the Audit Committee of the County Assembly of Kisii expired in December 2021 and had not been renewed as at the time of audit in July 2022. Instability

of the County Assembly Service Board through attempts made by Members of the County Assembly, at removing some Members of the Board, and two attempts of impeachment of the Speaker caused disruption of operations in the Assembly. The disturbances occurred in last quarter of the year 2021 and through the year 2022 up to August 2022 when the term of the Second Assembly ended. This resulted into very few productive Board meetings to discuss and plan for recruitment of new members among other issues. However, the new Board has recruited members of the Audit Committee to serve in the term of the current

Committee Observation

The Committee noted that the matter was addressed satisfactorily.

Committee Recommendation

The Committee recommends that the matter be marked as resolved.

CHAPTER SIX

REPORT OF THE COUNTY PUBLIC ACCOUNTS COMMITTEE ON AUDITED FINANCIAL STATEMENTS OF KISII COUNTY ASSEMBLY FOR FINANCIAL YEAR 2020/2021

The Speaker of Kisii County Assembly, Hon. Dr. Phillp Nyanumba, and the Clerk Mr. Jacob Onkeo, appeared before the Committee on, Thursday 20th November 2023 to respond (under oath) to audit queries raised in the Report of the Auditor General on Financial Statements for Kisii County Assembly for the Financial Year 2020/2021.

Qualified Opinion

EXECUTIVE SUMMARY OF UNRESOLVED AUDIT QUERIES				
S/NO	**Query**	**Recommendation**	**Actor**	**Timeline**
1.	**2.0 Unsupported Expenditure on Foreign and Domestic Travel:** The validity and occurrence of the foreign and domestic travel and subsistence expenditures of Kshs.2,454,662 and Kshs.137,306,830 respectively for the year ended 30 June 2021 could not be confirmed.	1) The Accounting Officer undertakes administrative action against the responsible officer(s) who failed to provide documents to the auditors at the time of audit in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report;	The Clerk, Kisii County Assembly OAG	60 days from the adoption of this report

		2) The Committee recommends that the Accounting Officer(s) recover the outstanding imprests with interest as per provisions Regulation 93 (6) of the Public Finance Management (County Governments) Regulation. 3) The Committee further recommends the sanction and surcharge of Accounting Officers who fail to recover outstanding imprests in line with Regulation 93(7) of the PFM (County Government) Regulations, 2015.		
OTHER MATTER				
2.	**1.0 Budgetary Control and Performance:** The statement of comparison of budget and actual amounts - recurrent and	The Committee recommends that the National Treasury should ensure timely release of funds to county	The National Treasury The Senate	Continuous

	development combined for the year ended 30 June 2021 reflects final receipts budget and actual on comparable basis amounts of Kshs.1,021,250,968 and Kshs.962,258,658 respectively, resulting in an under-funding by Kshs.58,992,310 or 6% of the budget. Similarly, the County Assembly spent an amount of Kshs.962,297,766 out of the approved expenditure budget of Kshs.1,021,250,968 resulting in under-expenditure of Kshs.58,953,202 or 6% of the budget. The under-funding and under-expenditure constrained execution of planned activities and delivery of services to the residents of Kisii County.	Governments in line with the cash disbursement schedules approved by the Senate and comply with Article 219 of the Constitution and Section 17(6) of the Public Finance Management Act, 2012.		
3.	**2.0 Late exchequer releases:** The statement of receipts and payments for the year ended 30 June 2021 reflects transfer from County Treasury/Exchequer	The Committee recommends that the National Treasury should ensure timely release of funds to county Governments in line with the cash disbursement schedules approved by	The National Treasury The Senate	Continuous

	releases of Kshs.962,258,658 which includes an amount of Kshs.77,431,718 disbursed by the County Treasury in July,2021 after 30 June, 2021.	the Senate and comply with Article 219 of the Constitution and Section 17(6) of the Public Finance Management Act, 2012.		
REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES				
4.	**2.0 Non-Compliance with the Law on Fiscal Responsibility-Wage Bill:** The statement of receipts and payments reflects expenditure of Kshs.604,885,796 as disclosed in Note 4 to the financial statements. The expenditure is 63% of the Assembly's total exchequer receipts of Kshs.962,258,658 in the year under review. This is contrary to Regulation 25(1) (b) of the Public Finance Management (County Governments) Regulations, 2015, which requires the County Government expenditure on wages and benefits for public officers not to exceed 35% of the County	1) the County Executive should strictly adhere to the provision of paragraph 25(1)(b) of the PFM (county government) regulations, 2015 which stipulates that the county wage bill shall not exceed 35 per cent of the county total revenue; 2) the County Assembly to provide to the Auditor General a status report of measures put in place to contain the high wage bill within sixty (60) days of the	The Clerk, Kisii County Assembly	60 days from the adoption of this report

	Government's total revenue. The Management was in breach of the law.	adoption of this report.		
5.	**3.0 Non-compliance with Law on Ethnic Composition.** A review of the personnel records indicates that the County Assembly had two hundred and seventy-four (274) employees as at 30 June, 2021 out of which, two hundred and sixty-seven (267) or 97% comprised members of the ethnic community dominant in the County. This is contrary to Section 65(1) of the County Governments Act, 2012 and Section 7(1) and (2) of the National Cohesion and Integration Act, 2008. The Management was in breach of the law.	1) The county assembly should work progressively towards attaining the requirement of the provisions of Section 65(1)(e) of the County Government Act on ethnic inclusivity. 2) The County Assembly and CASB should provide to the Auditor General a five-year strategy of measures it will put in place to ensure compliance is achieved within sixty (60) days of the adoption of this report.	The Clerk of the County Assembly CASB	Continuous within sixty (60) days of the date of adoption of this report.
REPORT ON THE EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE				
6.	**1. Ineffective Audit Committee Function.** The Assembly Audit Committee did not hold any meeting during the year under review and	The Committee thus recommends that the County Assembly should establish an Audit Committee and submit a status report to the	OAG	60 Days from the date of adoption of this report

	only held the last meeting on 10 September, 2019. Consequently, the Audit Committee did not effectively discharge its oversight role as envisaged in Regulation 159 (2) of the Public Finance Management (County Governments) Regulations, 2015	Auditor General within sixty (60) days from the date of adoption of this report.		
7.	**2. Lack of an Approved ICT Policy** A review of the IT control environment revealed that the ICT Policy addressing areas of security and program change management, physical access, environmental and logical access control was still in draft form and had not been approved by Management. As a result, the County Assembly was exposed to breaches of information confidentiality, data integrity and loss of business continuity.	The Committee recommends that the County Assembly expedite the ICT Policy's approval process and submit it to the Auditor General for verification within sixty (60) days of the adoption of this report.	OAG County Assembly	60 Days from the adoption of this report

Basis for Qualified Opinion

1.0 Unsupported Expenditure on Foreign and Domestic Travel

The statement of receipts and payments for the year ended 20 June, 2021 reflects an expenditure of Kshs.301,913,481 on use of goods and services as disclosed in Note 5 to the financial statements. The balance includes an amount of Kshs.2,454,662 in respect of foreign travel and subsistence. However, supporting documents for the expenditure were not provided for audit review.

Further, the Note includes domestic travel and subsistence expenditure of Kshs.137,306,830 out of which an amount of Kshs.11,350,000 was incurred on public participation. The expenditure was incurred through cash purchases from temporary imprests issued to Members of the County Assemblies (MCAs) for hiring of public address system, public ground, tents and chairs; purchase of stationeries, refreshments, snacks and beverages; and payment of facilitation fees to the members of public during various public participation activities in April, May and June, 2021.

Review of documents supporting the public participation imprest surrender vouchers revealed that the attendance list was not signed by all participants. Further, the attached cash sales receipts did not have official KRA electronic tax register receipts to confirm that the trading entities were tax compliant.

In the circumstances, the validity and occurrence of the foreign and domestic travel and subsistence expenditures of Kshs.2,454,662 and Kshs.137,306,830 respectively for the year ended 30 June 2021 could not be confirmed.

Management Response

i. The missing support documents for the foreign travel expenditure of Kshs.2,454,908 are hereby attached for your audit review. The documents had been misplaced during a reconciliation exercise on the County Assembly's operations that was being carried out by the Kenya Revenue Authority.

ii. It is true that surrender of some imprests for public participation activities was supported by cash sales receipts that were not accompanied by official Electronic Tax Register (ETR) receipts from Kenya Revenue Authority (KRA). Most of the activities were carried out in (semi) rural areas of the County Wards where ETR receipts were not easily available. These public participation programs were mainly spearheaded by Members of the County Assembly with assistance from their ward office employees who were not well capacitated in accounting for Government imprests. However, to remedy this oversight, the management has operationalized a liaison section within the Assembly to handle all Public Participation activities and programs.

Committee Observations

The Committee observed that; -

1) The management provided relevant documents, including boarding buses, to support an amount of Kshs 2,454,662; hence, the matter was satisfactorily addressed.
2) The management did not produce sufficient evidence to support the expenditure amounting to Kshs. 11,350,000 due to missing links such as ETR receipts and the failure of some members to sign the attendance register.

Committee Recommendation

The Committee recommends that;

1) **The Accounting Officer undertakes administrative action against the responsible officer(s) who failed to provide documents to the auditors at the time of audit in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report;**
2) **The Committee recommends that the Accounting Officer(s) recover the outstanding imprests with interest as per provisions Regulation 93 (6) of the Public Finance Management (County Governments) Regulation.**
3) **The Committee further recommends the sanction and surcharge of Accounting Officers who fail to recover outstanding imprests in line with Regulation 93(7) of the PFM (County Government) Regulations, 2015.**

Key Audit Matters

Other matter

1.0 Budgetary Control and Performance

The statement of comparison of budget and actual amounts - recurrent and development combined for the year ended 30 June 2021 reflects final receipts budget and actual on comparable basis amounts of Kshs.1,021,250,968 and Kshs.962,258,658 respectively, resulting in an under-funding by Kshs.58,992,310 or 6% of the budget. Similarly, the County Assembly spent an amount of Kshs.962,297,766 out of the approved expenditure budget of Kshs.1,021,250,968 resulting in under-expenditure of Kshs.58,953,202 or 6% of the budget.

The under-funding and under-expenditure constrained execution of planned activities and delivery of services to the residents of Kisii County.

Management Response

It is true there was under-absorption of the budget for the financial year under review by 6%. This was mainly due to delays in exchequer releases.

Committee Observation

The Committee observed that there was under-utilization of appropriated funds by the County Assembly as a result of the delay in exchequer releases by the National Treasury.

Committee Recommendation

The Committee therefore recommends that the National Treasury should ensure timely release of funds to county Governments in line with the cash disbursement schedules approved by the Senate and comply with Article 219 of the Constitution and Section 17(6) of the Public Finance Management Act, 2012.

a. Late exchequer releases.

The statement of receipts and payments for the year ended 30 June 2021 reflects transfer from County Treasury/Exchequer releases of Kshs.962,258,658 which includes an amount of Kshs.77,431,718 disbursed by the County Treasury in July,2021 after 30 June, 2021.

Late exchequer releases could have had adverse effects on the implementation of the planned activities and projects by the County Assembly of Kisii

Management Response

The County Assembly received exchequer releases of Kshs.**77,431,718** between 1st to 7th July, 2021. This was facilitated through an agreement between the National Treasury and Planning and the Council of Governors and communicated through a joint statement dated Friday, 2nd July, 2021. The National Treasury accorded County Government entities adequate time to process and transmit payments through the Integrated Financial Management Information Systems (IFMIS). However, the management concurs with the Auditor that delayed exchequer releases is a problem that affects budget utilization and timely implementation of planned activities and projects that need urgent attention by all stakeholders both at the County and National levels.

Committee Observation

The Committee observed that the county assembly did not receive exchequer releases from the National Treasury on time. These challenges have had adverse effects on the implementation of the planned activities and projects by the County Assembly of Kisii

Committee Recommendation

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

3.0 Pending Bills

Disclosed in Annexure 1 in the financial statements are pending account payables amounting to kshs.64,940,108 which were not settled during the year under review but were carried forward to 2021/2021 financial year. The management has not explained why the bills were not settled during the year when they occurred. Failure to settle the bills negatively impacts on the subsequent year's budget provisions against which they have to be charged to.

Management Response

The pending bills totalling Kshs.**64,940,108** disclosed in the Financial Statements include Kshs.**59,402,692** (91%) for development expenditure, which is a work in progress, and Kshs.**4,999,080** (9%) for supply of goods and services. Delays in release of funds from the exchequer in the year under review contributed to the accumulation of the pending bills. However, all declared pending bills of Kshs.**64,940,108** have since been settled.

Committee Observation

The Committee noted that the matter has since been addressed.

Committee Recommendation

The Committee recommends that the matter be marked as resolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

1.0 Extension of Library, ICT Centre and Procurement of Offices

The statement of receipts and payments reflects expenditure on acquisition of assets of Kshs.55,453,330 as disclosed in Note 10 to the financial statements. The expenditure includes an amount of Kshs.46,945,330 in respect of construction of buildings, which further includes an expenditure of Kshs.3 5,360,709 paid to a contractor for the construction of the main office block at the Assembly Headquarters in Kisii Town.

The contract was awarded at a contract sum of Kshs.195,000,000 for a period of thirty (30) months ending June, 2021. The works consisted of extension of library, ICT Centre and Procurement of Offices to host the Members of County Assembly Offices. Physical verification on 14 October, 2021, revealed that the contractor was not on site and the project was behind schedule.

In the circumstance, expenditure of Kshs.35,360,709 paid to the contractor could not be confirmed.

Management Response

It is true the construction works for the proposed Extension of Library, ICT Centre and Procurement Offices were supposed to be completed by June, 2021. However, the contractor was on site working on finishes and had applied for extension of time citing Covid -19 disruptions and delayed payments as some of the challenges encountered. The extension would be up to 30th December, 2022 by which time all the scope of works would be fully delivered. However, the project was completed on 1st August, 2022 and is currently occupied.

Committee Observation

The Committee noted that the matter has since been addressed.

Committee Recommendation

The Committee recommends that the matter be marked as resolved.

2.0 Non-Compliance with the Law on Fiscal Responsibility-Wage Bill

The statement of receipts and payments reflects expenditure of Kshs.604,885,796 as disclosed in Note 4 to the financial statements. The expenditure is 63% of the Assembly's total exchequer receipts of Kshs.962,258,658 in the year under review. This is contrary to Regulation 25(1) (b) of the Public Finance Management (County Governments) Regulations, 2015, which requires the County Government expenditure on wages and benefits for public officers not to exceed 35% of the County Government's total revenue. The Management was in breach of the law.

Management Response

In the year under review, the County Assembly spent a total of Kshs.604,885,796 on wages and benefits for its members and employees. The total included a pending bill of Kshs.44,188,928 being payment of salaries for the month of June, 2020 paid in the month of July, 2020. The figure also includes 1Cshs.106,311,908 paid as sitting allowances to Members of the County Assembly. The actual wage bill relating to FY2020/2021, therefore is Kshs.454,384,960 which represents 47% of total receipts of Kshs.962,258,658. In 2014 when the Assembly undertook to employ staff, the salaries and allowances for MCAs were low. The Salaries and Remuneration Commission (SRC) has since enhanced their salaries and allowances with marginal adjustments of the ceilings by the Commission on Revenue Allocation (CRA). However, the decision by SRC to allow employment of at least 3 officers for each ward office in 2015 was then unforeseen and drastically increased the

wage bill to date. This coupled with incremental credits for employees each year explains the higher wage bill.

Nevertheless, the Management shall endeavor to manage the wage bill by not engaging in new recruitment or filling of positions left vacant by staff attrition.

Committee Observation

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

Committee Recommendation

The Committee recommends that;

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

3.0 Non-compliance with Law on Ethnic Composition

A review of the personnel records indicate that the County Assembly had two hundred and seventy-four (274) employees as at 30 June, 2021 out of which, two hundred and sixty-seven (267) or 97% comprised members of the ethnic community dominant in the County. This is contrary to Section 65(1) of the County Governments Act, 2012 and Section 7(1) and (2) of the National Cohesion and Integration Act, 2008.

The Management was in breach of the law.

Management Response

The Management acknowledged that the Kisii County Assembly staff composition is made up of members of the dominant ethnic community in the County. However, out of the 274 employees, 135 are ward office staff on contract and are usually recruited from their wards of origin to serve the members of the County Assembly. The remaining 139 employees were recruited by the Service Board. Some of the staff members were inherited from the defunct Municipal Council while nearly all applicants for jobs, when devolved governance was established, were from the local community. However, the Management has taken note

of the auditor's recommendations and shall endeavor to correct the situation in future appointments.

Committee Observations

The Committee observed that –

1) The management did not provide a policy statement approved by the County Service Board to give effect to the requirements of the law
2) There was no ethnic diversity among employees of county assemblies as employees were mainly drawn from the dominant community in the county; and
3) Due to the homogeneous ethnographic population in most counties, it may not be feasible for them to attain the threshold provided under Section 7(2) of the National Cohesion and Integration Act, 2008 which states that *no public establishment shall have more than one-third of the staff from the same ethnic community.*

Committee Recommendations

The Committee recommends that-

1) **The county assembly should work progressively towards attaining the requirement of the provisions of Section 65(1)(e) of the County Government Act on ethnic inclusivity.**
2) **The County Assembly and CASB should provide to the Auditor General a five-year strategy of measures it will put in place to ensure compliance is achieved within sixty (60) days of the adoption of this report.**

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

1.0 Ineffective Audit Committee Function

The Assembly Audit Committee did not hold any meeting during the year under review and only held the last meeting on 10 September, 2019. Consequently, the Audit Committee did not effectively discharge its oversight role as envisaged in Regulation 159 (2) of the Public Finance Management (County Governments) Regulations, 2015 which provides that each year, the Audit Committee shall carry out annual review of the independence, performance and competency of the internal audit unit and comment on their effectiveness in the annual report.

Management Response

The Audit Committee of the County Assembly did not hold regular meetings in the year under review due to the effects of the Covid-19 pandemic. This was in compliance with

the containment measures put in place by the Ministry of Health. However, the Management had to re-draw its program for the meetings including adopting the online channels of communication/meetings. The term for the members of the audit committee ended on 8th December, 2021 and new members have been recruited to take up their responsibilities.

Committee Observation

The Committee noted that the management mitigated the ineffectiveness by employing the audit committee members and it is now in place and functional.

Committee Recommendation

The Committee thus recommends that the County Assembly should establish an Audit Committee and submit a status report to the Auditor General within sixty (60) days from the date of adoption of this report.

2. Lack of an Approved ICT Policy

Review of IT control environment revealed that the ICT Policy addressing areas of security and program change management, physical access, environmental and logical access control was still in draft form and had not been approved by Management. As a result, the County Assembly was exposed to breaches of information confidentiality, data integrity and loss of business continuity.

Management Response

It is true that the ICT policy is still in draft form and has not been approved by Management. The performance of Management was hugely disrupted by the effects of COVID-19 in the County for the better part of the FY2020/2021. The new Management commits to review and adapt the draft ICT Policy in the current Financial Year.

Committee Observation

The Committee noted that the ICT policy is submitted to the County Assembly in a draft form, awaiting the Board's approval.

Committee Recommendation

The Committee recommends that the County Assembly expedite the ICT Policy's approval process and submit it to the Auditor General for verification within sixty (60) days of the adoption of this report.

CHAPTER SEVEN

REPORT OF THE SENATE COUNTY PUBLIC ACCOUNTS COMMITTEE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF NYERI COUNTY ASSEMBLY FOR FINANCIAL YEAR 2020/2021

The Speaker of Nyeri County Assembly, Hon. James Gichuhi, and the Clerk Mr. Jenard Muigeh appeared before the Committee on Monday 30th October, 2023 to respond (under oath) to audit queries raised in the Report of the Auditor General on Financial Statements for Nyeri County Assembly for the Financial Year 2020/2021.

Qualified Opinion

EXECUTIVE SUMMARY OF UNRESOLVED QUERIES				
S/NO	**Query**	**Recommendation**	**Actor**	**Timeline**
1	**1.Budgetary Control and Performance:** The County Assembly spent Kshs.701,734,865 against an approved budget of Kshs.756,085,232 resulting to an under-expenditure of Kshs.54,350,367 or 7% of the budget.	**The** Committee recommends **that** The National Treasury should ensure the timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate.	The National Treasury	Continuous
2	**2. Subscription Fees to Society of Clerks-at-the-Table (SOCATT):** As disclosed under Note 5 to the financial statements includes an amount of Kshs.54,408,441 in respect of other	The Committee recommends that the irregular payments to the Society of Clerks at the Table (SOCATT) be stopped and further recommends the surcharge of any accounting officer who continues to make the irregular contribution.	The Clerk of Nyeri County Assembly	Immediate

	operating expenses which in turn includes an amount of Kshs.750,000 in respect to subscription fees made to the Society of Clerks-at-the-Table (SOCATT). However, there is no law governing such subscriptions.			
3	**3. Non-Compliance with Ethnic Diversity:** The County Assembly had sixty-three (63) permanent employees out of which 92% were from the dominant ethnic community.	1) The County Assembly should work progressively towards attaining the requirement of the provisions of Section 65(1)(e) of County Government Act on ethnic inclusivity; and 2) The County Assembly and CASB should provide to the Auditor General a five-year strategy of measures it will put in place to ensure compliance is achieved within sixty (60) days of the adoption of this report.	The Clerk of Nyeri County Assembly CASB	Continuous
4	**4. Non-Submission of the County Assembly Service**	The Accounting officer undertakes administrative action against officers who failed to provide the documents to the auditors at the time of audit in accordance with section	The Clerk of Nyeri County Assembly	60 days from the adoption of this report

	Board Financial Statements The County Management did not submit the financial statements of the County Assembly Service Board for the year to the Auditor General with copies to the County Treasury, Controller of Budget and Commission on Revenue Allocation	156 of the Public Finance Management Act, 2012 and provides a status report to the Committee within sixty (60) days from the adoption of this report;		

Qualified Opinion

1.0 Ward Administration Expenses

The statement of receipts and payments reflects the use of goods and services amount of Kshs.393,971,037 for the year ended 30 June, 2021 and as disclosed under Note 5 to the financial statements. Included in this amount is Kshs.54,408,441 in respect of other operating expenses out of which Kshs.26,164,623 was spent on ward administration expenses. A review of payment records revealed that the County Assembly spent Kshs.58,000 on operations costs per ward per month instead of Kshs.35,500. This resulted to an over expenditure of Kshs.22,500 per month or Kshs.270,000 per year per ward thus translating to a total over expenditure of Kshs.12,150,000 for the forty-five (45) wards. This is contrary to the Commission of Revenue Allocation circular No.CSO/CMG/9/VOL.V(43) of June, 2018 which set the total ward costs at Kshs.118,333 per ward per month, and operation cost at 30% or Kshs.35,500.

In the circumstances, the propriety of excess expenditure of Kshs.12,150,000 onward administration expenses for the year ended 30 June, 2021 could not be confirmed.

Management Response

The Management stated that The Commission on Revenue Allocation (CRA) in its advisory to all the county assemblies vide Letter No. CRA/CSO/CMG/9/VOL.IV (24) dated 31st September, 2019 that the determination of the terms of service for the ward staff is the responsibility of the County Assembly Service Board in line with the Salaries and Remuneration Commission (SRC) guidelines and existing provisions of the Public Finance Management Law.

Committee Observation

The committee noted that the matter was satisfactorily addressed.

Committee Recommendation

The Committee recommends that the matter be marked as resolved.

Other Matter

1.0 Budgetary Control and Performance

The summary statement of appropriation - recurrent and development combined for the year ended 30 June, 2021 reflects final receipts budget and actual on comparable basis totaling Kshs.756,085,232 and Kshs.701,736,261 respectively, resulting to an under funding of Kshs.54,348,971 or 7% of the budget. Similarly, the County Assembly spent Kshs.701,734,865 against an approved budget of Kshs.756,085,232 resulting to an under-expenditure of Kshs.54,350,367 or 7% of the budget. The underfunding and underperformance constrained execution of planned activities and delivery of services to the public.

It was further noted that quarter four allocation amounting to Kshs.104,628,500 was received after the end of financial year on 16 July, 2021 as a result of delayed disbursement by The National Treasury. There is need for The National Treasury to prioritize disbursement of funds to the County Governments in time for effective and efficient service delivery to the Citizens of the Counties.

Management Response

The Collection of the budgeted local revenue was not full realized, thus resulting to deficit in financing the total budget. The County Assembly of Nyeri approved the budget on time

and all payments were prepared promptly, but there is always delay in release of funds from the National Treasury. These are issues that are beyond our control.

Committee Observation

The Committee observed that the County Assembly spent Kshs.701,734,865 against an approved budget of Kshs.756,085,232 resulting to an under-expenditure of Kshs.54,350,367 or 7% of the budget.

Committee Recommendations

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

2.0 Unresolved Prior Year Audit Matters

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

Management Response

No management response was provided.

Committee Observation

The Committee observed that County assemblies did not take action on issues raised in the Report of the Auditor General for previous financial years.

Committee Recommendation

The Committee recommends that the County entities should strictly comply with Section 53 of the Public Audit Act, 2015 by taking action on the issues raised by the Auditor General.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

1.0 Meetings and Retreats held Outside the Precincts of the County Assembly

The statement of receipts and payments reflects use of goods and services amount of Kshs.393,971,037 and as disclosed under Note 5 to the financial statements. Included in this amount is Kshs.166,158,805 for domestic travel and subsistence out of which Kshs.44,581,951 was spent in meetings and retreats held outside the precincts of the

County Assembly. This is despite the Assembly having in place adequate facilities inhouse to hold such meetings. Further, approvals from the Speaker and reports of the deliberations were not provided for audit. This contravenes Section 165 of the County Assembly of Nyeri Standing Orders which states that a sitting of a committee shall be held at such a place, date and time as shall be determined by the chairperson or on a petition made by at least seven members of that committee but no meeting of a committee may be held outside the precincts of the Assembly without the approval of the speaker.

In the circumstances, the propriety and regularity of Kshs.44,581,951 expenditure on committee meetings held outside the precincts of the County Assembly for the year ended 30 June, 2021 could not be confirmed.

Management Response

The Assembly stated that retreats and trainings for Honorable members are conducted outside the Assembly precincts to enable the Members concentrate and avoid unnecessary interruptions from the electorate.

The Committee meetings are held in the assembly committee rooms, whereas retreats for Committee members on report writing and trainings are held outside the assembly precincts.

Committee Observation

The committee noted that the matter was satisfactorily addressed.

Committee Recommendation

The Committee recommends that the matter be marked as resolved.

2.0 Subscription Fees to Society of Clerks-at-the-Table (SOCATT)

As pointed out in the previous year, the statement of receipts and payments reflects an expenditure of Kshs.393,971,037 under use of goods and services which, as disclosed under Note 5 to the financial statements includes an amount of Kshs.54,408,441 in respect of other operating expenses which in turn includes an amount of Kshs.750,000 in respect to subscription fees made to the Society of Clerks-at-the-Table (SOCATT). However, there is no law governing such subscriptions.

In the circumstances, the propriety of the expenditure of Kshs.750,000 on subscription fees to the Society of Clerks-at-the-Table (SOCATT) could not be confirmed.

Management Response

SOCATT is an association of Clerks of the County assemblies and their officers. It's a platform for sharing best practices and harmonizing the legislative procedures and practices across County Assemblies in Kenya. In this regard the county assemblies came up with an agreement to fund this bodies for they play a major role in growth and operations of all the assemblies.

Committee Observation

The Committee noted that payments made to the Society of Clerks-at-the-Table (SOCATT) were irregular and unlawful without a legal framework to guide CAF operation.

Committee Recommendation

The Committee recommends that the irregular payments to the Society of Clerks at the Table (SOCATT) be stopped and further recommends the surcharge of any accounting officer who continues to make the irregular contribution.

3.0 Non-Compliance with Ethnic Diversity

As previously reported, examination of human resource records revealed that the County Assembly had sixty-three (63) permanent employees out of which 92% were from the dominant ethnic community. Further, during the year under review, the County Assembly Service Board recruited twelve (12) staff members and all of them representing 100% were from same dominant ethnic Community in the County. This is contrary to Section 65(e) of the County Governments Act, 2012 which requires the County Governments to ensure that at least thirty percent of the vacant posts at entry level are filled by candidates who are not from the dominant ethnic community in the county.

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

Management Response

During the transition period, most employees were absorbed from the defunct local authorities which consisted of employees from the dominant community in the locality. It therefore became difficult to maintain ethnic balance. The County Assembly had put the advertisement for recruitment on widely circulating newspaper as required by law; unfortunately, the respondents who qualified were from the dominant ethnic community.

Committee Observations

The Committee observed that;

1) there was lack of ethnic diversity among the County Assembly employees;
2) Due to the homogeneous ethnographic population in most counties, it may not be feasible for them to attain the threshold provided under Section 7(2) of the National

Cohesion and Integration Act, 2008 which states that no public establishment shall have more than one third of the staff from the same ethnic community.

Committee Recommendations

The Committee recommends that-

1) **The County Assembly should work progressively towards attaining the requirement of the provisions of Section 65(1)(e) of County Government Act on ethnic inclusivity; and**
2) **The County Assembly and CASB should provide to the Auditor General a five-year strategy of measures it will put in place to ensure compliance is achieved within sixty (60) days of the adoption of this report.**

4.0 Non-Submission of the County Assembly Service Board Financial Statements

The County Management did not submit the financial statements of the County Assembly Service Board for the year to the Auditor General with copies to the County Treasury, Controller of Budget and Commission on Revenue Allocation. Further, the Management did not publish and publicize the financial statement as required by Section 32 of the County Assembly Services Act, 2017.

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

Management Response

The county assembly service board does not receive exchequers or any transfer from the assembly recurrent or development account. The expenditure of the board which is mainly comprised of sitting allowance is budgeted and executed under the county assembly operations budget as it is in other committees of the house.

Committee Observation

The Committee observed that the County management did not submit financial statements of the County Assembly Service Board for the year to the Auditor General with copies to the County Treasury, Controller of Budget and Commission on Revenue Allocation. However, the documents were later submitted to the Auditor-General for verification.

Committee Recommendation

The Accounting officer undertakes administrative action against officers who failed to provide the documents to the auditors at the time of audit in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Committee within sixty (60) days from the adoption of this report;

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1.0 Payment of Permanent Staff Outside IPPD Payroll

The County Assembly of Nyeri has an automated Integrated Payroll and Personnel Database (IPPD) system in place. However, the Assembly still uses an off-shelf payroll system for part of salary payments every month. Review of the monthly payrolls revealed that twelve (12) staffs had not been included in the database and were being paid salaries outside the IPPD payroll system. Explanation given by Management was that these were police officers engaged to offer security services to the assembly and thus they could not be included in the Integrated Payroll and Personal Data Base (IPPD). However, there is a risk of unauthorized payments as the off-shell payroll is not integrated and centrally managed and controlled in the public personnel database contrary to the National Treasury Circular No 9/2017 that requires personnel emolument to be supported by IPPD.

Management Response

The Assembly would like to clarify that during the period under review, there were no permanent staff who were paid outside the IPPD System. These are the police officers seconded by the National Police Service to the assembly to offer security services and therefore they are not paid by the assembly rather, they are only paid a top-up allowance.

Committee Observation

The committee noted that the matter was satisfactorily addressed.

Committee Recommendation

The Committee recommends that the matter be marked as resolved.

2.0 Assets not in Use

Included in acquisition of assets amount of Kshs.25,227,917 is a tagging machine and two (2) integrated reverse osmosis water dispensers costing Kshs.1,185,000 and Kshs.4,178,320 respectively. These items were received on 2 March, 2021 and 19 May, 2021 respectively. However, by the time of the audit exercise in October, 2021, the items had not been put to the intended use casting doubt on whether the expenditure was necessary.

Management Response

The lack of operationalization of the tagging machine and integrated service osmosis water dispenser was occasioned by delay in shipping of ribbons and lack of responsive bidder for the construction of water tower to ensure continuous flow of water respectively.

Committee Observation

The committee noted that the matter was satisfactorily addressed.

Committee Recommendation

The Committee recommends that the matter be marked as resolved.

CHAPTER EIGHT

REPORT OF THE SENATE COUNTY PUBLIC ACCOUNTS COMMITTEE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENT OF UASIN GISHU COUNTY ASSEMBLY FOR THE FINANCIAL YEAR 2019/2020

The Speaker for Uasin Gishu County Assembly Hon. CPA Philip Muigei, and the Clerk, Mr. Shadrack Choge appeared before the Senate County Public Accounts Committee on 18th September 2023, to respond to audit queries raised by the Auditor General on the financial statements of Uasin Gishu County Assembly for the financial year 2019/2020

Qualified Opinion

EXECUTIVE SUMMARY OF UNRESOLVED QUERIES.				
S/NO	**Querry**	**Recommendation**	**Actor**	**Timeline**
1.	**2.0 Unsupported Payment of Rent for Ward Offices** Kshs.6,340,000 incurred on rentals of produced assets. A review of the records provided revealed that there was no lease agreement or contract between the County Assembly and the landlords. Further, the invoices in support of the payment of rent were not provided for audit review. In addition, the rent for all the wards' offices was pegged at Kshs.15,000 per month. However, it was not possible to confirm how the rent charges were	1) The County Assembly should adhere to sections 91 and 103(2) of the PPDA Act, 2015 in their procurement for the rented offices. 2) The Accounting officer undertakes administrative action against officers who failed to provide the documents to the auditors at the time of audit in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Committee within sixty (60) days from the adoption of this report.	The Clerk of the County Assembly	60 Days from the date of adoption of this report.

	determined since ward offices are not located in the same area.			
2.	**3.0 Unsupported Payment of Wages toward Employees** An amount of Kshs.30,636,000 paid to one hundred and forty-one (141) ward employees working for the Members of County Assembly. However, personal files and other employment documents were not provided for audit verification.	The Committee recommends that the Accounting Officer undertakes administrative action against the responsible officer(s) who failed to provide documents to the auditors at the time of audit in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report.	The Clerk of the County Assembly	60 Days fron the date of adoption of this report.
3.	**5.0 Irregular Subscriptions to the Society of Clerks Table and County Assembly Forum**	The Committee recommends that the irregular payments to the Society of Clerks at the Table (SOCATT) be stopped and further recommends the surcharge of any accounting officer who continues to make the irregular contribution.	Senate Clerk, County Assembly	60 Days fron the date of adoption of this report.
Key Audit Matters; Other Matters				
4.	**1.0 Budgetary Control and Performance** The statement of comparative budget and actual amounts reflects the final receipts budget and actual on a comparable basis of Kshs.733,014,946 and Kshs.683,014,946	The National Treasury should ensure the timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate	The National Treasury	Continuous

	respectively resulting in an under-expenditure of Kshs.50,000,000 or 6.8% of the budget. The under-expenditure was a result of a development budget that was not spent.			
5.	**2.0 Unresolved Prior Year Audit Matters** 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 were not resolved nor given any explanation.	The County Assembly takes action on the issues raised by the Auditor General and submit a status report to the Auditor General sixty (60) days after the adoption of this report.	The Clerk of the County Assembly	60 Days from the date of adoption of this report.
REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCE				
6.	**2.0 Failure to Observe One Third Rule on Staff Establishment**	1) The County Assembly should work progressively towards attaining the requirement of the provisions of Section 65(1)(e) of the County Government Act on ethnic inclusivity. 2) The County Assembly and CASB should provide to the Auditor General a five-year strategy of measures it will put in place to	The Cleek of the County Assembly and CASB	Continuous

		ensure compliance is achieved.		
7.	**3.0 Members of County Assembly and Employees Earning Less Than a Third of their Basic Pay** An audit review of the payroll for December, 2019 to March 2020 revealed that Members of the County Assembly and employees of the assembly were receiving salaries less than a third of their basic pay.	1) The county assembly should configure their IPPD system such that it is able to lock out commitments beyond the accepted thresholds; and 2) The Auditor General should continue monitoring the issue in subsequent audit cycles.	The Clerk of the County Assembly The OAG	Immediate
REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE				
8.	**2.0 Lack of an Audit Committee and Weak Internal Audit Unit** The County Assembly had not constituted an audit committee as required under Regulation 167(1) of the Public Finance Management (County Government) Regulations, 2015	The Committee thus recommends that the County Assembly should establish an Audit Committee and submit a status report to the Auditor General within sixty (60) days from the date of adoption of this report.	The Clerk	Continuous

Basis for Qualified Opinion

1.0 Unsupported Cash and Cash Equivalents

The statement of financial position and as disclosed in Note 8A reflects cash and cash equivalents balance of Kshs.55,943 as at 30 June, 2020. However, cash books for the ward offices accounts were not provided for audit verifications. Further, the County Treasury authority for the operationalization of the ward bank accounts was not provided for audit review.

Consequently, the accuracy and completeness of cash and cash equivalents balance of Kshs.55,943 as at 30 June, 2020, could not be confirmed.

Management Responses

The variance between the financial statements and the IFMIS schedules figures has been noted and going forward the County Assembly will ensure that all transactions are captured in the systems as required. Currently, all the financial transactions are captured through the Integrated Financial Information System.

Committee Observation

The committee noted that this matter was satisfactorily addressed.

Committee Recommendation

The Committee recommends that the matter be marked as resolved.

2.0 Unsupported Payment of Rent for Ward Offices

The statement of receipts and payments and as disclosed in Note 3 to the financial statements reflects expenditure of Kshs.343,587,491 in respect of use of goods and services. Included in this amount is Kshs.6,340,000 incurred on rentals of produced assets. Review of records provided revealed that there was no lease agreement or contract between the County Assembly and the landlords.

Further, the invoices in support of the payment of rent were not provided for audit review. In addition, that the rent for all the wards offices was pegged at Kshs.15,000 per month. However, it was not possible to confirm how the rent charges were determined since ward offices are not located in the same area.

In the circumstances, the validity and accuracy of the rent expenditure for the ward offices of Kshs.6,340,000 for the year ended 30 June, 2020, could not be confirmed.

Management Responses

Management did not provide response.

Committee Observations

The Committee observed that; -

1) the procurement method used by the County Assembly was not fair, transparent and competitive as required by Article 227 of the Constitution thus a breach of sections 91 and 103(2) of the PPDA Act, 2015.

2) The documents to support the payments were not provided during the time of the audit.

Committee Recommendations

The Committee recommends that; -

1) **The County Assembly should adhere to sections 91 and 103(2) of the PPDA Act, 2015 in their procurement for the rented offices.**
2) **The Accounting officer undertakes administrative action against officers who failed to provide the documents to the auditors at the time of audit in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Committee within sixty (60) days from the adoption of this report.**

3.0 Unsupported Payment of Wages toward Employees

The statement of receipts and payments for the year ended 30 June, 2020, reflects compensation of employees' expenditure of Kshs.326,292,687. This included an amount of Kshs.30,636,000 paid to one hundred and forty-one (141) ward employees working for the Members of County Assembly. However, personal files and other employment documents were not provided for audit verification.

Consequently, the validity of the expenditure Kshs.30,636,000 incurred on salaries for ward employees for the year ended 30 June, 2020, could not be confirmed.

Management Responses

No response

Committee Observation

The Committee observed that the County Assembly did not provide sufficient information regarding the Employee Contracts to the Auditor General.

Committee Recommendation

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

4.0 Unsupported Foreign Travel

The statement of receipts and payments and as disclosed also in Note 3 to the financial statements reflects expenditure of Kshs.343,587,491 in respect of use of goods and services. Included in this amount is Kshs.26,500,000 incurred on foreign travel and subsistence allowance. The foreign travel and subsistence allowance included an amount of Kshs.4,050,749 paid to staff members while participating in the East Africa Local

Authorities Sports and Cultural Association (EALASCA) in Kampala, Uganda. However, examination of documents in support of the expenditure revealed the following anomalies:

i) Management did not provide the list of participants from County Assemblies Sports Association (CASA) for the Kenyan team showing the various games in which the Kenyan participants were involved.
ii) The members of staff did not get approval from the State Department of Devolution as required under circular Ref: OP/CAB.1/7A dated 26 January, 2015.
iii) The members of staff did not attach bus hire invoices or tickets to account for an amount of Kshs.10,000 that was disbursed for transportation costs.
iv) The members of staff did not produce certificates of participation to confirm their participation in the games.

Consequently, the validity of the expenditure Kshs.4,050,749 incurred on the East Africa Local Authorities Sports and Cultural Association (EALASCA), games for the year ended 30 June, 2020, could not be confirmed.

Management Responses

The management concurred with the auditor's observation that the County Assembly incurred expenditure of Kshs 4,050,749 while participating in the East Africa Local Authority Sports and cultural Association (EALASCA) from 28th November to 8th December, 2019 in Kampala Uganda. However, it is not true that the supporting documents were not provided. The list of participants from County Assemblies Sports Association (CASA) for the Kenyan team showing the various games, Approval from state department of Devolution, staff bus hire tickets and certificate of participation are hereby attached for verification and further action.

Committee Observation

The committee noted that the matter was satisfactorily addressed as all the travel and imprest surrender documents were submitted to the auditors for review.

Committee Recommendation

The Committee recommends that the matter be marked as resolved.

5.0 Irregular Subscriptions to the Society of Clerks Table and County Assembly Forum

The statement of receipts and payments and as disclosed also in Note 3 to the financial statements reflects expenditure of Kshs.343587,491 in respect of use of goods and services.

Included in this amount are other operating expenses amount of Kshs.16,449,244. The amount includes payments for annual subscription to Society of Clerks Table of Kshs.500,000 and County Assembly Forum of Kshs.2,000,000. However, there was no legislation or policy in place to authorize such subscriptions and to justify the payments. In the circumstances, the validity of the expenditure on subscription fees of Kshs.2,500,000 for the year ended 30 June, 2020, could not be confirmed.

Management Responses

No response.

Committee Observation

The Committee noted that the payment made to the County Assembly Forum and Society of Clerks at the Table was illegal as it was not anchored in the law.

Committee Recommendation

The Committee recommends that the irregular payments to the Society of Clerks at the Table (SOCATT) be stopped and further recommends the surcharge of any accounting officer who continues to make the irregular contribution.

Key Audit Matters

Other Matters

1.0 Budgetary Control and Performance

The statement of comparative budget and actual amounts reflects final receipts budget and actual on a comparable basis of Kshs.733,014,946 and Kshs.683,014,946 respectively resulting in an under-expenditure of Kshs.50,000,000 or 6.8% of the budget. The under-expenditure was a result of a development budget that was not spent.

The non-utilization of the development budget affected the planned activities and may have impacted negatively on service delivery to the residents.

Management Responses

The management stated that the under-expenditure was due to late exchequer releases from the County Executive.

Committee Observation

The Committee observed that there was under-utilization of appropriated funds by the County Assembly as a result of delay in exchequer releases by the National Treasury.

Committee Recommendation

The Committee therefore recommends that the National Treasury should ensure timely release of funds to county Governments in line with the cash disbursement schedules approved by the Senate and comply with Article 219 of the Constitution and Section 17(6) of the Public Finance Management Act, 2012.

2.0 Unresolved Prior Year Audit Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, the Management has not resolved the issues nor given any explanation. Management has indicated that the issues have remained unresolved as the Senate has not met to deliberate on the same.

Management Responses

The management is in the process of responding and complying to these matters.

Committee Observation

The committee noted that the County Assembly did not take actions on the issues raised on the report of the Auditor General for Financial Year 2018/2019

Committee Recommendation

The Committee recommends that the County Assembly takes action on the issues raised by the Auditor General and submit a status report to the Auditor General sixty (60) days after the adoption of this report.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1.0 Expenditure on Salaries, Emoluments and Benefits

The County Assembly spent Kshs.326,292,687 on compensation of employees and Kshs.12,659,795 on social security benefits. The total expenditure of Kshs.338,942,482 on the two items represents 50% of the total receipts of Kshs.682,950,255. This was contrary to Regulation 25(1)(a) and (b) of the Public Finance Management (County Governments) Regulations, 2015 which requires the County Executive Committee Member with the approval of the County Assembly to set a limit on the County Government's expenditure on wages and benefits for its public officers pursuant to Section 107(2) of the Public

Finance Management Act, 2012 which should not exceed thirty-five percent of the County Government's total revenue.
Consequently, the Management was in breach of law.

Management Responses
No response
Committee Observation
The Committee noted that the matter was addressed satisfactorily.
Committee Recommendation
The committee recommends that the matter be marked as resolved.

2.0 Failure to Observe One-Third Rule on Staff Establishment
A review of human resource records revealed that the County Assembly had a staff establishment of ninety-nine (99) employees out of whom eighty-nine percent (89%) were from the dominant community. This was contrary to the provisions of Section 65(1)(e) of the County Governments Act, 2012 which requires the County Public Service Board to ensure that at least thirty percent (30%) of the vacant posts at the entry level are filled by candidates who are not from the dominant ethnic community.
Consequently, the Management was in breach of law.

Management Responses
No response
Committee Observation
The Committee observed that -

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

Committee Recommendation
The Committee recommends that-

i) **The County Assembly should work progressively towards attaining the requirement of the provisions of Section 65(1)(e) of the County Government Act on ethnic inclusivity.**
ii) **The County Assembly and CASB should provide to the Auditor General a five-year strategy of measures it will put in place to ensure compliance is achieved within sixty (60) days of the adoption of this report.**

3.0 Members of County Assembly and Employees Earning Less Than a Third of Their Basic Pay

Audit review of the payroll for the months of December, 2019 to March, 2020 revealed that Members of County Assembly and employees of the assembly were receiving salaries less than a third of their basic pay.

The was contrary to Section 19(3) of the Employment Act, 2007 provides that the total amount of all deductions made by an employer from the wages of his employee at any one time should not exceed two thirds of such wages.

Consequently, the Management was in breach of law.

Management Responses

No response

Committee Observations

The committee noted that that this occurred because members were on recess as per the County Assembly Calendar of meetings, consequently the members could not be able to meet the one third rule since there were no sitting allowances during the said months, considering that they were repaying Car and Mortgage Loan during the period.

Committee Recommendations

The Committee recommends that; -

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1.0 Lack of Information Communication Technology Policies

As reported in the previous year, review of the Information and Communication Technology (ICT) of the County Assembly revealed that the Assembly did not have an IT Policy, Data Recovery Plan (DRP) and IT security policy in the year 2019/2020.

Further, the County Assembly did not have an IT steering committee which is critical in performing the oversight function and formulation of policies.

Management Response

The County Assembly is in the process of establishing an IT steering committee in place to perform the oversight function and formulation of policies that ensure that the IT

department functions properly to achieve the County Assembly objectives in an economical, efficient and effective way. Documents to support this process were attached for the committee review.

Committee Observation

The committee noted that the matter was satisfactorily addressed, as the management provided documents to show the progress of the process of instituting a functional IT steering committee.

Committee Recommendation

The committee recommended that the matter be marked as resolved.

2.0 Lack of Audit Committee and Weak Internal Audit Unit

The County Assembly had not constituted an audit committee as required under Regulation 167(1) of the Public Finance Management (County Government) Regulations, 2015. Further, the Internal Audit Unit was reporting both functionally and administratively to the Accounting Officer due to the absence of an audit committee.

Management Responses

The management concurred with the auditor's observation that the audit committee was not in place, but the County Assembly made efforts in advertising for the positions and successful candidates had been issued with appointment letters as per the attached evidence for the three applicants. However, the candidates did not accept the offer giving reasons that the sitting allowances recommended by the salaries and remuneration commission were not commensurate with the work expected of them, consequently, the internal audit is not independent because the audit committee is not constituted which the head of internal audit is supposed to report to as per the requirement of the law.

Committee Observation

The Committee observed that the County Assembly does not have an Audit Committee in place.

Committee Recommendation

The Committee recommends that the County Assembly should establish an Audit Committee and submit a status report to the Auditor General within sixty (60) days from the adoption of this report.

CHAPTER NINE

REPORT OF THE SENATE COUNTY PUBLIC ACCOUNTS COMMITTEE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENT OF UASIN GISHU COUNTY ASSEMBLY FOR THE FINANCIAL YEAR 2020/2021

Qualified Opinion

EXECUTIVE SUMMARY OF UNRESOLVED QUERIES				
S/NO	**QUERY**	**RECOMMENDATION**	**ACTOR**	**TIMELINE**
1	**1.1 Variances Between Financial Statements and Integrated Financial Management Information System (IFMIS)** The balances reflected in the statement of receipts and payments for the year ended 30 June, 2021 were at variance with the IFMIS report in respect of thirteen (13) expenditure items	1. The Accounting officer undertakes administrative action against officers who failed to provide the documents to the auditors at the time of audit in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Committee within sixty (60) days from the adoption of this report; and 2. The Institute of Certified Public Accountants of Kenya (ICPAK) undertakes disciplinary procedure (s) under section 32 and 33 of Accountants Act CAP 531 and provide a status update to the	The Clerk, of the County Assembly ICPAK	60 days from the adoption of this report

		Senate within 60 days of adoption of this report. 3. The Accounting Officer to identify the training needs of its staff serving in the Finance Department and initiate capacity building and training in conjunction with the National Treasury within 60 days of the adoption of this report.		
2	**2.0 Temporary Employees Paid Outside Integrated Personnel and Payroll Database (IPPD) System** the statement of receipts and payments reflects compensation of employees' expenditure of Kshs.329,762,052 which includes basic wages of temporary employees of Kshs.39,153,080. However, the expenditure balance was at variance with an amount of Kshs.39,474,492 reflected in the supporting schedules, resulting in an	1) The Senate notes that the process of issuance of Personal File Numbers is inefficient in counties and therefore directs the National Government (State Department of Public Service) in conjunction in the Council of Governors (CoG) to prescribe and design an efficient human resource management system to be used by counties; 2) The County Assembly should ensure that casual workers are engaged in line with the relevant laws and the	The Senate The Clerk of the County Assembly National Government (State Department of Public Service) CS, Ministry of Public Service OAG	60 days from the adoption of this report

	unexplained and unreconciled variance of Kshs.321,412	approved staff establishment and provide a status update to the Auditor General within 60 days of adoption of this report; 3) Pursuant to Article 235 of the Constitution of Kenya, the Committee directs that the Cabinet Secretary (CS), Ministry of Public Service, Youth and Gender Affairs to develop regulations to provide guidance and clarity to county governments on engagement of casual employees, contracted workers, acting positions and a platform for management of county human resources; and 4) the Auditor General to monitor the matter in the subsequent audit cycle.		
3	**3.0 Unsupported Rent for Ward Offices**	The Committee recommends that the Accounting Officer undertakes administrative action against the	The Clerk of the County Assembly	60 Days after the date of

	Kshs.8,239,1 10 incurred on rentals of produced assets. As previously reported, however, the expenditure was not supported by invoices and the lease agreements or contracts between the County Assembly and the landlords. ln addition, the rent for all the ward offices was pegged at Kshs.15,000 per month.	responsible officer(s) who failed to provide documents to the auditors at the time of audit in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report;		adoption of this report.
Key Audit Matters; Other Matter				
4	**1.0 Budgetary Control and Performance** The statement of comparison of budget and actual amounts; recurrent and development combined reflected final receipts budget and actual on a comparable basis of Kshs.946,014,946 and Kshs.702,372,120 respectively, resulting in an under-funding of Kshs.243,642,826 or 260/o of the budget	The National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate.	The National Treasury	Continuous

5	**2.0 Pending Bills** The creditors' aging analysis was not provided for audit verification. Further, included in the pending bill's balance of Ksh.24,063,037 is an amount of Kshs.300,000 carried forward from the 201912020 financial year which should have been paid as a first charge in the 202012021 financial year was still outstanding	The Committee therefore recommends that: 1. that all County Governments pay verified pending bills amounting to less than Ksh. 1 billion by the end of this financial year and those above Ksh.1 billion by the end of the financial year 2024/2025; and 2. Resolves that- i. pursuant to the provisions of Regulation 41(2) & (3) of the Public Finance Management (County Governments) Regulations, 2015, County Governments prepare and submit to the Controller of Budget, a payment plan, prioritizing payment of pending bills as a first charge on the County Revenue Fund, failure to which the subsequent quarter budget releases will not be done; ii. the Controller of Budget takes into consideration the	The Clerk of the County Assembly The National Treasury COB	90 Days after the date of adoption of this report.

		efforts made by a county government to clear inherited pending bills when approving exchequer releases; iii. County Governments shall only pay pending Bills contained in their respective procurement plans pursuant to Regulation 50 (2) & (3) of the Public Finance Management (County Governments) Regulations; iv. Supplementary budgets for county governments are prepared in the 3rd Quarter to curb instances of arbitrary re-allocations out of the approved budget estimates; v. County governments, in consultation with the Controller of Budget, to provide a budget for completion of all existing projects and that initiation of new projects to cease until		

		completion of the existing projects; and vi. County governments shall conduct public participation while formulating supplementary budgets, failure to which the Controller of Budget (CoB) shall not approve the supplementary budgets.		
6	**3.0 Unresolved Prior Year Audit Matters** The issues reported in the prior year remained unresolved as at 30 June, 2021. Management did not provide reasons for the delay in resolving the prior year audit issues.	The Committee recommends that the County Assembly complies with section 53 of The Public Audit Act, 2015 by taking action on the issues raised by the Auditor General and submits a report to the Auditor General.	The Clerk of the County Assembly	Continuous
REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES				
7.	**1.0 Compensation of Employees** **1.1 Non-Compliance with the Law on Fiscal Responsibility - Wage Bill** The County Assembly spent Kshs.329,762,052 on compensation of employees and Kshs.17,748,097 on	The Committee recommends that the County Assembly takes steps to ensure that they adhere to the provision of paragraph 25(1)(b) of the PFM Act (county government) regulations, 2015 which stipulate that the county wage bill should not exceed 35 percent of the county total revenue.	Clerk of the County Assembly	Continuous

	social security benefits totaling Kshs.347,510,149 representing 49o/o of the total receipts of Kshs.702,372,120. This is contrary to provisions of Regulation 25(1)(a) and (b) of the Public Finance Management (County Governments) Regulations, 2015			
	1.2 Staff Ethnic Diversity The County Assembly had ninety (90)) employees, out of which seventy-five (75) or 83% of the total number were from the dominant community in the County. Further, during the year under review, the County Assembly Service Board recruited six (6) new staff at various cadres on contract terms from the same ethnic community. This is contrary to the provisions of Section 65(e) of the County	1) The county assembly should work progressively towards attaining the requirement of the provisions of Section 65(1)(e) of County Government Act on ethnic inclusivity. 2) The County Assembly and CASB should provide to the Auditor General a five-year strategy of measures it will put in place to ensure compliance is achieved within sixty (60) days of the adoption of this report.	The Clerk of the County Assembly and CASB	Within sixty (60) days of the adoption of this report.

	Governments Act, 2012			
	1.3 Non- Compliance with One-Third Rule on Salary Pay Deduction Forty-six (46) employees had over-committed their salaries beyond two-thirds of their basic pay. This contravenes Section C.1(3) of the Human Resource Policies and Procedures Manual for the Public Service, 2015 and Section F.13 of the County Assembly of Uasin Gishu Human Resource Manual, 2015.	1) The county assembly should configure their IPPD system such that it is able to lock out commitments beyond the accepted thresholds; and 2) The Auditor General should continue monitoring the issue in subsequent audit cycles.	The Clerk of the County Assembly The OAG	60 Days after the adoption of this report.
8	**2.0 Non-compliance with The National Treasury's Circular on Domestic Travel** Kshs.101,043,180 relates to domestic travel and subsistence as disclosed in Note 3 to the financial statements. However, the expenditure includes Kshs.23,965,000 incurred on domestic	The committee recommends that EACC causes investigation with the view of initiating prosecution of the responsible officers for the possible loss of Kshs 23, 965,000.	EACC	90 Days after the date of adoption of this report.

	travel and subsistence allowance outside the county contrary to the National Treasury Circular No. 2012015 dated 11 April, 2015 on curtailing domestic travel and related expenditure. The directive suspended staff moving from their headquarters to other towns for the purpose of training, discussing strategy documents, consultant's reports or any other assignments that would ordinarily be carried out within the offices at the headquarters.			
9	**3.0 Failure to Submit Accounts of the County Assembly Service Board** The County Assembly Management did not prepare and submit the financial statements of the County Assembly Service Board for the year ended 30 June, 2021. This is contrary to Section 32(2) of the County Assembly Services Act, 2017	The committee recommends that the management complies with the law and prepare the accounts of the County Assembly Service Board, separate from that of the county Assembly, in accordance with the International Public Service Accounting Standards.	The Clerk of the County Assembly	60 Days after the date of adoption of this report.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE				
10	**1.0 Lack of an independent internal Audit Function** The County Assembly has established an internal audit unit. However, the internal auditor reports both functionally and administratively to the Accounting Officer instead of an Audit Committee. An Audit Committee has not been constituted. This is contrary to Section 155(1) of the Public Finance Management (County Governments) Regulations, 2015	The Committee thus recommends that the County Assembly should establish an Audit Committee and submit a status report to the Auditor General within sixty (60) days from the date of adoption of this report.	The Clerk of the County Assembly	60 Days after the date of adoption of this report.

Basis for Qualified Opinion

1.0 Variances Between Financial Statements and Integrated Financial Management Information System (IFMIS)

The balances reflected in the statement of receipts and payments for the year ended 30 June, 2021 were at variance with the IFMIS report in respect of thirteen (13) expenditure items.

Consequently, the accuracy and completeness of the respective financial statements balances for the year ended 30 June,2021 could not be confirmed.

Management Responses

The variance occurred because of payments made through the IFMIS and not paid in the Internet Banking (IB).

The variance between the financial statements and the IFMIS schedules figures has been noted and going forward the County Assembly will ensure that all transactions are captured properly and correctly in the systems as required.
Currently all the financial transactions are correctly captured through the Integrated Financial Information System.

Committee Observations
The Committee noted that the management failed to provide the documents to prove that the reconciliations was done.

Committee Recommendations
The Committee recommends that;

1) **The Accounting officer undertakes administrative action against officers who failed to provide the documents to the auditors at the time of audit in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Committee within sixty (60) days from the adoption of this report; and**
2) **The Institute of Certified Public Accountants of Kenya (ICPAK) undertakes disciplinary procedure (s) under section 32 and 33 of Accountants Act CAP 531 and provide a status update to the Senate within 60 days of adoption of this report.**
3) **The Accounting Officer to identify the training needs of its staff serving in the Finance Department and initiate capacity building and training in conjunction with the National Treasury within 60 days of the adoption of this report.**

2.0 Temporary Employees Paid Outside lntegrated Personnel and Payroll Database (IPPD) System
As disclosed in Note 2 to the financial statements, the statement of receipts and payments reflects compensation of employees' expenditure of Kshs.329,762,052 which includes basic wages of temporary employees of Kshs.39,153,080. However, the expenditure balance was at variance with an amount of Kshs.39,474,492 reflected in the supporting schedules, resulting in an unexplained and unreconciled variance of Kshs.321,412. Further, an officer was paid an amount of Kshs.3,336,482 outside the lntegrated Personnel and Payroll Database (IPPD) System.
This was contrary to The National Treasury Circular No.9/2017 which requires personnel emoluments to be supported by IPPD.

Consequently, the accuracy and completeness of basic wages of temporary employees of Kshs.39,153,080 for the year ended 30 June, 2021 could not be confirmed.

Management Responses

The variance figure of Kshs.321,412 that appeared in compensation of employees' expenditure of Kshs.329,762,052 which includes basic wages of temporary employees of Kshs.39,153,080 has been corrected in the amended financial statement attached are copies of the same.

An MCA who was paid an amount of Kshs.3,336,482 outside the Integrated Personnel and Payroll Database (IPPD) System was an old retired 63years employee of ministry of Labor. The County Assembly have captured all the current Members of the County Assembly (MCAs) Bio Data into the Integrated Personnel and Payroll Data base (IPPD) attached is list of (IPPD) members.

Committee Observations

The committee noted that the majority of partisan staff working under the offices of the MCAs were not under the IPPD, yet their payments were drawn from the County Assembly.

Committee Recommendations

The Committee recommends that;

1) **The Senate notes that the process of issuance of Personal File Numbers is inefficient in counties and therefore directs the National Government (State Department of Public Service) in conjunction in the Council of Governors (CoG) to prescribe and design an efficient human resource management system to be used by counties;**
2) **The County Assembly should ensure that casual workers are engaged in line with the relevant laws and the approved staff establishment and provide a status update to the Auditor General within 60 days of adoption of this report;**
3) **Pursuant to Article 235 of the Constitution of Kenya, the Committee directs that the Cabinet Secretary (CS), Ministry of Public Service, Youth and Gender Affairs to develop regulations to provide guidance and clarity to county governments on engagement of casual employees, contracted workers, acting positions and a platform for management of county human resources; and**
4) **the Auditor General to monitor the matter in the subsequent audit cycle.**

3.0 Unsupported Rent for Ward Offices

The statement of receipts and payments reflects use of goods and services expenditure of Kshs.338,260,166, which as disclosed in Note 3 to the financial statements includes Kshs.8,239,1 10 incurred on rentals of produced assets. As previously reported, however, the expenditure was not supported by invoices and the lease agreements or contracts between the County Assembly and the landlords. ln addition, the rent for all the ward offices was pegged at Kshs.15,000 per month.

Management did not explain how the rent charges were determined although the ward offices are not in the same locality. ln the circumstances, the validity and accuracy of the rent expenditure for the ward offices of Kshs.8,239,110 for the year ended 30 June,2021 could not be confirmed.

Management Responses

The lease agreement/contract between the county assembly and the landlords is available for verification. County Government have Constructed and completed16 ward offices which are currently occupied by the ward staffs. The valuation was carried out on the remaining 14 wards and attached is the valuation report.

Committee Observations

The Committee noted that the management could not provide the lease agreement for the lease of the ward offices, contrary to Regulation 127 of the Public Finance Management (County Government) Regulations, 2015.

Committee Recommendations

The committee recommends that the County Assembly ensures the preparation of proper lease agreements and submit them to the OAG for verification and that the auditors look into the matter in the subsequent audit cycle, to confirm compliance with the Regulation 127 of the Public Finance Management (County Government) Regulations, 2015.

Key Audit Matters

Other Matter

1.0 Budgetary Control and Performance

The statement of comparison of budget and actual amounts; recurrent and development combined reflected final receipts budget and actual on a comparable basis of Kshs.946,014,946 and Kshs.702,372,120 respectively, resulting in an under-funding of Kshs.243,642,826 or 260/o of the budget. Similarly, the County Assembly expended Kshs.702,140,890 against an approved budget of Kshs.946,014,946, resulting in an under-expenditure of Kshs.243,874,056 or 260/o of the budget.

The underfunding and underperformance affected the planned activities and may have adversely affected service delivery to the public.

Further, Exchequer releases totaling Kshs.16,366,510 received after the end of the financial year on 10 and 12 July,2021 were recorded as revenue for the year under review. This was contrary to the provisions of Regulation 97(4) of the Public Finance Management (County Governments) Regulations, 2015, which provides that an actual cash transaction taking place after 30 June, shall not be treated and recognized as relating to the previous financial year. Further, backdating transactions to 30 June, is against the concept of IPSAS cash accounting.

Management Responses

The management concurred with the auditor's observation that the County Assembly had in its budget Kshs 946,014,946 allocated for both development and recurrent expenditure. The un spent funds of Kshs 243,874,056 was from development vote. Development expenditure is only paid when certificates are issued.

Kshs 16,366,510 was requisitioned on 21st June, 2021, forwarded on the same date by the Chief Finance Officer to the office of the Controller of Budget. The funds were received on 10th July, 2021, and incompliance with the National Treasury advice, through the circular No. PSASB 1/12/Vol.1 ((44) dated 25 June 2019, the Assembly recognized this receipts and the related expenditure in financial year 2020/2021 since the funds had been requisition during the financial year 2020/2021.

Committee Observations

The Committee noted that the management flouted the law contrary to the National Treasury guidelines, as the evidence of handling the expenditure outside the financial year was not provided for verification.

Committee Recommendations

The Committee recommended that:

1) **The National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate; and**

2) **The County Assembly(s) consults with the Senate Finance and Budget Committee with a view to unlock the impasse and forestall further loss of funds through litigations.**

2.0 Pending Bills

Annexure 1 to the financial statements reflects pending accounts payables amounting to Kshs.24,063,037 which were outstanding as at 30 June, 2021. However, the creditors' ageing analysis was not provided for audit verification. Further, included in the pending bills balance of Ksh.24,063,037 is an amount of Kshs.300,000 carried forward from the 201912020 financial year which should have been paid as a first charge in the 202012021 financial year was still outstanding as of 30 June, 2021.

ln addition, had the pending bills been paid and charged to the year under review, the financial statements would have reflected a deficit of Kshs.23,831,807 instead of the reported surplus of Kshs.231,230 Failure to settle bills during the year to which they relate distorts financial statements for the year and adversely affects the provisions for the subsequent year for which they have to be charged.

Management Responses

Ageing analysis is available for audit verification. The financial statements was prepared using IPPS standards the recognizes income and expenditure when it is incurred (cash basis). Therefore Ksh. 24,063,037 could not be recognized as an expenditure during the year under review.

Committee Observations

The committee noted that the that document required to verify the pending bills from the pending bills committee had not been provided at the time of the audit and that the aging analysis provided by the client was not complete. Other documents to support the payment of some of the pending bills were submitted late.

Committee Recommendations

The Committee therefore recommends that:

1. **that all County Governments pay verified pending bills amounting to less than Kshs. 1 billion by the end of this financial year and those above Ksh.1 billion by the end of the financial year 2024/2025; and**
2. **Resolves that-**
    i. **pursuant to the provisions of Regulation 41(2) & (3) of the Public Finance Management (County Governments) Regulations, 2015, County Governments prepare and submit to the Controller of Budget, a payment plan, prioritizing payment of pending bills as a first charge on the County Revenue Fund, failure to which the subsequent quarter budget releases will not be done;**

ii. **the Controller of Budget takes into consideration the efforts made by a county government to clear inherited pending bills when approving exchequer releases;**
iii. **County Governments shall only pay pending Bills contained in their respective procurement plans pursuant to Regulation 50 (2) & (3) of the Public Finance Management (County Governments) Regulations;**
iv. **Supplementary budgets for county governments are prepared in the 3rd Quarter to curb instances of arbitrary re-allocations out of the approved budget estimates;**
v. **County governments, in consultation with the Controller of Budget, to provide a budget for completion of all existing projects and that initiation of new projects to cease until completion of the existing projects; and**
vi. **County governments shall conduct public participation while formulating supplementary budgets, failure to which the Controller of Budget (CoB) shall not approve the supplementary budgets.**

3.Unresolved Prior Year Audit Matters

As disclosed under progress on follow up of prior years' auditor's recommendations section of the financial statements, the issues reported in the prior year remained unresolved as at 30 June, 2021. Management did not provide reasons for the delay in resolving the prior year audit issues.

This is contrary to Section 149(2Xl) of the Public Finance Management Act, 2012 which require Accounting Officers designated for county government entities to resolve any issues resulting from an audit that remain outstanding.

Management Responses

Taking into account provision of PFM (County Government) regulations, 2015 number 25(1)(a) and (b) the county government as whole is required to spend at most 35% of the total expenditure on wages and benefits for its public officers. Therefore to determine compliance one has one has to take in account the entire county government entities expenditure which include the County Assembly. County Assemblies expenditures are mainly on personnel emolument and operation and maintenance (O&M).

Committee Observations

The Committee observed that the County Assembly did not take action on the issues raised in the Report of the Auditor General for the financial year 2019/2020.

Committee Recommendations

The Committee recommends that the County Assembly comply with section 53 of The Public Audit Act, 2015 by taking action on the issues raised by the Auditor General and submits a report to the Auditor General sixty (60) days after the adoption of the report.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

Basis for Conclusion

1.0 Compensation of Employees

1.1 Non-Compliance with the Law on Fiscal Responsibility - Wage Bill

During the year under review, the County Assembly spent Kshs.329,762,052 on compensation of employees and Kshs.17,748,097 on social security benefits totaling Kshs.347,510,149 representing 49o/o of the total receipts of Kshs.702,372,120. This is contrary to provisions of Regulation 25(1)(a) and (b) of the Public Finance Management (County Governments) Regulations, 2015 which states that the expenditure on wages and benefits for public officers should not exceed thirty-five percent (35%) of the total revenue for the year.

Consequently, Management breached the law.

Management Responses

Taking into account provision of PFM (County Government) regulations, 2015 number 25(1)(a) and (b) the county government as whole is required to spend at most 35% of the total expenditure on wages and benefits for its public officers. Therefore, to determine compliance one has one has to take in account the entire county government entities expenditure which include the County Assembly. County Assemblies expenditures are mainly on personnel emolument and operation and maintenance (O&M).

Committee Observations

The committee noted that the management is struggling to meet the 35 % salary threshold, but it committed to compliance with the law, by providing a roadmap for implementation to achieve the threshold.

Committee Recommendations

The Committee recommends that the County Assembly takes steps to ensure that they adhere to the provision of paragraph 25(1)(b) of the PFM Act (county government)

regulations, 2015 which stipulate that the county wage bill should not exceed 35 percent of the county total revenue.

1.2 Staff Ethnic Diversity

A review of the payroll for June 2021, revealed that the County Assembly had ninety(90)) employees, out of which seventy-five (75) or 83% of the total number were from the dominant community in the County. Further, during the year under review, the County Assembly Service Board recruited six (6) new staff at various cadres on contract terms from the same ethnic community. This is contrary to the provisions of Section 65(e) of the County Governments Act, 2012 which requires the County Governments to ensure that at least thirty percent (30%) of the vacant posts at entry level are filled by candidates who are not from the dominant ethnic community in the County.

ln addition, the County Assembly has not employed any persons with disability.

Consequently, Management was in breach of the law

Management Responses

The County Assembly Service Board in compliance with an advisory given by the Senate Public Accounts Committee has developed a road map on how to achieve the 30 percent on ethnicity. A copy of the roadmap was submitted to the committee for verification.

Committee Observations

The committee noted that the County Assembly had developed a roadmap on how to address the matter in subsequent recruitments.

Committee Recommendations

The Committee recommends that

1) **The County Assembly should work progressively towards attaining the requirement of the provisions of Section 65(1)(e) of County Government Act on ethnic inclusivity.**
2) **The County Assembly and CASB should provide to the Auditor General a five-year strategy of measures it will put in place to ensure compliance is achieved within sixty (60) days of the adoption of this report.**

1.3 Non- Compliance with One-Third Rule on Salary Pay Deduction

A review of the County Assembly payrolls for the year under review revealed that forty-six (46) employees had over-committed their salaries beyond the two-thirds of their basic pay. This contravenes Section C.1(3) of the Human Resource Policies and Procedures

Manual for the Public Service, 2015 and Section F.13 of the County Assembly of Uasin Gishu Human Resource Manual, 2015 which states that public officers shall not over commit their salaries beyond two-thirds of their basic salaries and heads of human resource units should ensure compliance. Consequently, Management was in breach of the law.

Management Responses

The management concurred with the auditor's observation that some members of the County Assembly received less than one third of the net salaries for the month of December 2020 and January2021. This occurred because members were on recess as per the County Assembly Calendar of meetings, consequently the members could not be able to meet the one third rule since there were no sitting allowances during the said months, considering that they were repaying Car and Mortgage Loan during the period. Attached is copy of the County Assembly regular session of the Assembly June to December 2020 for your perusal and further action.

Committee Observations

The committee noted that that this occurred because members were on recess as per the County Assembly Calendar of meetings, consequently the members could not be able to meet the one third rule since there were no sitting allowances during the said months, considering that they were repaying Car and Mortgage Loan during the period.

Committee Recommendations

The Committee recommends that; -

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

2.0 Non-compliance with The National Treasury's Circular on Domestic Travel

The statement of receipts and payments for the year ended 30 June, 2021, reflects use of goods and services balance of Kshs.338,260,166 out of which, Kshs.101,043,180 relates to domestic travel and subsistence as disclosed in Note 3 to the financial statements. However, the expenditure includes Kshs.23,965,000 incurred on domestic travel and subsistence allowance outside the county contrary to the National Treasury Circular No. 2012015 dated 11 April, 2015 on curtailing domestic travel and related expenditure. The directive suspended staff moving from their headquarters to other towns for the purpose of

training, discussing strategy documents, consultant's reports or any other assignments that would ordinarily be carried out within the offices at the headquarters.
As a result, the County Assembly Management breached the government directive.

Management Responses
The County assembly operates on approved budget where domestic travel expenses is included. Members of County Assembly retreat to write reports outside County Assemble premises. This is done to help enhance concentration and reduce interference from the public.

Committee Observations
The Committee noted that the management incurred expenditures amounting to Kshs.23,965,000 on domestic travel and subsistence allowance during a time when the country was under lockdown due to the COVID-19 pandemic.

Committee Recommendations
The committee recommends that EACC causes investigation with the view of initiating prosecution of the responsible officers for the possible loss of Kshs 23, 965,000.

3.0 Failure to Submit Accounts of the County Assembly Service Board
The County Assembly Management did not prepare and submit the financial statements of the County Assembly Service Board for the year ended 30 June, 2021. This is contrary to Section 32(2) of the County Assembly Services Act, 2017 which requires the Secretary to the Board within three months after the end of each financial year, to submit the accounts of the Board to the Auditor-General, with copies to the County Treasury, Controller of Budget, and Commission on Revenue Allocation. Consequently, Management is in breach of the law.

Management Responses
It is true that the County Assembly service Board did submit separate financial statements to the Auditor General. This was due to the following challenges.

(a) Public Sector Accounting Standards Board have not issued the Template for financial statements of County Assembly Service Board

It is difficulty to delink financial statements for County Assemblies Service Board and the County Assembly. The management is waiting for circular from Public Sector Accounting

Standards Board on preparation of financial statements for County Assembly Service Board.

Committee Observations

The committee noted that the management failed to prepare statements of accounts for County Assembly Service Board, and providing the relevant documents to support the accounts.

Committee Recommendations

The committee recommends that the management complies to the law and prepare the accounts of the County Assembly Service Board, separate from that of the county Assembly, in accordance with the International Public Service Accounting Standards.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1.0 Lack of an independent Internal Audit Function

The County Assembly has established an internal audit unit. However, the internal auditor reports both functionally and administratively to the Accounting Officer instead of an Audit Committee. An Audit Committee has not been constituted. This is contrary to Section 155(1) of the Public Finance Management (County Governments) Regulations, 2015 which states that the Head of Internal Audit Unit in a county government entity shall enjoy operational independence through the reporting structure by reporting administratively to the Accounting Officer and functionally to the Audit Committee.

In the circumstances, the unit lacks the operational independence to execute its mandate of oversight and promoting accountability in the management of the resources of the County Assembly.

Management Responses

The management concurred with the auditor's observation that the audit committee was not in place, but the County Assembly made efforts in advertising for the positions and successful candidates had been issued with appointment letters as per the attached evidence for the three applicants. However, the candidates did not accept the offer giving reasons that the sitting allowances recommended by the salaries and remuneration commission were not commensurate with the work expected of them, consequently, the internal audit is not independent because the audit committee is not constituted which the head of internal audit is supposed to report to as per the requirement of the law.

Committee Observation

The Committee observed that the County Assembly does not have an Audit Committee in place.

Committee Recommendation

The Committee thus recommends that the County Assembly should establish an Audit Committee and submit a status report to the Auditor General within sixty (60) days from the date of adoption of this report.

2.0 Lack of ICT Risk Management Policy

A review of the lnformation and Communication Technology (lCT) revealed that during the year under review, the County Assembly had not established a Risk Management Policy for effective and efficient management of the entity's lT resources. Further, the County Assembly did not have an lT Strategic and Steering Committee to formulate policies and advice on ICT investment priorities. ln addition, no periodic lT reports were prepared to assess the status of the implementation of lT systems and suggest corrective measures.

ln the absence of a risk management strategy, it has not been possible to confirm whether the internal controls built in financial and operational systems were functioning as intended during the year under review.

Management Response

The County Assembly have an IT steering committee in place which performs the oversight function and formulation of policies that ensures that IT department functions properly to achieve the County Assembly objectives in an economic, efficient and effective way. The County Assembly periodically produces IT reports

Committee Observations

The committee noted that the matter was satisfactorily addressed, as the management had a functional IT steering committee.

Committee Recommendations

The committee recommended that the matter be marked as resolved.

CHAPTER TEN

REPORT OF THE SENATE COUNTY PUBLIC ACCOUNTS COMMITTEE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENT OF TANA RIVER COUNTY ASSEMBLY FOR THE FINANCIAL YEAR 2020/2021

The Speaker of Tana River County Assembly, Hon. Osman Nur Galole , and the Clerk Mr Mr. Abdullahi Hussein Appeared before the Committee on Monday 9th October 2023 to respond (under oath) to audit queries raised in the Report of the Auditor General on Financial Statements for Tana River County Assembly for the Financial Year 2020/2021.

Qualified Opinion

SUMMARY OF UNRESOLVED AUDIT QUERIES				
S/NO	**Query**	**Recommendation**	**Actor**	**Timeline**
1	**5.0 Irregular and Unsupported Contributions to County Assemblies Forum** Included in other operating expenses amount of Kshs.24,191,765 is an amount of Kshs.5,000,000 made to the County Assemblies' Forum. However, no evidence was provided for audit to indicate that the payments were received by the County Assemblies Forum (CAF).	The Committee recommends that the irregular payments to the Society of Clerks at the Table (SOCATT) and County Assemblies Forum (CAF) be stopped and further recommends the surcharge of any accounting officer who continues to make the irregular contribution.	The Clerk Tana River County Assembly	Immediate
Other Matters				
2	**1.0 Late Exchequer Releases**	The Committee recommends that The National Treasury should	The National Treasury	Continuous

	During the year under review, the County Assembly received exchequer amount of Kshs.43,452,450 in the month of June, 2021. Due to the late remittances by The National Treasury, the Assembly could not undertake the planned and budgeted for programmes on time.	ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate.		
REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURSE				
3	**2.0 Over Commitment of Salary** An analysis of the payrolls for the year ended 30 June, 2021 revealed that seven (7) employees received net salaries of less than a third of their basic salary contrary to provisions of Employment Act.	The Committee therefore recommends that: 1) The county assembly should configure their IPPD system such that it is able to lock out commitments beyond the accepted thresholds; and 2) The Auditor General should continue monitoring the issue in subsequent audit cycles.	The Clerk Tana River County Assembly The Auditor General	Within sixty (60) days from the day of adoption of this report.
4	**3.0 Over Employment of Staff in the County Wards Offices** Management of the Assembly engaged one hundred and forty-nine (149) employees for			

	both elected and nominated Members of County Assembly in their respective wards' offices instead of sixty-nine (69) employees as required by the Commission of Revenue Allocation Circular resulting in an irregular expenditure totalling Kshs. 16,312,962 during the year under review.			
5	**4.0 Compensation of Employees in Relation with Total Receipts** The County Assembly incurred an expenditure of Kshs.271,274,548 as compensation of employees. This was 44% of the total revenue of Kshs.614,549,783 and thus exceeded the recommended ratio of 35% stipulated under PMF regulations.	The Committee recommends that the County Assembly takes steps to ensure that they adhere to the provision of paragraph 25(1)(b) of the PFM Act (county government) regulations, 2015 which stipulate that the county wage bill should not exceed 35 percent of the county total revenue.	The Clerk Tana River County Assembly	60 days from the adoption of this report
6	**5.0 Failure to Establish Audit Committee** The Assembly had not established an Audit	The Committee recommends that the county assembly should expedite the establishment of audit committees to enhance oversight over	The Clerk Tana River County Assembly	60 days from the adoption of this report

	Committee contrary to PMF regulations, 2015	public resources and provide a status report to the Auditor General within sixty (60) days from the adoption of this report.		
7	**7.0 Stalled Construction of Speakers' Residence:** During the year under review, the Assembly Management incurred expenditure of Kshs.5,188,028 in respect of the construction of Speaker's residence. However, physical inspection conducted on 12 November, 2021 revealed that works at the site had stalled at the sub structure level as the contractor was not on-site at the time of inspection, nine (9) months past the expected completion	1) The County Assembly establishes a project management and monitoring System to help in proper project conceptualization, planning, execution and timely completion of projects as well as realization of value for money as provided for in the Public Finance Management Act, 2012 and the Public Finance Management (County Government) Regulations, 2015 within 60 Days from the date of adoption of this report; 2) The OAG to keep the matter in view and provide a status update to the Committee in the	The Clerk Tana River County Assembly OAG	60 days from the adoption of this report

		subsequent audit cycle.		
REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE				
8	**1.0 Ineffective Internal Controls on Cash and Bank:** The Assembly prepared its bank reconciliation statements manually instead of using IFMIS. Further, Management did not submit the bank reconciliations to the Office of the Auditor-General as required by PMF Regulation	The County assembly to identify the training needs of its staff serving in the Finance Department and initiate capacity building and training in conjunction with the National Treasury within 60 days of the adoption of this report.	The Clerk Tana River County Assembly	60 days from the adoption of this report

Basis of Qualified Opinion

1.0 Unsupported Mileage Allowance

Included in the compensation of employees' figure of Kshs.271,274,548 is a mileage allowance of Kshs.33,273,337. The expenditure was not supported by the relevant documents including a report from the transport section of the State Department of Public Works to confirm the distance between the Members of the County Assembly (MCAs) home and the Assembly's chambers. it was, therefore, not possible to verify the distance used to pay the mileage allowance. Consequently, the accuracy, completeness, and validity of the expenditure on mileage allowance of Kshs.33,273,337 could not be confirmed.

Management Response

The payment of mileage allowance to MCAs was specifically made to facilitate our members to travel between their homes and the County Assembly office as per Government guidelines. Distances between the MCAs homes and the County Assembly's office were confirmed by the state department of public works. Mileage allowance payments made to our Members of the County Assembly were therefore strictly guided by the report from the transport section of the state department of public works.

Committee Observation

The Committee noted that the matter has since been addressed.

Committee Recommendation

The Committee recommends that the matter be marked as resolved.

2.0 Unsupported Domestic travel and subsistence

The statement of receipts and payments for the year ended 30 June, 2021 reflects the use of goods and services amounting to Kshs.214,148,843 and as disclosed in Note 3 to the financial statements. included in this amount is Kshs.125,302,735 in respect of domestic travel and subsistence allowances. Examination of payment records and other supporting documents revealed that expenditure of Kshs.11,616,500 made to Members of the County Assembly (MCAs) and staff as subsistence allowance while on official duties outside their duty station was not supported with relevant documents such as travel documents, duly approved invitations for the meetings or training. Further, a return to office report was not prepared. ln the circumstances, the accuracy, completeness and validity of domestic travel and subsistence allowance amounting to Kshs.11,616,500 could not be ascertained.

Management Response

Payments of per diem are done to facilitate officers and members of the County Assembly to undertake certain activities within the budget lines.

Within the Assembly, per diems are mostly directed towards issues that enhance the main roles of an assembly being legislation, oversight and representation. The County Assembly encourages its Members of the County Assembly and staff to fully support their per diem as per Government guidelines on the same. The Assembly has largely been successful as MCAs and staff now fully support their domestic travel and subsistence within the County and outside.

Committee Observation

The Committee noted that the matter has since been addressed.

Committee Recommendation

The Committee recommends that the matter be marked as resolved.

3.0 Unsupported Training Expenses

The statement of receipts and payments for the year ended 30 June, 2021 reflects the use of goods and services amounting to Kshs.214,148,843 and as disclosed in Note 3 to the financial statements. included in the use of goods and services figure of Kshs.214,148,843 is Kshs.4,955,804 incurred on training expenses. However, an examination of payment records and other supporting documents revealed that payments amounting to

Kshs.1,985,816 were not supported by training needs assessment report, travel documents and attendance registers. Consequently, the accuracy, completeness and validity of training expenses of Kshs.1,985,816 could not be ascertained.

Management Response

The County Assembly encourages its Members of the County Assembly and staff to undertake various trainings in order to improve their knowledge and skills in various areas that will add value to the County Assembly's operations.

Training expenses are incurred once MCAs and officers are trained by facilitators who could be Government institutions or private consultants.

The Training Need Assessment report is used to determine the courses that each staff will undertake from time to time.

Committee Observation

The Committee noted that the matter has since been addressed.

Committee Recommendation

The Committee recommends that the matter be marked as resolved.

4.0 Unconfirmed Office and general supplies

The statement of receipts and payments for the year ended 30 June, 2021 reflects use of goods and services amount of Kshs.214,148,843 and as disclosed in Note 3 to the financial statements. included in the use of goods and services figure of Kshs.214,148,843 is office and general supplies amount of Kshs.33,053,222 out of which procurement and payment documents to support an expenditure of Kshs.2,575,000 were not provided for audit verification. ln the circumstances, the accuracy, completeness and validity of office and general supplies expenditure of Kshs.2,575,000 could not be confirmed.

Management Response

The County Assembly fully followed the procurement procedure while acquiring all Office and general supplies.

Procurement and Payment documents to support the expenditure of Kshs 2,575,000 are attached in appendix 4 for your perusal and confirmation.

Committee Observation

The Committee noted that the matter has since been addressed.

Committee Recommendation

The Committee recommends that the matter be marked as resolved.

5.0 Irregular and Unsupported Contributions to County Assemblies Forum

The statement of receipts and payments for the year ended 30 June, 2021 reflects use of goods and services amount of Kshs.214,148,843 and as disclosed in Note 3 to the financial statements. included in other operating expenses amount of Kshs.24,191 ,765 is an amount of Kshs.5,000,000 made to the County Assemblies' Forum. However, no documentary evidence was provided for audit to indicate that the payments were received by County Assemblies Forum (CAF). ln addition, Management did not provide the basis for making the expenditure as the County Assembly Forum is not a legally recognized entity. ln the circumstances, the validity of expenditure of the Kshs.5,000,000 could not be confirmed and Management was in breach of law.

Management Response

The County Assemblies Forum (CAF) is a registered Society under the Societies Act Cap 108 of the Laws of Kenya.

The objectives of County Assemblies Forum are;

a) To coordinate the 47 County Assemblies in Kenya through institutionalization of the law-making process in the Countries, representation, and advancement of the Oversight capacities of County Assemblies, the National Government and Stakeholders who include the general public.

Its main objective is to harmonize the County Assemblies operations, capacity development of both members and staff of the County Assemblies.

The Subscriptions paid to the above body is budgeted in the Assemblies budget which is approved by the Boards of respective Assemblies and subsequently approved by the Assemblies in the overall budgets of the Counties as per the County Government Act 2012 section 8 subsection 1 (c). The County Assembly had budgeted for kshs. 6,000,000 to be spent as subscription fees to various bodies, part of that was paid to CAF as subscription for the year. The budget was approved by the County Assembly and the controller of budget.

Committee Observation

The Committee noted that the county assembly made payments to the County Assemblies Forum (CAF) were irregular and unlawful.

Committee Recommendation

The Committee recommends that the irregular payments to the Society of Clerks at the Table (SOCATT) and County Assemblies Forum (CAF) be stopped and further recommends the surcharge of any accounting officer who continues to make the irregular contribution.

Other Matters

1.0 Late Exchequer Releases

During the year under audit review, the County Assembly received an exchequer amount of Kshs.43,452,450 in June, 2021. Due to the late remittances by The National Treasury, the Assembly could not undertake the planned and budgeted programmes on time. The delayed implementation of the budget affected the planned activities and may have impacted negatively on service delivery to the public.

Management Response

None

Committee Observation

The Committee observed that the county assembly did not receive exchequer releases from the National Treasury on time. These challenges hampered budget implementation.

Committee Recommendation

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

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURSE

1.0 Exceeded Number of Assembly Staff

A review of the payroll for the Assembly revealed that there were seventy-seven (77) employees as at 30 June, 2021. This is against the provision of the Commission on Revenue Allocation Circular No.CRA/FA/01 VOL 11 (22) which set the limit of the County Assembly employees to seventy-five (75) and therefore exceeded the required number by two (2) employees. ln the circumstances, Management is in breach of the guidelines.

Management Response

In the financial year 2020-2021, the number of staff was 77 employees. The County Assembly Service Board (CASB) was aware and it was their view that natural attrition was

the best option to limit the staff as per guidelines from Commission on Revenue Allocation Circular No. CRA/FA/O! vol 11 (22).

The County Assembly currently has 75 employees as two have since retired from service in the financial year 2021-2022. This is therefore to state that the County Assembly currently operates within the provision of the Commission on Revenue Allocation. The County Assembly has not hired any new staff since the audit was undertaken.

Committee Observation

The Committee noted that the matter has since been addressed.

Committee Recommendation

The Committee recommends that the matter be marked as resolved.

2.0 Over Commitment of Salary

An analysis of the payrolls for the year ended 30 June, 2021 revealed that seven (7) employees received net salaries of less than a third of their basic salary. This was contrary to the provisions of Section 19(3) of Employment Act, 2007 which states that the total amount of all deductions under the provisions made by an employer from the wages of his employee at any one time shall not exceed two-thirds of such wages. ln the circumstances, Management is in breach of the law.

Management Response

The County Assembly has put in place systems that only allow those whose salaries can service other commitments without breach of provisions of section 19(3) of the Employment Act, 2007 which states that the total amount of all deductions under the provisions made by an employer from the wages of his/her employee at any one time shall not exceed two – thirds of such wages. Currently, the County Assembly is in complaint with Section 19(3) of the Employment Act, 2007.

Committee Observation

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

Committee Recommendations

The Committee therefore recommends that -

1) **The county assembly should configure its IPPD system such that it can lock out commitments beyond the accepted thresholds; and**
2) **The Auditor General should continue monitoring the issue in subsequent audit cycles.**

3.0 Over Employment of Staff in the County Wards Offices

The Management of the Assembly engaged one hundred and forty-nine (149) employees for both elected and nominated Members of County Assembly in their respective wards' offices instead of sixty-nine (69) employees as required by Commission of Revenue Allocation Circular Ref. CRA/CSO/CMG/G/VOL.V I 43 dated August, 2021 . The Assembly, therefore, engaged eighty (80) employees over and above the required number resulting in an irregular expenditure of Kshs.16,312,962 during the year under review in contravention of the law.

Management Response

Politics at the time influenced the over-employment, as the Members of the County Assembly then were adamant that those were the staff they needed to work in their ward offices. Currently, the County Assembly has engaged ward staff and staff for nominated MCAs as per the provisions of the Commission of Revenue Allocation Circular Ref. CRA/CSO/CMG/9/VOL./43 dated August, 2021.

Committee Observation

The Committee noted that the management had engaged one hundred and forty-nine (149) employees instead of sixty-nine (69) employees as required by the Commission of Revenue Allocation Circular.

Committee Recommendations

4.0 Compensation of Employees in Relation with Total Receipts

The County Assembly incurred an expenditure of Kshs.271,274,548 as compensation for employees. This was 44o/o of the total revenue of Kshs.614,549,783 and thus exceeded the recommended ratio of 35% stipulated under Regulation 25(1Xb) of Public Finance Management (County Governments) Regulation, 201 5. Consequently, Management was in breach of the law.

Management Response

The County Assembly exceeded the recommended ratio of 35% stipulated under Regulation 25(1)(b) of the Public Finance Management (County Governments) Regulation,2015 because of the over-employment of staff in the County Wards offices at the time.

As reported earlier the County Assembly with its new term of MCAs has engaged ward staff and staff for Nominated MCAs as per the provisions of Commission of Revenue Allocation Circular Ref CRA/CSO/CMG/VOL./43 dated August, 2021.

The County Assembly's wage bill will gradually come down as more and more staff are retiring and other natural attrition factors take their toll. The amount for Compensation of employees in relation with total Receipts will reduce significantly as ward staff and employees of nominated MCAs as reduced significantly as compared to the financial year 2020-2021.

Committee Observation

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

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

Committee Recommendations

The Committee recommends that the County Assembly takes steps to ensure that they adhere to the provision of paragraph 25(1)(b) of the PFM Act (county government) regulations, 2015 which stipulate that the county wage bill should not exceed 35 percent of the county total revenue.

5.0 Failure to Establish Audit Committee

The Assembly had not established an Audit Committee. This was contrary to Regulation 167(1) of Public Finance Management (County Governments) Regulations,2015 which requires the County Government entities to establish audit committees to monitor the entities' governance processes, accountability processes and control systems, offer objective advice on issues concerning risk control and governance and associated assurance and also follow up on the implementation of the recommendations of internal and external auditors. ln the circumstances, Management was in breach of the law

Management Response

The County Assembly is in the process of establishing an Audit Committee. In a few months the committee shall be in place to undertake its mandate.

Committee Observation

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

Committee Recommendation

The Committee recommends that the county assembly should expedite the establishment of audit committees to enhance oversight over public resources and provide a status report to the Auditor General within sixty (60) days from the adoption of this report.

6.0 Lack of Functional Audit Unit

During the year under review, the Assembly did not have a functional internal audit department. This was contrary to Section 155 of the Public Finance Management Act, 2015 which states that a County Government entity shall ensure that it has appropriate arrangements for conducting internal audit according to the guidelines issued by the Public Sector Accounting Standards Board. ln the absence of an internal Auditor, the internal control system was considered fairly weak. Consequently, Management was in breach of the law.

Management Response

The County Assembly has an Internal Audit section manned by three officers. The Assembly is in the process of constituting an Audit committee to monitor the governance processes, accountability processes and control systems, offer objective advice on issues concerning risk control and governance and associated assurance and also follow up on the implementation of the recommendations of internal and external auditors.

Committee Observation

The Committee noted that the matter has since been addressed.

Committee Recommendation

The Committee recommends that the matter be marked as resolved.

7.0 Stalled Construction of Speakers' Residence

The County Assembly entered into a contract for the Construction of the Speaker's residence at a contract cost of Kshs.28,088,685. During the year under review, the Assembly Management incurred expenditure of Kshs.S,188,028 in respect of the construction of Speaker's residence. Records provided for audit revealed that the contract had a completion period of forty (40) weeks which ended on February,2021. However, physical verifications conducted on 12 November,2021 revealed that works at the site had stalled at the sub structure level as the contractor was not on site at the time of inspection, nine (9) months past the expected completion. ln the circumstances, value for money on the Construction of the Speaker's residence has not been achieved.

Management Response

The contractor moved from the site and the County Assembly is in the process of re-advertising for works of the Speaker's residence.

Committee Observations

The Committee noted that;

1) the assembly had paid out Kshs.5,188,028 so far for the speaker's residence which is 30% complete. The Committee noted that the assembly had terminated the contract with the earlier contractor.
2) The Committee was informed that the assembly had re-advertised for the construction of the Speaker's residence.

Committee Recommendation

The Committee recommends that;

1) **The County Assembly establishes a project management and monitoring System to help in proper project conceptualization, planning, execution and timely completion of projects as well as realization of value for money as provided for in the Public Finance Management Act, 2012 and the Public Finance Management (County Government) Regulations, 2015 within 60 Days from the date of adoption of this report;**
2) **The OAG to keep the matter in view and provide a status update to the Committee in the subsequent audit cycle.**

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

1.0 Ineffective Internal Controls on Cash and Bank

The Assembly prepared its bank reconciliation statements manually instead of using IFMIS. Further, Management did not submit the bank reconciliations to the Office of the Auditor-General as required by Regulation 90 of Public Finance Management (County Governments) Regulations, 2015 which requires that Accounting Officers ensure bank account reconciliations are completed for each bank account held by that Accounting Officer every month and submit a bank reconciliation statement not later than the 1Oth of the subsequent month to the County Treasury with a copy to the Auditor General.

Management Response

The County Assembly prepared its bank reconciliation statements manually because the IFMIS system was not operating effectively as it was expected due to system challenges. The County Assembly is using manual reconciliation for preparation of bank reconciliation statements as preparation through IFMIS has not been operationalized by the National treasury.

Committee observation

The Committee noted that the County Assembly prepared its bank reconciliation statements manually instead of using IFMIS.

Committee recommendation

The County Assembly to identify the training needs of its staff serving in the Finance Department and initiate capacity building and training in conjunction with the National Treasury within 60 days of the adoption of this report.

2.0 Lack of Updated Fixed Assets Register

Annex 2 to the financial statements reflects a summary of fixed assets register balance of Kshs.438,034,081 as at 30 June, 2021 compared to Kshs.339,514,341 as at 30 June, 2020 as the balance for Assembly's non-current assets. The Assembly did not, however, have in place policies and procedures relating to asset management. Noncurrent assets were not physically inspected regularly. ln addition, the Assembly did not maintain a register of land and buildings recording 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, leasehold terms, maintenance contracts and other pertinent management details as required by Regulation 136(2) of the Public Finance Management (County Governments) Regulations, 2015. Further, it was not clear how assets inherited from defunct local authorities were treated in the Assembly's books. This is an indication of poor internal control systems.

Management Response

The County Assembly has an updated fixed asset register which includes assets inherited from defunct local authority. The County Assembly is in the process of undertaking a valuation of its assets. The county Assembly is in the process of putting in place policies and procedures relating to asset management. Currently, non–current assets are physically inspected regularly.

Committee Observation

The Committee noted that the matter has since been addressed.

Committee Recommendation

The Committee recommends that the matter be marked as resolved.

CHAPTER ELEVEN

REPORT OF THE SENATE COUNTY PUBLIC ACCOUNTS COMMITTEE ON THE REPORT OF THE AUDITOR GENERAL ON THE AUDITED FINANCIAL STATEMENTS OF KIRINYAGA COUNTY ASSEMBLY FOR THE FINANCIAL YEARS 2019/2020.

The Speaker for Kirinyaga County Assembly Hon. Muteti Murimi, and the Clerk, Mr. Kamau Aidi appeared before the Senate County Public Accounts Committee on Monday 11th September 2023, to respond to audit queries raised by the Auditor General on the financial statements of Kirinyaga County Assembly for the financial year 2019/2020

Qualified Opinion

EXECUTIVE SUMMARY FOR THE UNRESOLVED AUDIT QUERIES				
S/NO	**Querry**	**Recommendations**	**Actor**	**Timeline**
1.	**1.0 Unconfirmed Balances** **1.1 Variances Between the Financial Statements and Integrated Financial Management Information System (IFMIS) Balances: The** financial statements reflect an aggregate balance of Kshs.570,628,835 in respect to four (4) accounts, whereas Integrated Financial Management System (IFMIS) records reflect Kshs.570,764,950 against the accounts	1) The Institute of Certified Public Accountants of Kenya (ICPAK) undertakes disciplinary procedure (s) under section 32 and 33 of Accountants Act CAP 531 and provide a status update to the Senate within 60 days of adoption of this report. 2) The County Assembly to identify the training needs of its staff serving in the Finance Department and	ICPAK Clerk of the County Assembly	Within sixty (60) days from the day of adoption of this report

		initiate capacity building and training in conjunction with the National Treasury within 60 days of the adoption of this report.		
Other Matter				
2.	**1.0 Budget Control and Performance:** The summary statement of appropriation: recurrent and development combined for the year ended 30 June, 2020 reflects final receipts budget and actual on comparable basis totalling Kshs.690,254,050 and Kshs.570,764,950 respectively, resulting to an under-funding of Kshs.119,489,100 or 17% of the budget. Similarly, the County Assembly spent Kshs.570,650,061 against an approved budget of Kshs.690,254,050	The Committee recommends that The National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate.	The National Treasury	Continuous

	resulting to an under-expenditure of Kshs.120,674,868 or 17% of the budget			
2	**2.0 Inadequate Disclosure on Follow-up of Previous Years Issues** The progress on follow-up of auditor recommendations report in Note 8 - other disclosures - of the financial statements asserts all five issues raised in the report for the prior year had since been resolved, but no documentary evidence was submitted.	The Committee recommends that the County Assembly complies with section 53 of The Public Audit Act, 2015 by taking action on the issues raised by the Auditor General and submits a report to the Auditor General.	The Clerk of the County Assembly	Continuous
REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURSE				
3	**1.0 Personal Allowances and Salaries Payment Outside the Integrated Payroll and Personnel Database (IPPD) System** Payments of personal allowances totalling Kshs.91,169,834 included a sum of Kshs.901,462 paid manually without reference to the Integrated Payroll and	1) The Senate notes that the process of issuance of Personal File Numbers is inefficient in counties and therefore directs the National Government (State Department of Public Service) in conjunction in the Council of Governors (CoG) to prescribe and design	The Clerk of the County Assembly. COG State Department of Public Service OAG	Within 60 days from the adoption of this report

	Personnel Database (IPPD) system. The payments were made to five (5) officers who were recruited during the year under review. In addition, records on advertisements for the vacancies and the processes followed in appointing the officers to the posts were not provided for audit review.	an efficient human resource management system to be used by counties; 2) The County Assembly should ensure that casual workers are engaged in line with the relevant laws and the approved staff establishment and provide a status update to the Auditor General within 60 days of adoption of this report; 3) Pursuant to Article 235 of the Constitution of Kenya, the Committee directs that the Cabinet Secretary (CS), Ministry of Public Service, Youth and Gender Affairs to develop regulations to provide guidance and clarity to county governments on engagement of casual employees, contracted workers, acting positions and		

		a platform for management of county human resources; and 4) the Auditor General to monitor the matter in the subsequent audit cycle.		
4	**6.0 Failure to Observe Ethnic Diversity in Recruitment** Examination of personnel records indicated that the County Assembly had one hundred and thirty (130) employees as at 30 June, 2020 out of whom five (5) staff were recruited during the year under review. However, contrary to Section 65 1(e) of the County Governments Act, 2012, all the new employees were from the dominant ethnic community in the County.	1) The County Assembly should work progressively towards attaining the requirement of the provisions of Section 65(1)(e) of the County Government Act on ethnic inclusivity. 2) The County Assembly and CASB should provide to the Auditor General a five-year strategy of measures it will put in place to ensure compliance is achieved.	The Senate The Clerk of the County Assembly. The CASB.	Continuous

Basis for Qualified Opinion

1.0 Unconfirmed Balances

1.1 Variances Between the Financial Statements and Integrated Financial Management Information System (IFMIS) Balances

The financial statements reflect an aggregate balance of Kshs.570,628,835 in respect to four (4) accounts, whereas Integrated Financial Management System (IFMIS) records reflect Kshs.570,764,950 against the accounts as shown in the table below:

Item	Note	Balance in Financial Statements (Ksh)	Balance in IFMIS Records (Ksh)	Variance (Ksh)
Compensation of Employees	4	242,170,171	257,596,491	15,426,320
Use of Goods and Services	5	292,008,119	276,670,874	15,337,245
Social Security Benefits	9	20,710,829	21,622,842	912,013
Acquisition of Assets	10	15,739,716	14,874,743	864,973
Total		**570,628,835**	**570,764,950**	**136,115**

No explanation has been provided by Management for the variances between the two sets of records.
In the circumstance, the accuracy of the four accounts' balances reflected in the financial statements was not been confirmed.

Management Responses
A copy of the Cash Book that supports the variance was attached for the committee's review and verification.

Committee observations
The Committee noted that the assembly is experiencing capacity issues in its accounts department.

Committee Recommendations
The Committee directed the assembly to continuously engage the National Treasury to build capacity of its officers in the accounts department and provide correspondences with the National Treasury seeking for help in building the capacity of staff.

1.2 Unexplained Variance in Accounts Receivables Comparative Balance
The statement of financial assets and liabilities reflects an accounts receivable brought forward balance amounting to Kshs.5,054,286, as disclosed in Note 14 to the financial statements. However, the certified 2018/2019 financial statements reflected Kshs.488,765

in respect to the account. The increase in the balance by Kshs.4,565,521 from the previous year has not been explained.
As a result, the accuracy of the statement of assets and liabilities has not been confirmed.

Management Responses
The Accounts receivables amounts retained by the county treasury figure in the statement of financial position for FY 2018/19 Kshs.5,054,286 was attached in the prior year's accounts. However, there was a typographical error amounting to Ksh 488,765 which was corrected in the last amended financial statements for 2018/19 financial year. A copy of the draft of amended Note 14 was attached for the committee review and verification.

Committee Observations
The Committee noted that the matter was satisfactorily addressed.

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

1.3 Misstatement of Pending Bills
Note 7.10.1, other important disclosures, reflects a Nil pending bills balance as at 30 June, 2020 and at the beginning of the year on 1 July, 2019; and nil additions or payments in the year. However, the audited financial statements for 2018/2019 financial year reflected pending bills totaling Kshs.5,223,399 as at 30 June, 2019 which sum should have been reflected as the opening balance in the statements for the year under review.
Further, Annex 1- analysis of pending accounts payable - reflects pending bills totalling Kshs.3,602,250.
In addition, in spite of the pending accounts payables balance totalling Kshs.3,602,250 reflected in the financial statements, the vote book status report as at 30 June, 2020 reflects nil outstanding commitments on both the development and recurrent votes. Therefore, the said bills may have been incurred without reference to the approved budget contrary to Regulation 50 (2) of the Public Finance Management (County Governments) Regulations, 2015 which prescribes that expenditure commitments may only be made against allocations in approved budgets.
Further, contrary to the provisions of Section 54(1)(c) of Public Finance Management (County Governments) Regulations, 2015, the Accounting Officer did not submit to the County Treasury, the Controller of Budget and the Auditor-General monthly financial and non-financial reports, including ageing analysis of pending payments outstanding for over ninety days.

In view of the anomalies in the disclosure and presentation of the pending bills balance, the value of the pending bills and accounts payables owed by the County Assembly as at 30 June, 2020 was not confirmed.

Management Responses.

Pending bills were caused by the late exchequer releases from the National Treasury which made it difficult to clear the pending bills before 30th June 2020. The amounts were therefore carried forward to the succeeding financial year.

Committee Observations

The Committee note that that the management failed to provide the auditors with the aging analysis during the time of audit. However, the documents were submitted during the meeting for the auditor's verification, thus addressing the matter satisfactorily.

Committee Recommendations

The committee recommends that the matter be marked as resolved.

Other Matter

1.0 Budget Control and Performance

The summary statement of appropriation: recurrent and development combined for the year ended 30 June, 2020 reflects final receipts budget and actual on comparable basis totalling Kshs.690,254,050 and Kshs.570,764,950 respectively, resulting to an under-funding of Kshs.119,489,100 or 17% of the budget. Similarly, the County Assembly spent Kshs.570,650,061 against an approved budget of Kshs.690,254,050 resulting to an under-expenditure of Kshs.120,674,868 or 17% of the budget. The revenue shortfall appears to have constrained implementation of projects and activities planned for execution during the year.

Management Responses

The management stated that the revenue shortfall was due to low absorption rated to developments- renovation of chambers and offices which has been going on since the las financial year and the County Assembly Headquarters building which delayed due to the case that stopped the construction of the building. The Assembly had no option but to comply by pending the construction. The case has been actively pursued by the County Assembly Service Board, (CASB), and had since been sorted by consent with no orders as to cost.

Committee Observations

The Committee noted that the management experienced late exchequer releases from the county executive.

Committee Recommendations

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

2.0 Inadequate Disclosure on Follow-up of Previous Years Issues

The progress on follow-up of auditor recommendations report in Note 8 - other disclosures - of the financial statements asserts all five issues raised in the report for the prior year had since been resolved.

However, no evidence was cited or provided to confirm the assertion made by Management. In view of the omission, the report does not fulfil the requirements set by the Public Sector Accounting Standards Board (PSASB).

Management Responses

The queries were sorted in the responses letter to the senate that was also attached for the committee review and verification.

Committee Observations

The Committee observed that the County Assembly did not take action on the issues raised in the Report of the Auditor General for the financial year 2018/2019.

Committee Recommendations

The Committee recommends that the County Assembly complies with section 53 of The Public Audit Act, 2015 by taking action on the issues raised by the Auditor General and submits a report to the Auditor General sixty (60) days after the adoption of the report.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURSE

1.0 Personal Allowances and Salaries Payment Outside the Integrated Payroll and Personnel Database (IPPD) System

Examination of personnel records indicated that payments of personal allowances totalling Kshs.91,169,834 included a sum of Kshs.901,462 paid manually without reference to the

Integrated Payroll and Personnel Database (IPPD) system. The payments were made to five (5) officers who were recruited during the year under review. In addition, records on advertisements for the vacancies and the processes followed in appointing the officers to the posts were not provided for audit review.

Management breached the law by making the payments outside of the IPPD which is the system prescribed for payment of salaries for public servants.

In addition, it was not possible to confirm that the officers were recruited in a lawful way

Management Responses

The officers in question were new staff having been picked by the acting Speaker and later others by the substantial Speaker. The process of allocation of payroll numbers takes some time and the officers were paid outside IPPD during the period the assembly was waiting for the allocation of payroll numbers by the Directorate of Public Service Management (DPSM). The recruitment was as per the SRC circular no SRC/TS/CAF/3/61/49(46) dated 13th December 2017 that provided for Staff establishment for the Speaker of the County Assembly as follows; -

1. Personal Assistant
2. Personal Secretary
3. Driver
4. Messenger/Tea Person
5. Cook
6. Gardener

A copy of the SRC circular was attached for the committee review and verification.

Committee Observation

The Committee noted that seven members of staff are still being paid outside IPPD system.

Committee Recommendation

The Committee recommends that the;

1) **The Senate notes that the process of issuance of Personal File Numbers is inefficient in counties and therefore directs the National Government (State Department of Public Service) in conjunction in the Council of Governors (CoG) to prescribe and design an efficient human resource management system to be used by counties;**
2) **The County Assembly should ensure that casual workers are engaged in line with the relevant laws and the approved staff establishment and provide a status update to the Auditor General within 60 days of adoption of this report;**

3) **Pursuant to Article 235 of the Constitution of Kenya, the Committee directs that the Cabinet Secretary (CS), Ministry of Public Service, Youth and Gender Affairs to develop regulations to provide guidance and clarity to county governments on engagement of casual employees, contracted workers, acting positions and a platform for management of county human resources; and**
4) **the Auditor General to monitor the matter in the subsequent audit cycle.**

4.0 Irregular Expenditure on Security Services

Examination of expenditure records on purchase of goods and services indicated that a sum of Kshs.1,268,000 was paid to a private firm for security services provided to the County Assembly. However, the payment was not supported with the contract agreement signed with the firm.

In the circumstance, the validity of the expenditure totalling Kshs.1,268,000 paid to the firm could not be confirmed.

Management Responses

The contract agreement was attached for the committee review and verification.

Committee Observation

The Committee noted that the matter was satisfactorily addressed.

Committee Recommendation

The Committee recommends that the matter be marked as resolved.

5.0 Lack of Approved Staff Establishment

During the year under review, the County Assembly did not have an approved staff establishment for its 130 employees, contrary to Section B 5(2) and Section B 6(3) of the County Public Service Human Resource Manual 2013. The provision requires each County Government entity to maintain optimum staffing levels derived from an authorized establishment and organization structure.

Consequently, it was not possible to confirm whether the staffing and the organization structure of the County Assembly were optimized.

Management Responses

The management stated that it had an approved staff establishment whose copy was submitted to the audit team for verification. The only four staff recruited outside the establishments were the Speakers' personal staff attendants. These were simply replacements for staff which were hired for the former speaker who had resigned, and the

basis for their recruitment is the SRC circular which was attached for the committee review and verification.

Committee Observations

The Committee noted that the matter was satisfactorily addressed.

Committee Recommendations

The Committee recommends that the matter be marked as resolved.

6.0 Failure to Observe Ethnic Diversity in Recruitment

Examination of personnel records indicated that the County Assembly had one hundred and thirty (130) employees as at 30 June, 2020 out of whom five (5) staff were recruited during the year under review. However, contrary to Section 65 1(e) of the County Governments Act, 2012, all the new employees were from the dominant ethnic community in the County. The provision requires at least thirty percent of the vacant posts at entry level to be filled by candidates who are not from the dominant ethnic community in the County.

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

Management Responses

The staff under question were personal staff to the speaker and therefore the speaker had the privilege of recruiting staff he could trust.

Committee Observations

The committee noted that the management is not compliant to the law on ethnic composition of its staff establishment.

Committee Recommendations

The Committee recommends that; -

1) **The County Assembly should work progressively towards attaining the requirement of the provisions of Section 65(1)(e) of County Government Act on ethnic inclusivity.**
2) **The County Assembly and CASB should provide to the Auditor General a five-year strategy of measures it will put in place to ensure compliance is achieved.**

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

1.0 Lack of Information, Communication Technology (ICT) Plans

Review of internal control and risk management system indicated that the County Assembly did not have a Disaster Recovery Plan and documented emergency procedures prescribed in Regulation 158(1)(b) Public Finance Management (County Governments) Regulations, 2015. The provision requires the Accounting Officer in each public entity to develop a system of risk management and internal control that builds robust business operations.

Consequently, continuity of operations and recovery of vital data and information in the system may not be possible should unexpected events occur.

Management Responses

The Assembly uses inbuilt systems controlled by the national treasury (IFMIS) and the ministry of Public Service (IPPD) for personnel expenditure and all payments. The assembly has an ICT policy and a disaster recovery plan in place, and copies of the same were attached for the committee verification.

Committee Observation

The Committee noted that the matter was satisfactorily addressed.

Committee Recommendations

The committee recommended that the matter be marked as resolved.

CHAPTER TWELVE

REPORT OF THE SENATE COUNTY PUBLIC ACCOUNTS COMMITTEE ON THE REPORT OF THE AUDITOR GENERAL ON THE AUDITED FINANCIAL STATEMENTS OF KIRINYAGA COUNTY ASSEMBLY FOR THE FINANCIAL YEARS 2020/2021.

The Speaker for Kirinyaga County Assembly Hon. Muteti Murimi, and the Clerk, Mr. Kamau Aidi appeared before the Senate County Public Accounts Committee on Monday 11th September 2023, to respond to audit queries raised by the Auditor General on the financial statements of Kirinyaga County Assembly for the financial year 2020/2021

Qualified Opinion

EXECUTIVE SUMMARY FOR THE UNRESOLVED AUDIT QUERIES				
S/NO	**Querry**	**Recommendations**	**Actor**	**Timeline**
1	**1.0 Variances Between the Financial Statements and Integrated Financial Management Information System (IFMIS) Balances** The statement of receipts and payments for the year ended 30 June, 2021 reflects total payments of Kshs.838,684,352. However, a comparison with the ledger balances on the Integrated Financial Management System (IFMIS) records reflected total expenditures of Kshs.837,620,221	The Committee recommends that- 1) The Institute of Certified Public Accountants of Kenya (ICPAK) undertakes disciplinary procedure (s) under section 32 and 33 of Accountants Act CAP 531 and provide a status update to the Senate within 60 days of adoption of this report; 2) The Accounting Officer to identify training needs of its staff serving in the Finance Department and initiate capacity building and training in conjunction with the National Treasury within 60 days of adoption of this report.	ICPAK The Clerk of the County Assembly	Within sixty (60) days from the day of adoption of this report

	resulting to an un-explained variance of Kshs.1,064,131.			
2	**Incomplete Fixed Asset Register:** The County Assembly's asset register was not complete and lacked information on assets value, date of acquisition, supplier, type of asset, location and the custodian.	The Committee recommends that the; - 1) County Assembly should expedite the process of updating and presenting their Fixed Assets Register in the format prescribed by the Public Sector Accounting Standards Board before the transition to accrual basis of accounting and provide a status update to the OAG within 60 days of adoption of this report; 2) County Assembly should adopt and implement the report of the Inter-Governmental Technical Relations Committee (IGTRC) on assets and liabilities from defunct Local Authorities and submit a status update to the Office of the Auditor General within 60 days of adoption of this Report; and 3) Office of the Auditor General should progressively review and report on the matter in	The Clerk of the County Assembly	Within sixty (60) days from the day of adoption of this report

		the subsequent Financial Years.		
Other Matters				
3	**1.0 Budgetary Control and Performance: The** statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.1,098,254,050 and Kshs.838,685,823 respectively resulting into unrealized revenue collection amounting to Kshs.259,568,227 or 24% of the budget. Similarly, the County Assembly expended Kshs.838,684,352 against an approved budget of Kshs.1,098,254,050 resulting to under absorption of Kshs.259,569,698	The Committee recommends that The National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate.	The National Treasury	Continuous

	or 24% of the budget			
4	**2.0 Delay in Project Completion** The County Assembly awarded tenders to various contractors for various projects. However, it was observed that some of the projects delayed completion beyond the contract period and without evidence of approved variation of contract timeframe.	The Committee recommends that; 1) The County Assembly establishes a project management and monitoring System to help in proper project conceptualization, planning, execution and timely completion of projects as well as realization of value for money as provided for in the Public Finance Management Act, 2012 and the Public Finance Management (County Government) Regulations, 2015 within 60 Days from the date of adoption of this report; 2) The OAG to keep the matter in view and provide a status update to the Committee in the subsequent audit cycle.	The Clerk of the County Assembly OAG	Within sixty (60) days after the adoption of this report.
5.	**3.0 Long Outstanding Receivables** The statement of financial assets and liabilities and as disclosed under Note 14 to the	The Committee therefore recommends that: 1) pursuant to the provisions of Regulation 41(2) & (3) of the Public Finance Management (County Governments) Regulations, 2015, County Governments	The Clerk of the County Assembly OCOB	Within ninety (90) days from the adoption of this report.

	financial statements reflect account receivables - amount retained by county treasury of Kshs.19,634,029. Included in this amount are account receivables of Kshs.6,057,397 which are long outstanding with some dating back from January, 2017 to June, 2020	prepare and submit to the Controller of Budget, a payment plan, prioritizing payment of pending bills as a first charge on the County Revenue Fund, failure to which the subsequent quarter budget releases will not be done; 2) the Controller of Budget takes into consideration the efforts made by a county assembly to clear inherited pending bills when approving exchequer releases; 3) County assembly shall only pay pending Bills contained in their respective procurement plans pursuant to Regulation 50 (2) & (3) of the Public Finance Management (County Governments) Regulations.		
5.	**4.0 Unresolved Prior Year Matters** In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in	The Committee recommends that the County Assembly complies with section 53 of The Public Audit Act, 2015 by taking action on the issues raised by the Auditor General and submits a report to the Auditor General	The Clerk of the County Assembly	Continuous

	Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, the Management has not resolved the issues or given any explanation for failure to adhere to the provisions of the Public Sector Accounting Standards Board templates and the Treasury's Circular Ref No AG4/16/3/Vol 1(9) dated 24th June 2020.			
REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES.				
6.	**1.0 Failure to Adhere to a Third Rule on Basic salary** Analysis of some sampled staff from the payroll revealed that thirty-six (36) employees were earning less than one third of their basic salaries in different months which amounted to Kshs.749,787. This is	The Committee therefore recommends that: 1) The county assembly should configure their IPPD system such that it is able to lock out commitments beyond the accepted thresholds; and 2) The Auditor General should continue monitoring the issue in subsequent audit cycles.	The Clerk of the County Assembly. The OAG	Immediate

	contrary to Section D.22 (2) of County Public Service Human Resource Manual that requires a public officer to retain a net salary of not less than 1/3 of his basic salary per month.			
7.	**2.0 Failure to Observe Ethnic Diversity in Recruitment** Review of personnel records indicated that the County Assembly had one hundred and three (103) employees as at 30 June, 2021. It was, however, noted that one hundred and two (102) members of staff which translates to 99.02% are from the dominant ethnic community in the County	The Committee recommends that 1) The county assembly should work progressively towards attaining the requirement of the provisions of Section 65(1)(e) of County Government Act on ethnic inclusivity. 2) The County Assembly and CASB should give a work plan on how they will ensure compliance is achieved to the Auditor General.	The Clerk of the County Assembly CASB	Within sixty (60) days from the date of adoption of this report

Basis of Qualified Opinion

1.0 Variances Between the Financial Statements and Integrated Financial Management Information System (IFMIS) Balances

The statement of receipts and payments for the year ended 30 June, 2021 reflects total payments of Kshs.838,684,352. However, a comparison with the ledger balances on the Integrated Financial Management System (IFMIS) records reflected total expenditures of Kshs.837,620,221 resulting to an un-explained variance of Kshs.1,064,131.

In the circumstance, the accuracy of total expenditure of Kshs.838,684,352 for the year ended 30 June, 2021 could not be confirmed.

Management Responses

The management stated that the variance was as a result of system issues which are being resolved by the office team in conjunction with IFMIS team from the National Treasury.

Committee Observations

The Committee noted that the assembly is experiencing capacity issues in its finance department.

Committee Recommendations

The Committee recommends that-

1) **The Institute of Certified Public Accountants of Kenya (ICPAK) undertakes disciplinary procedure (s) under section 32 and 33 of Accountants Act CAP 531 and provide a status update to the Senate within 60 days of adoption of this report;**
2) **The Accounting Officer to identify training needs of its staff serving in the Finance Department and initiate capacity building and training in conjunction with the National Treasury within 60 days of adoption of this report.**

2.0 Unsupported Expenditure on Fuel

The statement of financial performance and as disclosed in Note 5 to the financial statements reflects Kshs.268,832,730 in respect to use of goods and services. Included in this amount is Kshs.2,765,530 relating to fuel, oil and lubricants. However, it was observed that the fuel register did not indicate the fuel quantities procured hence was not possible to match the same with the payment vouchers. In absence of proper fuel records, the accuracy and completeness of fuel, oil and lubricants of Kshs.2,765,530 could not be confirmed.

Management Responses

The management stated that it had reconciled the fuel register indicating the quantities, with the quantities as captured in the work tickets for the financial year 2020/2021.

Committee Observations

The committee noted that the matter was satisfactorily addressed.

Committee Recommendations

The Committee recommends that the matter be marked as resolved.

3.0 Incomplete Fixed Assets Register

Disclosed at Annex 4 to the financial statements is a summary of non-current asset register with a balance of Kshs.350,043,787 as at 30 June, 2021. However, the County Assembly's asset register was not complete and lacked information on assets value, date of acquisition, supplier, type of asset, location and the custodian.

In the circumstance, the completeness and accuracy of the reported non-current assets of Kshs.350,043,787 could not be confirmed.

Management Responses

The management stated that it embarked on updating the asses register and a copy of the final updated asset register was attached for the committee verification.

Committee Observations

The committee observed that the management failed to provide the updated assets register to the auditors during the audit cycle.

Committee Recommendations

The Committee recommends that the; -

1) **County Assembly should expedite the process of updating and presenting their Fixed Assets Register in the format prescribed by the Public Sector Accounting Standards Board before the transition to accrual basis of accounting and provide a status update to the OAG within 60 days of adoption of this report;**
2) **County Assembly should adopt and implement the report of the Inter-Governmental Technical Relations Committee (IGTRC) on assets and liabilities from defunct Local Authorities and submit a status update to the Office of the Auditor General within 60 days of adoption of this Report; and**
3) **Office of the Auditor General should progressively review and report on the matter in the subsequent Financial Years.**

Other Matter

1.0 Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.1,098,254,050 and Kshs.838,685,823 respectively resulting into unrealized revenue collection amounting to Kshs.259,568,227 or 24% of the budget. Similarly, the County Assembly expended Kshs.838,684,352 against an approved budget of Kshs.1,098,254,050 resulting to under absorption of Kshs.259,569,698 or 24% of the budget.

The underfunding and underutilization of approved budget affects the planned activities and may have negatively impacted service delivery to the citizens.

Management Responses

Unrealized revenue was due to the late release of funds from the Nation Treasury that led to the under absorption of funds. The underutilization of funds was due to the late release of funds and delay in procurement processes that led to late implementation of projects.

Committee Observations

The Committee noted that the management experienced late exchequer releases from the county executive.

Committee Recommendations

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

2.0 Delay in Projects Completion

The County Assembly awarded tenders to various contractors for various projects. However, it was observed that some of the projects delayed completion beyond the contract period and without evidence of approved variation of contract timeframe. The delay in project completion beyond stipulated contract period may result in stalled projects, un-achievement of intended objectives and lack of value for money.

Management Responses

The management stated that where the projects had delayed, the contractors had been engaged and written explanations as to the cause of the delay sought. The requests were evaluated by the project manager for appropriate action. Copies of the letters to the contractors were attached to support the aforementioned correspondence.

Committee Observations

The Committee noted that; -

1) the assembly did not have the certificate of completion of the assembly despite claiming that 10 ward offices have been completed.
2) The County Assembly chamber is complete and being utilized by the MCAs.

Committee Recommendations

1) **The County Assembly establishes a project management and monitoring System to help in proper project conceptualization, planning, execution and timely completion of projects as well as realization of value for money as provided for in the Public Finance Management Act, 2012 and the Public Finance Management (County Government) Regulations, 2015 within 60 Days from the date of adoption of this report;**
2) **The OAG to keep the matter in view and provide a status update to the Committee in the subsequent audit cycle.**

3.0 Long Outstanding Receivables

The statement of financial assets and liabilities and as disclosed under Note 14 to the financial statements reflect account receivables - amount retained by county treasury of Kshs.19,634,029. Included in this amount are account receivables of Kshs.6,057,397 which are long outstanding with some dating back from January, 2017 to June, 2020. The realization of these long outstanding receivables is doubtful and the non-recovery may significantly affect effective service delivery.

Management Responses

The management stated that the issue was due to contractors having not finished the construction works as per the contract agreement, which has now been sorted.

Committee Observations

The committee noted that the documents submitted by the management to support the payment were not authenticated and thus not admissible.

Committee Recommendations

The committee recommends that; -

The Committee therefore recommends that:

1) **pursuant to the provisions of Regulation 41(2) & (3) of the Public Finance Management (County Governments) Regulations, 2015, County Governments prepare and submit to the Controller of Budget, a payment plan, prioritizing payment of pending bills as a first charge on the County Revenue Fund, failure to which the subsequent quarter budget releases will not be done;**
2) **the Controller of Budget takes into consideration the efforts made by a county assembly to clear inherited pending bills when approving exchequer releases;**

3) **County assembly shall only pay pending Bills contained in their respective procurement plans pursuant to Regulation 50 (2) & (3) of the Public Finance Management (County Governments) Regulations.**

4.0 Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, the Management has not resolved the issues or given any explanation for failure to adhere to the provisions of the Public Sector Accounting Standards Board templates and the Treasury's Circular Ref No AG4/16/3/Vol 1(9) dated 24th June 2020.

Management Responses

The management stated it had worked on the issues and attached copies to support the same.

Committee Observation

The Committee observed that the County Assembly did not take action on the issues raised in the Report of the Auditor General for the financial year 2019/2020.

Committee Recommendation

The Committee recommends that the County Assembly comply with section 53 of The Public Audit Act, 2015 by taking action on the issues raised by the Auditor General and submits a report to the Auditor General sixty (60) days after the adoption of the report.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1.0 Failure to Adhere to a Third Rule on Basic salary

Analysis of some sampled staff from the payroll revealed that thirty-six (36) employees were earning less than one third of their basic salaries in different months which amounted to Kshs.749,787. This is contrary to Section D.22 (2) of County Public Service Human Resource Manual that requires a public officer to retain a net salary of not less than 1/3 of his basic salary per month. It also contravenes Section 19(3) of the Employment Act, 2007which requires that the total amount of all deductions made by an employer from the wages of his employee at any one time shall not exceed two thirds of such wages.

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

Management Responses

The 1/3/ rule was well noted for appropriate action. The analysed list captured most of the affected staff more than two times depending on the month they have overshot the 1/3 rule ceiling.

This leaves only 6 officers who are not complying with the 1/3 rule ceiling. All the six are on assembly mortgage or car loan and the IPPD system is c configured in a way that it deducts beyond the 1/3. The officers have taken advantage of the system allowing to shorten thei8r loan repayment period i.e., clearing the same earlier to fit in with their retirement dates. SRC circular allows officers to continue paying for these loans including after their retirement dates

Committee Observations

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

Committee Recommendation

The Committee recommends that; -

1) **The county should configure its IPPD system such that it can lock out commitments beyond the accepted thresholds.**
2) **The Auditor General should continue monitoring the issue in the subsequent audit cycle.**

2.0 Failure to Observe Ethnic Diversity in Recruitment

As reported previously, review of personnel records indicated that the County Assembly had one hundred and three (103) employees as at 30 June, 2021. It was, however, noted that one hundred and two (102) members of staff which translates to 99.02% are from the dominant ethnic community in the County.

This contravenes the provisions of Section 65(e) of the County Government Act, 2012 which requires County Governments to ensure that at least thirty (30) percent of the vacant posts at entry level are filled by candidates who are not from the dominant ethnic community in the county.

In the circumstances, Management was in breach of the law

Management Responses

The 103 employees mentioned above are categorized as follows:

i) 33 members of the County Assembly
ii) Two external members of the County Assembly Service Board (CASB)
iii) One speaker of the county assembly
iv) 3 speaker's personal staff
v) 64 members of staff employed by the County Assembly Service Board

The first 4 categories being political positions must be occupied by persons from Kirinyaga Out of the 64 members of staff who are employees of CASB, two are not from the predominant tribe, one having being employed in June 2021 as a result of an affirmative action taken by the CASB towards complying with the National Cohesion and Integration Act 2008 and County Government Act, 2012. This is a conscious decision by the Board bringing the percentage of those not from predominant tribe to 3, a step the Board intends to take until its compliance. The process has been slow considering that this must be balanced with hiring staff who possess the desired qualifications and who attain a pass mark during interview.

The management places all its adverts for vacant positions in the media and on their website open for all, but sometimes applications form other tribes are not submitted.

Committee Observation

The Committee observed that there was no ethnic diversity among the County Assembly employees.

Committee Recommendation

The Committee recommends that-

1) **The county assembly should work progressively towards attaining the requirement of the provisions of Section 65(1)(e) of County Government Act on ethnic inclusivity.**
2) **The County Assembly and CASB should give a work plan on how they will ensure compliance is achieved to the Auditor General within sixty days of adoption of this report.**

2.0 Non-submission of the County Assembly Service Board Financial Statements

The County Assembly Management did not submit the financial statements of the County Assembly Service Board for the year ended 30 June, 2021 to the Auditor-General with copies to the County Treasury, Controller of Budget and Commission on Revenue Allocation. Further, the Management did not publish and publicize the financial statements as required by Section 32 of the County Assembly Services Act, 2017.

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

Management Responses

The County Assembly budget and financial statements belong to County Assembly Service Board, and therefore the Assembly can't prepare a separate financial statement for the board.

Committee Observations

The Committee observed that the matter was satisfactorily addressed.

Committee Recommendations

The Committee recommends that that matter be marked as resolved.

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

1.0 Lack of Risk Management Policy

The County Assembly of Kirinyaga did not have a risk management policy in place to guide the management on risk assessment and formulation of risk mitigation strategies. This is contrary to Section 158(1)(a) and (b) of the Public Finance Management Act (County Governments) Regulations, 2015 which requires the Accounting Officer to develop risk management strategies which include fraud prevention mechanism and internal control that builds robust business operations.

In the absence of a risk management policy, the County Assembly may not have a broad spectrum of its business risks and their impact on achievement of strategic goals resulting in ineffective strategic and operational planning.

Management Responses

A copy of the Risk management Policy was attached for the committee's review and verification.

Committee Observation

The committee noted that the matter was satisfactorily addressed.

Committee Recommendation

The Committee recommends that the matter be marked as resolved.

2.0 Lack of a Disaster Recovery Plan/Business Continuity Plan

The County Assembly of Kirinyaga lacks a disaster recovery plan/business continuity plan

contrary to Section 99 of the PFM Act, 2012 which stipulates the role of a disaster recovery plan is to secure the County Government's ability to meet its obligations to provide basic services or its financial commitments, identify the financial problems and be designed to place the county government in a sound and sustainable financial condition as quickly as possible to avoid the risk of data loss.

Without a disaster recovery plan, the County Assembly may not quickly recover in the event of a disaster that leads to system failure.

Management Responses

The management stated that it uses an inbuild control system controlled by the National Treasury (IFMIS) and the Ministry of Public Service (IPPD) for all expenditure. All data is well backed by the respective departments. However, the management has an ICT Policy, privacy and data security.

Committee Observation

The committee noted that the matter was addressed satisfactorily

Committee Recommendation

The Committee recommends that the matter be marked as resolved.

CHAPTER THIRTEEN

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

The Speaker of Nyeri County Assembly, Hon. James Gichuhi, and the Clerk Mr. Jenard Muigeh appeared before the Committee on Monday 30th October 2023 to respond (under oath) to audit queries raised in the Report of the Auditor General on Financial Statements for Nyeri County Assembly for the Financial Year 2019/2020.

Qualified Opinion

EXECUTIVE SUMMARY OF NON-RESOLVED ISSUES				
S/NO	**QUERY**	**RECOMMENDATIONS**	**ACTORS**	**TIMELINE**
1	**1.0 Inaccuracy of the Financial Statements** **1.1 Balances Reflected in IFMIS Trial Balance but Omitted in the Financial Statements:** Some balances reflected in the IFMIS trial balance could not be traced in the financial statements for the year ended 30 June, 2020 Information System (IFMIS) Balances	The Committee recommends that; 1) The Accounting Officer undertakes administrative action against the responsible officer(s) for failure to undertake reconciliation of financial statements within the stipulated timelines and submit a report to the Committee within 60 days of adoption of this report; 2) The Institute of Certified Public Accountants of Kenya (ICPAK) undertakes	The Clerk Nyeri County Assembly ICPAK	60 days from the date of adoption of this report

		disciplinary procedure (s) under section 32 and 33 of Accountants Act CAP 531 and provide a status update to the Senate within 60 days of adoption of this report. 3) The Accounting Officer to identify training needs of its staff serving in the Finance Department and initiate capacity building and training in conjunction with the National Treasury within 60 days of adoption of this report.		
	1.2 Variances Between the Financial Statements and Integrated Financial Management	The Committee recommends that the Institute of Certified Public Accountants of Kenya (ICPAK) undertakes disciplinary procedure (s) under section 32 and 33 of Accountants Act CAP 531 and provide a status update to the Senate within 60 days of adoption of this report	ICPAK	Within sixty (60) days from the date of adoption of this report

2	**2.0 Unconfirmed Wage Payments to Temporary Employees:** Manual payment vouchers were used to pay the wages instead of paying through the Integrated Payroll and Personal Data (IPPD) System. Further, muster rolls and the attendance register were not provided to confirm authenticity of the payments.	1) The Senate notes that the process of issuance of Personal File Numbers is inefficient in counties and therefore directs the National Government (State Department of Public Service) in conjunction in the Council of Governors (CoG) to prescribe and design an efficient human resource management system to be used by counties; 2) The County Assembly should ensure that casual workers are engaged in line with the relevant laws and the approved staff establishment and provide a status update to the Auditor General within 60 days of adoption of this report;	COG State Department of Public Service The Clerk of the County Assembly	Within sixty (60) days from the date of adoption of this report

		3) Pursuant to Article 235 of the Constitution of Kenya, the Committee directs that the Cabinet Secretary (CS), Ministry of Public Service, Youth and Gender Affairs to develop regulations to provide guidance and clarity to county governments on engagement of casual employees, contracted workers, acting positions and a platform for management of county human resources; and 4) the Auditor General to monitor the matter in the subsequent audit cycle.		
3	**5. Pending Bills:** The financial statements reflect pending bills amounting to Kshs.3,025,164 which were outstanding as at 30 June, 2020.	1) Clerk of Nyeri County Assembly undertakes administrative actions against the responsible officers who failed to provide the documents to the auditors at the time of audit in	The Clerk of the County Assembly	Within ninety (90) days from the date of adoption of this report

	However, the creditors' ageing analysis was not provided for audit verification. Further, procurements records on legal consultancy and related fees amounting to Kshs.1,398,660 were not provided. In addition, supporting documents for an amount of Kshs.330,000 owed to the Kenya Industrial Estate (KIE) were not provided for audit review. Management has not provided an explanation for non- payment of the pending bills.	accordance with section 156 of the public finance management act, 2012 and provides a status report to the Auditor General sixty days from the adoption of this report. 2) pursuant to the provisions of Regulation 41(2) & (3) of the Public Finance Management (County Governments) Regulations, 2015, County Governments prepare and submit to the Controller of Budget, a payment plan, prioritizing payment of pending bills as a first charge on the County Revenue Fund, failure to which the subsequent quarter budget releases will not be done; 3) the Controller of Budget takes into consideration the efforts made by a county assembly to		

		clear inherited pending bills when approving exchequer releases; and 4) County assembly shall only pay pending Bills contained in their respective procurement plans pursuant to Regulation 50 (2) & (3) of the Public Finance Management (County Governments) Regulations.		
REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES				
4	**1.0 Subscription Fees to County Assembly Forum and Society of Clerks at the Table:** an amount of Kshs.5,300,000 and Kshs.500,000 was paid to CAF as subscription fees	That the irregular payments to County Assemblies Forum (CAF) be stopped and further recommends the surcharge of any accounting officer who continues to make the irregular contribution.	The Clerk of Nyeri County Assembly	Immediate
5	**3.0 Non-Compliance with Regional Diversity:**94.8% out of thirty-nine employees	1) The County Assembly should work progressively towards attaining the requirements of the provisions of	The Clerk of the County Assembly	Within sixty(60) days from the day of the adoption of this report

	recruited by the County Assembly Service Board were from the dominant ethnic community in the County.	the County Government Act, 2012 and the National Cohesion and Integration Act (2008) on ethnic inclusivity. 2) The County Assembly Service Board (CASB) should provide to the Auditor General a five-year strategy of measures it will put in place to ensure compliance is achieved within sixty (60) days of the adoption of this report		

Basis for Qualified Opinion

1.0 Inaccuracy of the Financial Statements

1.1 Balances Reflected in IFMIS Trial Balance but Omitted in the Financial Statements

The following balances reflected in the IFMIS trial balance could not be traced in the financial statements for the year ended 30 June, 2020.

Account Number and Description	Debit (Kshs.)	Credit (Kshs.)
6530100 Recurrent Bank Accounts		479,948,191
6540100 Development Bank Accounts		22,802,165
6580100 Cash in Hand	2,937,891,182	
6740100 Other Debtors and Pre-payments		1,326,444
6760100 Imprests	10,535,700	

6780100 Suspense & Clearance Account		1,459,621
7320000 Other Liabilities	390,246	553,753
7320100 Salary Deductions	108,155,642	9,797,860
7320200 Other General Liabilities		543,845
7380100		448,618
7390100 System Required Liabilities		22,142,959
7399900		2,942,257,161

Consequently, the accuracy and completeness of the financial statements for the year ended 30 June, 2020 could not be fully confirmed.

Management Response

Management stated that the variances arose as a result of IFMIS errors which had arisen over time and that the assembly was unable to clear the errors. However, the assembly was in regular communication with the National treasury IFMIS department to address this issue.

Committee Observation

The Committee noted that six (6) accounts differ from those reflected in the Integrated Financial Management System (IFMIS) records.

Committee Recommendation

The Committee recommends that-

1) **The Accounting Officer undertakes administrative action against the responsible officer(s) for failure to undertake reconciliation of financial statements within the stipulated timelines and submit a report to the Committee within 60 days of adoption of this report;**
2) **The Institute of Certified Public Accountants of Kenya (ICPAK) undertakes disciplinary procedure (s) under section 32 and 33 of Accountants Act CAP 531 and provide a status update to the Senate within 60 days of adoption of this report.**
3) **The Accounting Officer to identify training needs of its staff serving in the Finance Department and initiate capacity building and training in conjunction with the National Treasury within 60 days of adoption of this report.**

1.2 Variances Between the Financial Statements and Integrated Financial Management Information System (IFMIS) Balances

The financial statements balance in respect to six (6) accounts differs from those reflected in the Integrated Financial Management System (IFMIS) records against the accounts as shown below:

Item	Balance in Financial Statements (Kshs.)	Balance in IFMIS Records (Kshs.)	Variance (Kshs.)
Government Imprests	0	10,535,700	(10,535,700)
Cash Balance	0	2,937,891,182	(2,937,891,182)
CBK Deposit Account	677,828	0	677,828
CBK Recurrent Account	175	(479,948,191)	479,948,366
CBK Development Account	1	(22,802,165)	22,802,166
Other Debtors and Prepayments	0	(1,326,444)	1,326,444

No explanation has been provided by Management for the variances between the two sets of records.

In the circumstance, the accuracy of the six (6) accounts' balances reflected in the financial statements was not been confirmed.

Management Response

Management stated that the variances arose as a result of IFMIS errors which had arisen over time and that the assembly was unable to clear the errors. However, the assembly was in regular communication with the National treasury IFMIS department to address this issue.

Committee Observation

The Committee noted that six (6) accounts differ from those reflected in the Integrated Financial Management System (IFMIS) records.

Committee Recommendation

The Committee recommends that the Institute of Certified Public Accountants of Kenya (ICPAK) undertakes disciplinary procedure (s) under section 32 and 33 of Accountants Act CAP 531 and provide a status update to the Senate within 60 days of adoption of this report.

1.3 Other Observations

The trial balance reflects a balance of Kshs.1,459,621 under suspense and clearance account, the nature of which has not been explained.

The trial balance does not show the descriptions of account code 7399900 and account code 7380100 with balances of Kshs.2,942,257,161 and Kshs.448,618 respectively.

The trial balance reflects a balance of Kshs.22,142,959 under system required liabilities. However, the code item is not in the chart of accounts and it is therefore, not clear what the item represents.

Management Response

Management stated that the variances arose as a result of IFMIS errors which had arisen over time and that the assembly was unable to clear the errors. However, the assembly was in regular communication with the National treasury IFMIS department to address this issue.

Committee Observation

The Committee noted that six (6) accounts differ from those reflected in the Integrated Financial Management System (IFMIS) records.

Committee Recommendation

The Committee recommends that the Institute of Certified Public Accountants of Kenya (ICPAK) undertakes disciplinary procedure (s) under section 32 and 33 of Accountants Act CAP 531 and provide a status update to the Senate within 60 days of adoption of this report.

2.0 Unconfirmed Wage Payments to Temporary Employees

The statement of receipts and payments reflects an expenditure of Kshs.210,664,265 under compensation of employees which, as disclosed in Note 4 to the financial statements, includes an amount of Kshs.30,547,795 incurred on basic wages for temporary employees in the ward offices. However, and as previously reported, manual payment vouchers were used to pay the wages instead of paying through the Integrated Payroll and Personal Data (IPPD) System. Further, muster rolls and the attendance register were not provided to confirm authenticity of the payments.

Under the circumstances, the accuracy, occurrence and validity of the expenditure of Kshs.30,547,795 incurred temporary employees' wages could not be confirmed.

Management Response

The County Assembly of Nyeri paid the said amount to the partisan staff of honorable members. These employees were engaged in the wards by the members to run the ward offices. These partisan staff wards and their duties were regulated by the Hon. members.

Committee Observation

The Committee noted that manual payment vouchers were used to pay the wages instead of paying through the Integrated Payroll and Personal Data (IPPD) System.

Committee Recommendation

The Committee recommends that;

1) **The Senate notes that the process of issuance of Personal File Numbers is inefficient in counties and therefore directs the National Government (State Department of Public Service) in conjunction in the Council of Governors (CoG) to prescribe and design an efficient human resource management system to be used by counties;**
2) **The County Assembly should ensure that casual workers are engaged in line with the relevant laws and the approved staff establishment and provide a status update to the Auditor General within 60 days of adoption of this report;**
3) **Pursuant to Article 235 of the Constitution of Kenya, the Committee directs that the Cabinet Secretary (CS), Ministry of Public Service, Youth and Gender Affairs to develop regulations to provide guidance and clarity to county governments on engagement of casual employees, contracted workers, acting positions and a platform for management of county human resources; and**
4) **the Auditor General to monitor the matter in the subsequent audit cycle.**

3.0Unsupported Expenditure on Public Relations and Stakeholder Management Training

The statement of receipts and payments reflects an expenditure of Kshs.343,213,821 under use of goods and services which, as disclosed in Note 5 to the financial statements, includes an amount of Kshs.29,976,017 relating to training expenses. The latter balance includes an expenditure of Kshs.920,000 for training on public relations and stakeholder management programmes of eight participants from 20 to 24 January 2020 in Arusha Tanzania. However, the annual training program, training needs assessment and nature of duties assigned to the staff who attended the training were not provided for audit review. Under the circumstances, it was not possible to confirm whether the training program was relevant

to the staff in performance of their duties.

Management Response

The County assembly through the resolutions of the county assembly service board and also with the advisory of human resource manuals, recommend staff to at least attend a five (5) days training in a year. Currently the assembly has in place a well elaborate training need assessment that guide on the courses or seminars to be attended by members of staff.

Committee Observation

The committee noted that the matter was satisfactorily addressed.

Committee Recommendation

The Committee recommends that the matter be marked as resolved.

4.0 Expenditure on Repair of a Motor Vehicle not Supported by Inspection Report

The expenditure of Kshs.343,213,821 under use of goods and services also include an amount of Kshs.1,908,707 in respect of routine maintenance for vehicles and other transport equipment. The latter balance includes an amount of Kshs.985,232 paid to a dealer for the repairs and maintenance of motor vehicle KBJ 783U, being the cost of replacement of the vehicle engine.

The dealer was issued with an LPO No. 2009 on 4 June, 2020 for the repairs. However, no inspection report from the Chief Mechanical Engineer was provided to ascertain the defects on the vehicle making it difficult to justify the expenditure incurred.

Management Response

The County assembly service board, through resolution, agreed to undertake the repair of the said vehicle due to challenges that were being experienced in ferrying members and staff while attending public forums.

Committee Observation

The committee noted that the matter was satisfactorily addressed.

Committee Recommendation

The Committee recommends that the matter be marked as resolved.

5. Pending Bills

The financial statements reflect pending bills amounting to Kshs.3,025,164 which were outstanding as at 30 June, 2020. However, the creditor's ageing analysis was not provided for audit verification. Further, procurements records on legal consultancy and related fees

amounting to Kshs.1,398,660 were not provided. In addition, supporting documents for an amount of Kshs.330,000 owed to the Kenya Industrial Estate (KIE) were not provided for audit review. Management has not provided an explanation for non- payment of the pending bills.

Further, the analysis of pending bills did not include the original amount, amount paid to date and amount outstanding from the previous year as required in the reporting template prescribed by the Public Sector Accounting Standards Board (PSASB).

Management Response

Management stated;

i) The County assembly has always endeavored to pay its suppliers in time, but due to unpredictable release of exchequers, the issues of pending bills keep recurring.

ii) The county assembly of Nyeri has always maintained a manual creditors ledger where invoices are posted when received.

iii) Pending bills indicated were all cleared in the succeeding financial year.

Committee Observations

The Committee noted that documents for an amount of Kshs.330,000 owed to the Kenya Industrial Estate (KIE) were not provided for audit review.

Committee Recommendations

The Committee recommends that the;

1) **Clerk of Nyeri County Assembly undertakes administrative actions against the responsible officers who failed to provide the documents to the auditors at the time of audit in accordance with section 156 of the public finance management act, 2012 and provides a status report to the Auditor General sixty days from the adoption of this report.**
2) **pursuant to the provisions of Regulation 41(2) & (3) of the Public Finance Management (County Governments) Regulations, 2015, County Governments prepare and submit to the Controller of Budget, a payment plan, prioritizing payment of pending bills as a first charge on the County Revenue Fund, failure to which the subsequent quarter budget releases will not be done;**
3) **the Controller of Budget takes into consideration the efforts made by a county assembly to clear inherited pending bills when approving exchequer releases; and**

4) **County assembly shall only pay pending Bills contained in their respective procurement plans pursuant to Regulation 50 (2) & (3) of the Public Finance Management (County Governments) Regulations.**

Other Matter

1.0 Unresolved Prior Year Matters

Various prior year audit issues remained unresolved as at 30 June, 2020. Management has not provided reasons for the delay in resolving the prior year audit issues.

Management Response

No response

Committee Observations

Committee Recommendations

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

1.0 Subscription Fees to County Assembly Forum and Society of Clerks at the Table

The statement of receipts and payments reflects an expenditure of Kshs.343,213,821 under use of goods and services which, as disclosed in Note 5 to the financial statements, includes an amount of Kshs.36,138,419 in respect of other operating expenses which in turn includes amounts of Kshs.5,300,000 and Kshs.500,000 relating to subscription fees

Management Response

County Assembly Forum is body comprising of speakers of the county assemblies and members of the county assemblies which its primary mandate, is to promote networking and synergy among the 47 county assemblies, coordinate intergovernmental and enhance good practice in legislative development.

Committee Observation

The Committee noted that payments made to the County Assemblies Forum (CAF) were irregular and unlawful without legal framework to guide CAF operation.

Committee Recommendation

The Committee recommends that **the irregular payments to County Assemblies Forum (CAF) be stopped and further recommends the surcharge of any accounting officer who continues to make the irregular contribution.**

2.0 Wasteful Expenditure Due to Late Remittance of Statutory Deductions

The statement of receipts and payments reflects an expenditure of Kshs.343,213,821 under use of goods and services which, as disclosed in Note 5 to the financial statements, includes an amount of Kshs.36,138,419 in respect of other operating expenses. The latter balance includes an amount of Kshs.564,629 paid to LAPFUND on 18 September, 2019, being outstanding interest for late remittances of pension and gratuity over the years dating back to 2015. The penalties would have been avoided had the Management paid the statutory deductions within the set timelines.

Management Response

This was due to delay in release exchequer issues hence delay in payment of salaries.

Committee Observation

The committee noted that the matter was satisfactorily addressed.

Committee Recommendation

The Committee recommends that the matter be marked as resolved.

3.0 Non-Compliance with Regional Diversity

Examination of human resource records revealed that the County Assembly had fifty (50) permanent employees comprising eleven (11) inherited staff at the inception of devolution and thirty-nine (39) staff recruited by the County Assembly Service Board. However, thirty-seven or 94.8% out of thirty-nine employees recruited by the County Assembly Service Board were from the dominant ethnic community in the County. This is contrary to Section7(2) of the National Cohesion and Integration Act, 2008 and Section 65(e) of the County Governments Act, 2012 which requires the County Governments to ensure that at least thirty percent of the vacant posts at entry level are filled by candidates who are not from the dominant ethnic community in the county.

Management was therefore in breach of law.

Management Response

The Assembly is an equal opportunity employer and all appointments are considered on merit irrespective of ethnicity. However, during the transition period, most employees were absorbed from the defunct local authorities.

Committee Observation

The Committee observed that's

1) there was lack of ethnic diversity among the County Assembly employees;
2) Due to the homogeneous ethnographic population in most counties, it may not be feasible for them to attain the threshold provided under Section 7(2) of the National

Cohesion and Integration Act, 2008 which states that no public establishment shall have more than one third of the staff from the same ethnic community.

Committee Recommendation

The Committee recommends that-

1) **The County Assembly should work progressively towards attaining the requirement of the provisions of Section 65(1)(e) of County Government Act on ethnic inclusivity; and**
2) **The County Assembly and CASB should provide to the Auditor General a five-year strategy of measures it will put in place to ensure compliance is achieved within sixty (60) days of the adoption of this report.**

4.0 Delayed Completion of Projects

As previously reported, the Management awarded two contracts valued at Kshs.10,672,231 in July, 2016 for construction of a gate at the County Assembly and refurbishment of a hotel for use by the County Assembly at contract sums of Kshs.3,818,905 and Kshs.6,853,326, respectively. The works were to be completed in February and August, 2017, respectively. However, the respective contracts lapsed before the works were completed.

All payments due had been made to the contractors and the works were almost complete as outlined below:

By	Contract Sum (Kshs.)	Commencement Date	Expected Completion Date	Proportion of Works Completed	Proportion of Contract Sum Paid
Renovation and Refurbishment of Unity Hotel	6,853,326	03 September, 2016	02 August, 2017	98%	100%
Nyeri Assembly Gate	3,818,905	06 September, 2016	02 February, 2017	90%	100%

Total	**10,672,231**				

The contractors were, however, not on site and no explanation was provided for failure to complete the projects more than three (3) years after their contractual completion dates. As a result of the delay, and in spite of funds totalling Kshs.10,672,231 invested in the projects, the benefits which were expected to accrue to the County Assembly have not been realized.

Management Response

The delay in completion of the projects arose as a result of withdrawal of technical officers from the county public works by the executive. The officers were responsible for supervising the construction of two projects.

Committee Observation

The committee noted that the matter was satisfactorily addressed.

Committee Recommendation

The Committee recommends that the matter be marked as resolved.

MINUTES OF THE 97TH MEETING OF THE COUNTY PUBLIC ACCOUNTS COMMITTEE TO CONSIDER VARIOUS DRAFT REPORTS FOR VARIOUS COUNTY ENTITIES FOR FINANCIAL YEARS 2019/2020 AND 2020/2021 HELD ON WEDNESDAY, 4TH DECEMBER, 2024 VIA ZOOM FROM 8:00 A.M.

PRESENT

1. **Sen. Kajwang' Moses Otieno, CBS, MP - Chairperson**
2. Sen. Adan Dullo Fatuma, CBS, MP - Member
3. Sen. Onyonka Richard Momoima, MP - Member
4. Sen. Okoiti Andrew Omtatah, MP - Member
5. Sen. Omar Mariam Sheikh, MP - Member

ABSENT WITH APOLOGY

6. **Sen. Cherarkey Samson Kiprotich, MP - Vice-Chairperson**
7. Sen. Methu John Muhia, MP - Member
8. Sen. Sifuna Edwine Watenya, MP - Member
9. Sen. Mwenda Gataya Mo Fire, MP - Member

OFFICE OF THE AUDITOR GENERAL (OAG)

Mr. Patrick Muriuki - Parliamentary Liaison Officer

CONTROLLER OF BUDGET

Ms. Nancy Kendi - Parliamentary Officer

SENATE SECRETARIAT

1. Mr. George Otieno - Principal Clerk Assistant
2. Mr. Crispus Tima - Clerk Assistant I
3. Mr. Boniface Kiambi - Clerk Assistant I
4. Mr. Kevin Kibet - Clerk Assistant II
5. Mr. Mitchell Otoro - Legal Counsel II
6. Mr. Osman Hire - Research Officer III
7. Mr. William Zenton - Audio Officer

MIN/SEN/CPAC/575/2024 **PRELIMINARIES AND PRAYERS**

The Chairperson called the meeting to order at 9:36 a.m. followed by a word of prayer.

MIN/SEN/CPAC/576/2024 **ADOPTION OF AGENDA**

The agenda of the meeting was adopted having been proposed by Sen. Okoiti Andrew Omtatah, MP and seconded by Sen. Omar Mariam Sheikh, MP as follows;

1. Preliminaries
    a. Prayer
2. Adoption of Agenda
3. **Confirmation of Previous minutes, Consideration and Adoption of the following Reports of the Committee:**

County Executives

a) Mombasa county executive	**2019/2020**
b) Nakuru county executive	**2019/2020**
c) Nairobi county executive	**2017/2018, 2018/2019 & 2019/2020**
d) Nyeri county executive	**2020/2021**
e) Kwale county executive	**2020/2021 & 2021/2022**
f) Bomet county executive	**2020/2021**
g) Machakos county executive	**2021/2022**
h) Kisii county executive	**2020/2021**
i) Turkana county executive	**2020/2021**
j) Trans nzoia county executive	**2020/2021**
k) Nyandarua county executive	**2020/2021**

County Assemblies

a) Machakos county assembly	**2019/2020 & 2020/2021**
b) Turkana county assembly	**2019/2020 & 2020/2021**
c) Kisii county assembly	**2020/2021 & 2021/2022**
d) Nyeri county assembly	**2020/2021**
e) Uasin Gishu county assembly	**2019/2020 & 2020/2021**
f) Tana River county assembly	**2020/2021**
g) Kirinyaga county assembly	**2019/2020 & 2020/2021**
h) Nyeri county assembly	**2019/2020**

4. Any Other Business
5. Date of the Next Meeting and Adjournment

MIN/SEN/CPAC/578/2024 **CONFIRMATION OF PREVIOUS MINUTES, CONSIDERATION AND ADOPTION OF REPORTS**

County Executive Minutes

The Committee confirmed the following previous minutes:

1. Minutes of the 15th Sitting held on Tuesday, 21st February, 2023 having been proposed by Sen. Okoiti Andrew Omtatah, MP seconded Sen. Omar Mariam Sheikh, MP;
2. Minutes of the 54th Sitting held on Monday, 3rd Jull, 2023 having been proposed by Sen. Okoiti Andrew Omtatah, MP seconded Sen. Moses Otieno Kajwang', MP;
3. Minutes of the 32nd Sitting held on Tuesday, 18th April, 2023 having been proposed by Sen. Omar Mariam Sheikh, MP seconded Sen. Onyonka Richard Momoima, MP;
4. Minutes of the 53rd Sitting held on Tuesday, 27th June, 2023 having been proposed by Sen. Okoiti Andrew Omtatah, MP seconded Sen. Onyonka Richard Momoima, MP;
5. Minutes of the 18th Sitting held on Monday, 27th February, 2023 having been proposed by Sen. Adan Dullo Fatuma, CBS, MP seconded by Sen. Onyonka Richard Momoima, MP;
6. Minutes of the 64th Sitting held on Monday, 24th July, 2023 having been proposed by Sen. Onyonka Richard Momoima, MP and seconded by Sen. Okoiti Andrew Omtatah, MP;
7. Minutes of the 96th Sitting held on Thursday, 30th November, 2023 having been proposed by Sen. Onyonka Richard Momoima, MP and seconded by Sen. Adan Dullo Fatuma, CBS, MP;
8. Minutes of the 86th Sitting held on Thursday, 26th October, 2023 having been proposed by Sen. Onyonka Richard Momoima, MP and seconded by Sen. Okoiti Andrew Omtatah, MP;
9. Minutes of the 93rd Sitting held on Tuesday, 21st November, 2023 having been proposed by Sen. Okoiti Andrew Omtatah, MP and seconded by Sen. Moses Otieno Kajwang', CBS, MP;
10. Minutes of the 81st Sitting held on Thursday, 12th October, 2023 having been proposed by Sen. Onyonka Andrew Omtatah, MP and seconded by Sen. Okoiti Andrew Omtatah, MP;
11. Minutes of the 74th Sitting held on Thursday, 21st September, 2023 having been proposed by Sen. Onyonka Andrew Omtatah, MP and seconded by Sen. Okoiti Andrew Omtatah, MP;
12. Minutes of the 75th Sitting held on Monday, 25th September, 2023 having been proposed by Sen. Omar Mariam Sheikh, MP and seconded by Sen. Onyonka Richard Momoima, MP;
13. Minutes of the 77th Sitting held on Thursday, 28th September, 2023 having been proposed by Sen. Onyonka Richard Momoima, MP and seconded by Sen. Kajwang' Moses Otieno, CBS, MP;
14. Minutes of the 90th Sitting held on Thursday, 9th November, 2023 having been proposed by Sen. Omar Mariam Sheikh, MP and seconded by Sen. Onyonka Richard Momoima, MP;

County Assembly Minutes

The Committee confirmed the following previous minutes:

1. Minutes of the 84th Sitting held on Monday, 23rd October, 2023 having been proposed by Sen. Onyonka Richard Momoima, MP seconded Sen. Adan Dullo Fatuma, CBS, MP;
2. Minutes of the 76th Sitting held on Tuesday, 26th September, 2023 having been proposed by Sen. Onyonka Richard Momoima, MP seconded Sen. Omar Mariam Sheikh, MP;
3. Minutes of the 77th Sitting held on Thursday, 28th September, 2023 having been proposed by Sen. Onyonka Richard Momoima, MP and seconded by Sen. Kajwang' Moses Otieno, CBS, MP;
4. Minutes of the 92nd Sitting held on Monday, 20th November, 2023 having been proposed by Sen. Okoiti Andrew Omtatah, MP and seconded Sen. Kajwang' Moses Otieno, CBS, MP;
5. Minutes of the 72nd Sitting held on Monday, 18th September, 2023 having been proposed by Sen. Omar Mariam Sheikh, MP and seconded Sen. Sen. Onyonka Richard Momoima, MP;
6. Minutes of the 87th Sitting held on Monday, 30th October, 2023 having been proposed by Sen. Omar Mariam Sheikh, MP and seconded by Sen. Okoiti Andrew Omtatah, MP;
7. Minutes of the 80th Sitting held on Monday, 9th October, 2023 having been proposed by Sen. Onyonka Richard Momoima, MP and seconded by Sen. Adan Dullo Fatuma, CBS, MP; and
8. Minutes of the 78th Sitting held on Monday, 2nd October, 2023 having been proposed by Sen. Adan Dullo Fatuma, CBS, MP and seconded by Sen. Onyonka Richard Momoima, MP.
9. Minutes of the 97th Sitting held on Tuesday, 3rd December, 2024 having been proposed by Sen. Onyonka Richard Momoima, MP and seconded by Sen. Omar Mariam Sheikh, MP.

The Committee unanimously adopted the following reports with amendments for tabling before the Senate;

County Executives;

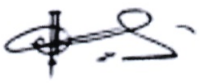
l) Mombasa county executive	2019/2020
m) Nakuru county executive	2019/2020
n) Nairobi county executive	2017/2018, 2018/2019 & 2019/2020
o) Nyeri county executive	2020/2021
p) Kwale county executive	2020/2021 & 2021/2022
q) Bomet county executive	2020/2021
r) Machakos county executive	2021/2022
s) Kisii county executive	2020/2021
t) Turkana county executive	2020/2021
u) Trans nzoia county executive	2020/2021
v) Nyandarua county executive	2020/2021

County Assemblies

i) Machakos county assembly	2019/2020 & 2020/2021
j) Turkana county assembly	2019/2020 & 2020/2021
k) Kisii county assembly	2020/2021 & 2021/2022
l) Nyeri county assembly	2020/2021
m) Uasin Gishu county assembly	2019/2020 & 2020/2021
n) Tana River county assembly	2020/2021
o) Kirinyaga county assembly	2019/2020 & 2020/2021
p) Nyeri county assembly	2019/2020

MIN/SEN/CPAC/579/2024 **ADJOURNMENT AND DATE OF NEXT MEETING**

The meeting was adjourned at 9.29 a.m. The next meeting would be held on Thursday, 5th December, 2024 at 10:00 a.m.

SIGNATURE...  .....

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

DATE: 4th December, 2024

MINUTES OF THE EIGHTY FOURTH 84TH (A) MEETING OF THE COUNTY PUBLIC ACCOUNTS COMMITTEE TO CONSIDER AUDIT REPORT FOR MACHAKOS COUNTY ASSEMBLY FOR FINANCIAL YEAR 2019/2020 AND 2020/2021 HELD ON MONDAY, 23RD OCTOBER, 2023 AT K.I.C.C, SHIMBA HILLS HALL, KICC FROM 10:00 A.M.

PRESENT

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

ABSENT WITH APOLOGY

8. Sen. Sifuna Edwine Watenya, MP - Member
9. Sen. Okoiti Andrew Omtatah, MP - Member

IN ATTENDANCE

Sen. Agnes Kavindu Muthama - Area Senator, Machakos County

IN ATTENDANCE
MACHAKOS COUNTY ASSEMBLY

1. **Hon. Ann Kiusya** - **Speaker/Chairperson, County Assembly Service Board (CASB)**
2. Mr. Joseph Mutisya - County Assembly Clerk
3. Mr. Peter Mbatha - Deputy Clerk
4. Ms. Monica Musyoka - Accountant
5. Mr. Johana Munyao - Member, CASB
6. Ms. Janet Mutua - Member, CASB
7. Ms. Jacintah Mbeva - Accountant
8. Mr. Edwin Mutua - Accountant
9. Mr. Benson Mutua - PFO

OFFICE OF THE AUDITOR GENERAL (OAG)

1. Mr. David Suamili - Parliamentary Liaison Officer
2. Mr. Leornard Opar - Director of Audit
3. Ms. Gladys Maria - Deputy Director, Audit

ETHICS AND ANTI-CORRUPTION COMMISSION

Ms. Evah Wacuka - Parliamentary Liaison Officer

THE NATIONAL TREASURY

Dr. Cyrus Munyua - Parliamentary Liaison Officer

THE CONTROLLER OF BUDGET

Ms. Theodora Bosibori - Parliamentary Liaison Officer

SENATE SECRETARIAT

1. Mr. George Otieno - Senior Clerk Assistant
2. Mr. Kevin Kibet - Clerk Assistant III
3. Mr. Boniface Kiambi - Clerk Assistant I
4. Mr. Crispus Tima - Clerk Assistant I
5. Mr. Mitchel Otoro - Legal Counsel II
6. Ms. Linet Aseka - Research Officer III
7. Mr. James Ngusya - Serjeant-at-Arms
8. Mr. Hussein Salat - Fiscal Analyst
9. Ms. Ngesa Rosebella - Public Communications Officer
10. Mr. William Zenton - Audio Officer
11. Ms. Shirley Milimu - Audio Officer
12. Ms. Felistas Mutune - Media Relations Officer
13. Ms. Maureen Kiplagat - Intern

MIN/SEN/CPAC/578/2023 PRELIMINARIES AND PRAYERS

The Chairperson called the meeting to order at 10:23 am followed by a word of prayer. Thereafter introductions followed.

MIN/SEN/CPAC/579/2023 ADOPTION OF AGENDA

The agenda of the meeting was adopted having been proposed by S Sen. Omar Mariam Sheikh, MP and seconded by Sen. Onyonka Richard Momoima, MP as follows;

1) Preliminaries
    a. Prayer
    b. Introductions
2) Adoption of Agenda
3) Administration of Oath
4) **Brief on the Audit Report of the Financial Statements of the County Assembly of Machakos for Financial Years 2019/2020 and 2020/2021 (Committee Paper No. 63).**
5) **Meeting with the County Assembly of Machakos to interrogate the Report of the Auditor General on the Financial Statements for the Financial Years 2019/2020 and 2020/2021; and**
6) Any Other Business
7) Date of the Next Meeting and Adjournment

MIN/SEN/CPAC/580/2023 ADMINISTRATION OF OATH

The Speaker and Clerk of Machakos County Assembly took Oath of Witness and tabled the

Management responses and supporting documents for the financial years (FY) 2019/2020 and 2020/2021.

MIN/SEN/CPAC/581/2023 **CONSIDERATION OF THE AUDIT REPORT OF MACHAKOS COUNTY ASSEMBLY FOR THE FINANCIAL YEAR 2020/2021**

Basis for Qualified Opinion

Audit Query	Concerns	Observation and Recommendations
Variances in the Statement of Cash Flows and Bank and Cash Balances	The statement of cash flows reflects cash and cash equivalents at the end of the year amounting to Kshs.1,728. However, the statement of financial assets and liabilities reflects Kshs.23,061,321 in respect of bank and cash balances, as shown in Note 13A and 13B to the financial statements. The resultant difference of Kshs.23,059,593 between the two statements was not explained or reconciled. Consequently, the accuracy of the statement of cash flows for the year ended 30 June, 2021 could not be confirmed	• The OAG informed the Committee that the query was had been resolved.
Difference Between Financial Statements and Integrated Financial Management Information System (IFMIS) Ledger	The statement of receipts and payments reflects expenditure on use of goods and services and acquisition of assets amounting to Kshs.383,241,705 and Kshs.147,552,898 respectively. However, review of the amounts against the Integrated Financial Management Information System (IFMIS) ledger for the year under review revealed unexplained and unreconciled differences totalling to Kshs.38,718,095. Consequently, the accuracy and completeness of the financial statements for the year ended 30 June, 2021 could not be confirmed	• The OAG informed the Committee that the query was had been resolved.

Unsupported Ward Office Rent and Expenses	The statement of receipts and payments for the year under review reflects use of goods and services expenditure amounting to Kshs.383,241,705. The expenditure, as further detailed in Note 5 to the financial statements includes Kshs.28,695,000 incurred on ward office rent and expenses during the year. However, the expenditure was not supported by relevant documents including schedules, expenditure analysis, motor vehicle work tickets, rental invoices, and petty cash surrender forms. In the circumstances, the propriety of the ward office rent and expenses for the year amounting to Kshs.28,695,000 could not be confirmed	• The OAG informed the Committee that the query was had been resolved.
Other Matter		
Budgetary Control and Performance	The statement of comparison of budget and actual amounts - recurrent and development combined reflects final receipts budget and actual on comparable basis of amounting to Kshs.1,126,922,537 and Kshs.1,019,710,816 respectively resulting to an under-funding of Kshs.107,211,721 or 10% of the approved budget. Similarly, the County Assembly expended Kshs.1,019,709,088 against an approved budget of Kshs.1,126,922,537 resulting to an under-expenditure of Kshs.107,213,449 or 10% of the budget. The underfunding and underperformance affected the planned activities and may have impacted negatively on service delivery to the public	• The OAG informed the Committee that the matter was had been partially resolved.
Pending Bills	Note 1 of other disclosures to the financial statements reflect Nil balance in respect of pending accounts payable. However,	• The OAG informed the Committee that the matter was had not been resolved.

	annex 1 to the financial statements containing an analysis of pending accounts payables which indicates that the County Assembly had pending bills amounting to Kshs.107,771,910 which included bills amounting to Kshs.69,525,679 carried forward from 2019/2020 financial year. Management did not explain why the bills were not settled during the year when they occurred or paid as a first charge during the year under review.	• The Committee noted that the County had a pending bill of Kshs.69,525,679 and has paid out Kshs.21 million. The current outstanding pending bill is Kshs.47 million. • The Committee noted that the county assembly has a huge legal pending bill of Kshs.36 million and wondered why the assembly has many litigations. • The Committee directed the Assembly to work on paying the legal fees as the county is at risk of auctions and accrued interests. • The Committee noted that the County Assembly is at risk of being sued, and end up paying Interests on the unpaid invoices after lapse of the credit period. • The Committee directed the Assembly to within 3 months update the senate on measures it is taken to settle or reduce the exposure on the legal fees. • The Committee stated that it will liaise/communicate with the Senate Standing Committee on Finance and Budget to scrutinise any request for revision of ceilings by the Machakos County Assembly to ensure that any additional request is utilised for the purpose sought for.
REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES		
Non-Compliance with the One-Third of Basic Salary Rule	During the financial year ended 30 June, 2021, thirteen (13) employees earned a net salary of less than a third (1/3) of the basic salary. This is contrary to Section 19 (3) of the	• The OAG informed the Committee that the matter was had not been resolved. • The Committee stated that it will utilise the

	Employment Act, 2007 and the County Assembly Human Resource Manual, 2015 which may expose the staff to pecuniary embarrassment. In the circumstances, the Management was in breach of the law.	management response during its report writing to make a determination on this matter. • The Committee urged the OAG to keep the matter in view in the next audit cycle.
Irregular Inter-Entity Borrowing	Note 3 to the financial statements reflects other receipts totalling Kshs.4,500,000. The receipts relate to funds borrowed from the Housing Fund Account at KCB Bank by the County Assembly over the years. However, Inter-entity borrowing was prohibited according to Regulation 71 (4) of the Public Finance Management (County Governments) Regulations, 2015 which provides that a county government entity is not allowed to give a county government entity cash donations to augment the budgetary resources of designated departments. In the circumstances, the Management was in breach of the law.	• The OAG informed the Committee that the matter was had not been resolved. • The OAG stated that it had confirmed that the amount had been repaid, however the Inter-entity borrowing was prohibited according to Regulation 71 (4) of the Public Finance Management (County Governments) regulations, 2015 and management was in breach of the law. • The Committee noted that the Assembly was continually borrowing from the Housing fund account. • The Committee urged the OAG to keep the matter in view in the subsequent audit cycle.

MIN/SEN/CPAC/582/2023 **CONSIDERATION OF THE AUDIT REPORT OF MACHAKOS COUNTY ASSEMBLY FOR THE FINANCIAL YEAR 2019/2020**

Basis for Qualified Opinion

Audit Query	Concerns	Observation and Recommendations
Variances between Financial Statements and IFMIS Balances	Several balances reflected in the financial statements differ with identical accounts balances reflected in the Integrated Financial Management Information Systems (IFMIS) trial balance as indicated in the attached **Appendix**. In view of the unexplained differences, the accuracy of the	• The OAG informed the Committee that the query was had been resolved.

	financial statements could not be confirmed.	
Discrepancies in Bank Balances The statement of financial assets and liabilities reflects bank balances totalling Kshs.88,059,091 as at 30 June, 2019, and as also disclosed in Note 13A to the financial statements. However, examination of records on the balances revealed the following unsatisfactory issues:		
Variances in Bank Balance	Bank reconciliation statements for the accounts reflected cash book balances totalling Kshs.24,109,309 as at 30 June, 2020 against Kshs.88,059,091 reflected in the financial statements. Further, Management did not provide a Board of Survey report to support the reported balances and as a result, their accuracy, validity and completeness could not be confirmed.	• The OAG informed the Committee that the query was had been resolved.
Undisclosed Deposits and Retentions Bank Balances	The reported cash and cash equivalents balance totalling Kshs.88,059,091 excludes a sum of Kshs.2,472,429 held under deposits account at the Central Bank of Kenya. Although Note 13A to the financial statements has disclosed that the funds held in the account belong to third parties, the deposits were part of the financial assets and liabilities of the County Executive as at 30 June, 2020 should therefore have been disclosed in the financial statements as part of bank balances and accounts payables-deposits and retentions, respectively.	• The OAG informed the Committee that the query was had been resolved.
Opening Fund and Cash Equivalent Balances	The statement of financial assets and liabilities does not reflect an opening balance for the fund account even though the audited financial statements for the year ended 30 June, 2019 reflected a closing balance of Kshs.421,325 in respect to the account. The balance should have been reflected as the opening balance for the year	• The OAG informed the Committee that the query was had been resolved.

	under review. No satisfactory explanation was provided by Management for the omission of the opening balance from the financial statements.	
Unsupported Training Expenses	Expenditure records indicated that during the year under review, the County Assembly incurred training expenses totaling Kshs.32,542,895 as disclosed in Note 5 to the financial statements. However, payments totaling Kshs.3,921,936 were not adequately supported with relevant documents including records on travel and attendance at the indicated training sites. As a result, it was not possible to confirm the occurrence and validity of the expenditure totalling Kshs.3,291,936 incurred on the training expenses.	• The OAG informed the Committee that the query was had been resolved.
Pending Accounts Payable		
Unconfirmed Balance	Note 7.10 - other important disclosures 1 - reflects a nil pending accounts payable balance. However, Annex 1 - Analysis to the financial statements reflects accounts payables balance totalling Kshs.102,923,622 as at 30 June, 2020. Further, comparison of pending payables reflected in Annex 1 with records on the balances revealed the following inconsistencies: • Records on Kshs.4,129,939 shown as owed to a tour services firm under Annex 1 indicated that the amount owed to the firm was Kshs.3,222,439. Therefore, the financial statements balance is overstated by Kshs.907,500;	• The OAG informed the Committee that the query was had been resolved. • On pending accounts payables balances are bills totalling Kshs.22,167,265 which were committed through Local Purchase Orders and Local Service Orders after 31 May, 2020; the Committee noted that the Assembly has been making payments to the SOCATT and the CAF which is irregular. • The Committee directed the County Assembly to cease any further payments to the two entities as they are irregular, illegal and persons who authorise the payment will be held personally culpable.

	• An amount of Kshs.287,600 reflected in Annex 1 was not supported with records on the goods or services supplied by the creditor company; and • Records on Kshs.12,600 reported as due to a motor-vehicle repair garage indicated that the garage was owed Kshs. 21,600 and therefore the liability was understated by Kshs. 9000. • Included in the pending accounts payables balances are bills totalling Kshs.22,167,265 which were committed through Local Purchase Orders and Local Service Orders after 31 May, 2020. However, the commitments were made without the written approval of the Accounting Officer contrary to Regulation 50(1) of the Public Finance Management (County Governments) Regulations, 2015. As a result, the expenditures incurred thereon were irregular. From the foregoing, the accuracy and completeness of the pending accounts payables totalling Kshs.102,923,622 disclosed in Annex 1 to the financial statements could not be confirmed.	• The Committee directed the Speaker of Machakos County Assembly-Hon. Ann Kiusya-Vice-Chairperson of CAF to convene a meeting, within 2 weeks, of the Standing Committee on Devolution, Finance and Budget and the CPAC to engage on the subscription to CAF.
Long Outstanding Accounts Payables	Included in the pending accounts payables balance totalling Kshs.102,923,622 disclosed in Annex 1 to the financial statements are payables totalling Kshs.46,654,658 that had been outstanding for more than one year as at 30 June, 2020, with some incurred in the 2013/2014 financial year. Management has not explained why the long outstanding payables have not	• The OAG informed the Committee that the query was had not been resolved. • The Committee stated that it will utilise the management response during its report writing to make a determination on this matter.

	been paid. In addition, failure to pay pending bills in due time slows down economic activity and denies local businesses funds for working capital and reinvestment	
Other Matter		
Budget Control and Performance	The statement of comparison of budget and actual amounts: recurrent and development combined reflects budgeted receipts and actual on comparable basis totalling Kshs.1,298,145,156 and Kshs.1,001,910,088 respectively resulting in a revenue shortfall of Kshs.296,235,068 or 23% of the approved budget. Management attributed the shortfall to underfunding of exchequer releases. In addition, only Kshs.913,850,996 of the revenue totalling Kshs.1,001,910,088 was spent resulting to under-absorption of Kshs.88,059,092 equivalent to 9% of the receipts.	• The OAG informed the Committee that the query was had not been resolved. • The Committee stated that it will utilise the management response during its report writing to make a determination on this matter.
Unresolved Prior Year Matters	The report for the previous year highlighted several matters that included lack of ethnic diversity in staffing, non-submission of the County Performance Report for the year, inter-account borrowing and irregular re-allocation of funds from compensation of employees budget to other expenditures. These matters had not been resolved as at 30 June, 2019.	• The OAG informed the Committee that the query was had not been resolved. • The Committee stated that it will utilise the management response during its report writing to make a determination on this matter.
REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES		
Unsatisfactory Implementation of Projects Examination of records on implementation of projects in the year under review revealed the following unsatisfactory issues;		
Delayed Construction of Ward Offices	Procurement records indicated that Management awarded contracts for construction of	• The OAG informed the Committee that the query was had not been resolved.

	twelve (12) Ward Offices commencing July, 2019. The projects were to be completed in December, 2019 but at the time of the audit in October, 2020, none had been completed. An additional nine (9) such contracts were awarded in June, 2020 under Phase Two of the project. The works were to be completed after five months' time. However, only one of the nine projects had been completed at the time of the audit in October, 2020. In addition, contrary to Section 207(2) of Public Finance Management Act, 2012, there was no evidence that public participation activities were carried out to identify locations for the Ward Offices. Further, architectural designs and approvals for the projects and the title deeds for the plots of land on which the Offices were constructed were not provided for audit review and as a result, ownership of the respective lands by the County Government of Machakos could not be confirmed. In view of these issues, it was not possible to confirm the regularity of the contracts and whether value for money and the utility level desired would be obtained from the expenditure incurred in building the Ward Offices.	• The Committee noted that the assembly failed to undertake public participation and did not provide title deeds for the places where the ward offices were built on. • The Committee urged the OAG to keep the matter in view in the next audit cycle. •
Failure to Install Gymnasium Equipment	In June, 2019, Management contracted a local company to supply and install gymnasium equipment and accessories at a contract sum of Kshs.19,923,116. An advance payment amounting to Kshs.3,984,623 was made to the supplier who was expected to complete the project on 15	• The OAG informed the Committee that the query was had been resolved

	September, 2019 but delivered the equipment one week later. The contractor, however, did not install the equipment in the designated gymnasium area located on the 5th floor of the Administration Block A. The equipment could, reportedly, not fit in the lift for delivery to the designated floor. Information available indicated that the Company had sued the County Assembly for breach of contract for failure to pay the balance of the contract sum. In view of the failure to install the equipment, the benefits due to the County Assembly from the equipment were not realized in spite of the expenditure commitment totalling Kshs.19,923,116 and the advance payment of Kshs.3,984,623 to the contractor.	
Failure to Install Passenger Lift	The County Assembly contracted a firm to supply and install a 10-passenger-capacity lift at a cost of Kshs.8,763,454. However, the contract agreement provided for audit review was undated and did not specify the contract duration. The lift was delivered on 26 July, 2019 after which Kshs.6,134,418 equivalent to 70% of the contract price was paid to the contractor as provided for in the contract agreement. Although it was thereafter installed, the lift had not been inspected and put to use by the time of the audit in October, 2020 in spite of a request for its inspection having been made to	• The OAG informed the Committee that the query was had been resolved.

	the County Public Works Officer on 10 July, 2020. However, unconfirmed information obtained during the audit indicated that the design of the lift's housing area was inappropriate and the electric supply available in the building was not sufficient for its operation. In view of lack of proper planning that resulted in the failure to install the lift, no benefits were realized on the expenditure totalling Kshs.6,134,418 spent on its procurement.	
Irregularities in Procurement Activities		
Procurement of Car Hire Services	Expenditure records indicated that in May, 2020 a local firm was paid Kshs.501,206 for provision of car hire services to the County Executive. However, records on requisition for the services by the user-department, and on the process applied to select the firm, were not provided for audit. Consequently, it was not possible to confirm the regularity of the payments and whether value for money was realized on the expenditure totalling Kshs.501,206.	• The OAG informed the Committee that the query was had been resolved. • The OAG informed the Committee that the requisition records and procurement records were not provided.
Training Workshop Payment	Imprest records indicated that Kshs.300,000 was issued to an Officer in November, 2019 to arrange for a workshop held in Mombasa for Members of the County Assembly. The sum was paid to a hotel in cash. No explanation was provided why the Officer was issued with an imprest to pay for the workshop whereas a cheque or remittance made to the hotel would have been the easier and more secure mode of payment.	• The OAG informed the Committee that the query was had been resolved.

	In the circumstance, the propriety and value for money on the expenditure could not be confirmed.	
Fuels and Oils	The County Assembly spent Kshs.3,243,771 on purchases of fuels and oils during the year under review, as disclosed in Note 5 to the financial statements. However, the firm appointed to supply the items was not in the list of the County Assembly's prequalified suppliers and further, records on the process followed in making the appointment were not provided for audit. As a result, the validity of expenditure totalling Kshs.3,243,771 spent on the contract could not be confirmed.	• The OAG informed the Committee that the query was had been resolved. •
Ward Office Expenditure	Examination of expenditure records indicated that the County Assembly spent Kshs.28,788,000 on Ward Office rent and other expenses. The records indicated that Kshs.413,500 was spent on monthly rent for each of the forty (40) Ward Offices used by Members of County Assembly (MCA's) and a further Kshs.1,985,500 on salaries for staff posted to the Offices. In addition, personal assistants to the MCA's were issued with imprests totalling Kshs.60,000 each month for Ward Office operational expenses. However, the following records on the expenditure were not provided for audit; • the recommendations made by the Department of Public Works on the	• The OAG informed the Committee that the query was had been resolved. • The Committee urged the OAG to keep the matter in view in the next audit cycle. •

	rent payable for each of the Offices; • guidelines indicating the maximum monthly payments authorized for Ward office rent and other operational expenses; • building inspection records to confirm that the Ward Offices were inspected and certified by the relevant Government departments as safe and fit for occupation; and • lease agreements between the County Assembly and the respective landlords premises.	
Compensation of Employees The statement of receipts and payments reflect compensation of employees costs totalling Kshs.387,763,769, as disclosed in Note 4 to the financial statements. However, examination of records on the expenditure indicated the following anomalies		
Failure to Adhere to the One-Third of Basic Pay Rule	Thirteen (13) employees were paid net salaries that were less than one-third of their basic pay contrary to the provisions of Section 19(3) of the Employment Act, 2007 and the County Assembly Human Resource Manual of 2015, which provide that, total deductions from an employee's wages should not exceed two-thirds of such wages	• The OAG informed the Committee that the query was had been resolved. •
High Wage Bill	The compensation of employees costs totalling Kshs.387,763,769 incurred during the year were equivalent to 39% of the revenue receipts for the year totalling Kshs.1,001,910,088. The ratio was above the threshold of 35% prescribed in Section 25(1)(b) of the Public Finance Management (County Governments) Regulations, 2015. Therefore, Management did not adhere to the law. Further, the	• The OAG informed the Committee that the query was had been resolved. • The Committee noted that this should not apply to County Assemblies since most of the expenditure for county assembly is meant for recurrent.

	high wage bill may constrain the ability of the County Assembly to fund its legislative and governance activities.	
REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE		
Failure to Maintain Creditors' Ledgers	The County Assembly did not maintain individual creditors ledger or register during the year under review. As a result, Management's control on movement in creditors balances was weak.	• The OAG informed the Committee that the query was had been resolved. •
Failure to Maintain Proper Stores Records	Review of the stores records indicated that that Management did not maintain ledgers to keep track of receipts, issues and balances on assorted stationery and cleaning materials purchased during the year under review at a cost of Kshs.5,149,001. As a result, it was not possible to confirm outstanding stock balances, and whether the items issued were used for the intended purposes. Further, the risk of stock-outs and loss of stock was high.	• The OAG informed the Committee that the query was had been resolved.

MIN/SEN/CPAC/583/2023 ANY OTHER BUSINESS

11. The Committee stated that there is a need to pursue legislation to achieve County Assemblies' financial autonomy through various legislations to safeguard it from interference by the by the County Executive and also facilitate its seamless operations.
12. The Committee urged the Assembly leadership, County Assembly Service Board (CASB), to build the capacity of its Members through benchmarking in the Senate.

MIN/SEN/CPAC/584/2023 ADJOURNMENT AND DATE OF NEXT MEETING

The meeting was adjourned at 1.44 pm. The next meeting will be on Tuesday, 24th October, 2023 at 10:00 am for interrogation of the Report of the Auditor General on the Financial Statements for Financial Year 2020/2021 for the Kajiado County Executive.

SIGNATURE... .....

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

DATE: 4th December, 2024

MINUTES OF THE SEVENTY SEVENTH (77TH) SITTING OF THE COMMITTEE ON COUNTY PUBLIC ACCOUNTS TO INSPECT PROJECTS FOR BOTH THE COUNTY EXECUTIVE AND COUNTY ASSEMBLY HELD ON THURSDAY, 28TH SEPTEMBER, 2023 IN TURKANA COUNTY FROM 11:00 A.M.

PRESENT

1. **Sen. Kajwang' Moses Otieno, MP** - **Chairperson**
2. Sen. Onyonka Richard Momoima, MP - Member
3. Sen. Mwenda Gataya Mo Fire, MP - Member
4. Sen. Methu John Muhia, MP - Member
5. Sen. Sifuna Edwine Watenya, MP - Member

APOLOGY

6. Sen. Cherarkey Samson Kiprotich, MP - **Vice-Chairperson**
7. Sen. Adan Dullo Fatuma, CBS, MP - Member
8. Sen. Omar Mariam Sheikh, MP - Member
9. Sen. Okoiti Andrew Omtatah, MP - Member

IN ATTENDANCE
TURKANA COUNTY EXECUTIVE

1. **Hon. Jeremiah Lenorukai** - **Governor Turkana County**
2. **Hon. Peter Letethiro** - **Deputy Governor**
3. Mr. Michael Eregae - CECM Finance
4. Mr. James Illikwel - CCO, Finance

IN ATTENDANCE
TURKANA COUNTY ASSEMBLY

1. Mr. Linus Lokawa - Clerk, Turkana County Assembly
2. Mr. Ngasiku Caiphus - Director Finance
3. Mr. Timothy Ekidur - DDFA

OFICE OF THE AUDITOR GENERAL

Mr. David Sumaili - Parliamentary Liaison Officer

ETHICS AND ANTICORRUPTION COMMISSION

Ms. Evah Wachuka - Parliamentary Liaison Officer

CONTROLLER OF BUDGET

Ms. Theodora Ochichi -Parliamentary Liaison Officer

SENATE SECRETARIAT

1. Mr. George Otieno -Principal Clerk Assistant I
2. Mr. Kevin Kibet -Clerk Assistant III
3. CPA Kenneth Owuoth -Fiscal Analyst II
4. Mr. Eugene Mukele -Legal Counsel II
5. Mr. Martin Mulandi - Researcher III
6. Mr. Peter Kahindi - Researcher III
7. Mr. Ibrahim Oruko -Media Relations Officer III
8. Mr. William Zenton -Audio Officer III
9. Mr. James Ngusya -Serjeant-At-Arms

MIN/SEN/CPAC/534/2023- PRELIMINARIES

The meeting was called to order at 11:00 am and the Chair led in a word of prayer. Thereafter introductions followed.

MIN/SEN/CPAC/535/2023- ADOPTION OF THE AGENDA

The agenda of the meeting was adopted having been proposed by Sen. Mwenda Gataya Mo Fire, MP and seconded by Sen. Onyonka Richard Momoima, MP as follows;

1) Preliminaries
    a. Prayer
    b. Introductions
2) Adoption of Agenda
3) **Inspection of Projects in Turkana County for both the County Assembly and the County Executive; and**
4) Any Other Business
5) Date of the Next Meeting and Adjournment.

MIN/SEN/CPAC/536/2023- INSPECTION OF PROJECTS IN TURKANA COUNTY FOR BOTH THE COUNTY ASSEMBLY AND THE COUNTY EXECUTIVE

County Headquarters

1. The Committee raised concern on the state of the Governor's and Deputy Governor's Office and facilities as they looked untidy, old, and tiny and did not give a good image of a government office.
2. The Committee was informed that there is a new county headquarters that has offices for both the Governor, the Deputy Governor and other county officials but they were not complete.
3. The Committee observed that the new county headquarters was 99% complete. There was no electricity and water on site.
4. The Committee was informed that the construction of the county headquarters had taken 8 years to complete.

5. The Committee observed that the initial contract was budgeted at Kshs.600 million but had been varied to Kshs.800 million.
6. The Committee was informed that the county had formed a project implementation Committee to help in conceptualization and overseeing/monitoring the progress of the implementation of projects especially with regard to:
   a) Approved specifications;
   b) Program/schedule management;
   c) Expenditure/budget and;
   d) Compliance with statutory and building regulations.
7. The Committee was informed that the contractor had requested for an extra Kshs.20 million despite the earlier variation.
8. The Committee directed the Controller of Budget (COB) to question and scrutinize any further requisitions relating to the County Headquarters project.
9. The Committee urged the EACC to take keen interest on the project in a bid to understand the 25% variation and why it has taken 8 years to complete it.
10. The Governor directed the contractor to complete and hand over the project by 12th October, 2023.
11. The Committee urged the Governor to concentrate on citizen-centered projects such as Early Childhood Development Education (ECDE), irrigation and farming, hospitals that will improve their livelihoods as opposed to projects meant for the "big boys'.
12. The Committee observed that the county had spent Kshs.84 million on air conditioners yet there was no electricity on site. The Committee wondered how the county tested the functionality of the air conditioners.

Governor's Residence

1. The Committee observed that the project is 30% complete.
2. The Committee was informed that the first contractor left the site after being paid Kshs.206 million and had only done about 10% of the project.
3. The Committee was informed that the current contract sum was Kshs.90 million and it has since stalled since the contractor has not been paid.
4. The Committee observed that the building has a structural deficit due to a massive crack on the wall.
5. The Committee directed the EACC to investigate the project, the payment of Kshs.206 million paid out to the first contractor with a view of causing prosecution for persons found culpable in defrauding the county.

Fire Station

1. The Committee was informed that the fire station and the street lighting in Lodwar town were KUSP initiated projects.
2. The Committee was informed that the project was worth Kshs.87 million.
3. The Committee lauded the county for proper project implementation and the associated value for money.
4. The Committee was informed that one county fire engine was stolen or got lost and directed the County to pursue avenues of recovering it.

Speaker's Residence

1. The Committee was informed that the contract sum for the Speaker's residence was Kshs.75 million and Kshs.55 million has been paid so far.
2. The Committee was informed that the project started in July 2016 and the capping on the cost of construction of the Speakers' residence by the Senate caused the project to stall.
3. The Committee noted that the Assembly has not complied with the capping on the cost of the speaker's residences and urged the Clerk to regularize through the Senate.
4. The Committee directed the Controller of Budget to stop release of any funds meant for the construction of the Speaker's residence until the Assembly complies with the directives and the resolutions of the Senate.

Turkana County Assembly Chambers

The Committee observed that the Assembly Chambers was 99% complete.

MIN/SEN/CPAC/537/2023- ADJOURNMENT AND DATE OF NEXT MEETING

The meeting was adjourned at 2.30 p.m. The next meeting would be by notice.

SIGNATURE...  **.....**

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

DATE: 4th December, 2024

MINUTES OF THE SEVENTY SIXTH (76TH) SITTING OF THE COMMITTEE ON COUNTY PUBLIC ACCOUNTS TO CONSIDER AUDIT REPORT FOR THE COUNTY ASSEMBLY OF TURKANA FOR FINANCIAL YEARS 2019/2020 AND 2020/2021 HELD ON TUESDAY, 26TH SEPTEMBER, 2023 AT THE COMMITTEE ROOM 1, NEW ANNEX, TURKANA COUNTY ASSEMBLY BUILDINGS, AT 10:00 A.M.

PRESENT

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

APOLOGY

8. Sen. Cherarkey Samson Kiprotich, MP - **Vice-Chairperson**
9. Sen. Okoiti Andrew Omtatah, MP - Member

IN ATTENDANCE

TURKANA COUNTY ASSEMBLY

1) Hon. Christopher Nakeleu -**Speaker/Chairman, County Assembly Service Board (CASB)**
2) Mr. Linus Lokawa - Clerk, Turkana County Assembly
3) Mr. Ngasiku Caiphus - Director Finance
4) Mr. Calline Kiapa - PPO
5) Mr. Pius Eiton - DHRIS
6) Mr. Timothy Ekidur - DDFA
7) Mr. James Ikimat -
8) Mr. David Nduati -Assistant Director Accounting Services

OFICE OF THE AUDITOR GENERAL

1. Mr. Joshua Omutuku - Deputy Director, Audit
2. Mr. Douglas Nyakeri - Audit
3. Mr. David Sumaili -Liaison Officer

ETHICS AND ANTICORRUPTION COMMISSION

Ms. Evah Wachuka - Parliamentary Liaison Officer

THE NATIONAL TREASURY

Dr. Cyrus Munyua - Parliamentary Liaison Officer

CONTROLLER OF BUDGET

Ms. Theodora Ochichi -Parliamentary Liaison Officer

SENATE SECRETARIAT

1. Mr. George Otieno -Principal Clerk Assistant I
2. Mr. Boniface Kiambi - Clerk Assistant I
3. Mr. Kevin Kibet -Clerk Assistant III
4. CPA Kenneth Owuoth -Fiscal Analyst II
5. Mr. Eugene Mukele -Legal Counsel II
6. Mr. Martin Mulandi - Researcher III
7. Mr. Peter Kahindi - Researcher III
8. Mr. Ibrahim Oruko -Media Relations Officer III
9. Mr. William Zenton -Audio Officer III
10. Mr. James Ngusya -Serjeant-At-Arms

MIN/SEN/CPAC/528/2023- PRELIMINARIES

1. The meeting was called to order at 10:30 am and the Chair led in a word of prayer. Thereafter introductions followed.
2. The Committee resolved;
   a) to schedule quarterly meetings with heads of stakeholders working with the Committee (EACC, CoB, OAG and the National Treasury) to take stock of actions taken on the recommendations and resolutions of the Committee;
   b) To schedule in the work plan a media engagement in the form of breakfast or retreat to develop a working relationship in a bid to boost the presence of the Committee in major media stations; and
   c) To develop a collaboration mechanism with the Standing Committee of Finance and Budget to build synergy and provide advice when requests come to the Senate for increase of ceilings by the county assemblies.

MIN/SEN/CPAC/529/2023- ADOPTION OF THE AGENDA

The agenda of the meeting was adopted having been proposed by Sen. Mwenda Gataya Mo Fire, MP and seconded by Sen. Sifuna Edwine Watenya, MP as follows;

1) Preliminaries
   a. Prayer
   b. Introductions
2) Adoption of Agenda
3) Administration of Oath
4) **Brief on the Report of the Auditor General on the Financial Statements of the County Assembly of Turkana for Financial Years 2019/2020 and 2020/2021** ***(Committee Paper No. 59).***

5) **Meeting with the County Assembly of Turkana to interrogate the Report of the Auditor General on the Financial Statements for the Financial Years 2019/2020 and 2020/2021; and**
6) Any Other Business
7) Date of the Next Meeting and Adjournment.

MIN/SEN/CPAC/530/2023- **ADMINISTRATION OF OATH**

The Speaker and Clerk of the County Assembly of Turkana took Oath of Witness and tabled the Management responses and supporting documents for the financial years 2019/2020 and 2020/2021.

MIN/SEN/CPAC/531/2023- **CONSIDERATION OF THE AUDIT REPORT OF THE COUNTY ASSEMBLY OF TURKANA FOR THE FINANCIAL YEAR 2020/2021**

Basis for Qualified Opinion

Audit Query	Concern	Observation and Recommendations
Variances Between the Financial Statements and the IFMIS Amounts	Analysis of the expenditure records on use of goods and services for the year under review revealed variances between IFMIS schedules and the financial statements totalling to Kshs.153,725,698. No satisfactory explanations or reconciliations was provided for the above variances. Consequently, the accuracy and completeness of the respective amounts relating to use of goods and services could not be confirmed.	• The OAG informed the Committee that the matter had not been resolved. • The Committee noted that the assembly borrowed money meant for DSA from car loan and mortgage funds scheme and did not return it. • The Committee noted that the Assembly violated sections of the PFM Act on management and administration of funds. • The Committee noted that the county assembly did not provide necessary documents to support the variance. • The Committee noted that the fund administrator, Mr. George Erukudi Otithero, in charge of car loan and mortgage fund scheme was on several occasions withdrawing cash from the scheme. • The Committee noted that there was mismanagement of the Car loan and mortgage fund scheme.

		• The Committee noted that the county assembly does not use the IFMIS for its transactions.
Unsupported Bank Balances	As disclosed in Note 13A to the financial statements, the statement of financial assets and liabilities reflects a bank balance of Kshs.32,823,521 as at 30 June, 2021, held in four bank accounts operated and maintained by the County Assembly. However, the IFMIS bank reconciliation statements as at 30 June, 2021 for the four (4) bank accounts were not attached as annexures to the financial statements contrary to the guidelines issued by the Public Sector Accounting Standards Board and communicated vide The National Treasury Circular No. AG. 4/16/3 Vol.1(9) of 24 June, 2020. In the circumstances, the accuracy and completeness of the bank balance of Kshs.32,823,521 could not be confirmed.	• The OAG informed the Committee that the matter had not been resolved. • The Committee noted that the county failed to reveal reconciliation statements for 3 bank accounts. • The Committee directed that the management undertakes administrative action and capacity building against the responsible officers. • The Committee directed the assembly to provide the bank reconciliation statements for the 3 bank accounts to the OAG within 7 days for verification.
Unsupported Assets	Annex 4 to the financial statements on summary of non-current assets register reflects a carried forward historical cost balance of Kshs.1,373,737,828 which includes land, buildings and structures, and transport equipment valued at Kshs.28,000,000, Kshs.623,858,876 and Kshs.76,689,551 respectively. However, title deeds, logbooks and other ownership documents were not provided for audit. Consequently, the ownership and completeness of the non-current	• The OAG informed the Committee that the matter had been resolved. • The Committee noted that the County Assembly does not have a title deed for the land in which the Assembly sits on. • The Committee directed the Assembly management to engage the County Assembly of Narok to assist on process of acquiring title deed. • The Committee resolved to give guidelines to County Assemblies on their asset management.

	assets balance of Kshs.1,373,737,828 as at 30 June, 2021 could not be confirmed.	
)ther Matter		
Budgetary Control and Performance	The statement of comparison of budget and actual amounts reflects a final expenditure budget of Kshs.1,406,574,821 and actual expenditure of Kshs.1,211,989,371 resulting to an under-expenditure of Kshs.194,585,450 or 14%. The under-expenditure is an indication that some planned activities and projects were not implemented which may have affected delivery of services to the public	• The OAG informed the Committee that the matter had been resolved.
Anomalies in Pending Bills	According to Annex 1 to the financial statements, the County Assembly had pending bills amounting to Kshs.26,115,914 as at 30 June, 2021. However, the schedule presented for audit lacked information on the date the suppliers/ contractors were contracted, while the ageing analysis of pending bills was not provided for audit. Consequently, the Management is in breach of the Treasury Circular No 10/2020 of 16 June, 2020 Ref DGIPE/A/80 which required Accounting Officers to ensure pending bills are treated as a first charge in 2020/2021 financial year approved budget	• The OAG informed the Committee that the matter had been resolved. However, there is an amount of Kshs.2.9 million still pending. • The Committee directed the county to within 7 days submit documentary evidence on clearing of the pending Kshs.2.9 million.
mplementation of Projects		
Lack of a Project Status Report	A project implementation status report for the year under review was not provided for audit. It was not, therefore, possible to confirm how many projects were to be implemented by the County Assembly, how many were	• The OAG informed the Committee that the matter had been resolved.

	completed, ongoing and the stalled projects	
Projects Verification	As disclosed in Note 10 to the financial statements, the statement of receipts and payments for the year ended 30 June, 2021 reflects acquisition of assets amounting to Kshs.163,919,475 which includes Kshs.158,007,732 relating to construction of buildings. Physical inspection on the construction of the County Assembly chambers and cafeteria project at Kanamkemer/Takwel ward revealed that the project had not been completed and was still on-going. Payments made during the year amounted to Kshs.26,646,141. Delay in timely implementation of projects may have denied the public services or benefits accruing from completed projects.	• The OAG informed the Committee that the matter had been resolved. • However, the Committee noted that the assembly chamber does not have water, is experiencing power issues and has not been furnished. • The Committee resolved to undertake a site inspection of the County Assembly chambers and cafeteria project. •
EPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES		
Failure to Submit Accounts of the County Assembly Services Board	The Management did not prepare and submit the financial statements of the County Assembly Services Board to the office of the Auditor General contrary to Section 32(1) and 32(2) (a) of The County Assembly Services Act, 2017. In the circumstances, Management was in breach of the law	• The OAG informed the Committee that the matter had not been resolved. • The Committee noted that the assembly was in violation of Section 32(1) and 32(2) of the County Assembly Services Act, 2017. • The Committee directed the assembly to comply with the law and prepare and submit the financial statements of the County Assembly Services Board to the office of the Auditor General.
Over Expenditure on Wage Bill	The statement of receipts and payments reflects an expenditure of Kshs.539,417,527 in respect of compensation of employees which	• The OAG informed the Committee that the matter had been resolved.

	represents 44% of the total receipts of Kshs.1,219,159,744. This is contrary to the provisions of Regulation 25(i)(a) of the Public Finance Management (County Governments) Regulations, 2015 which provides that the expenditure on wages and benefits should not exceed 35% of the total revenue. In the circumstances, Management was in breach of the law	• The Committee noted that the ceiling for the Assembly is 100, however the assembly has employed 162 persons. • The Committee noted that the threshold for 35% should not affect county assemblies since they do not engage in projects and most of their expenditure is on recurrent. •
Employment of Persons with Disabilities	During the year under review, the County Assembly of Turkana had one hundred and twenty-six (126) employees out of which only 2% were persons with disabilities. This was contrary to Section 12(1) of the County Assembly Human Resource Manual, 2018 which 99 states that the County Government shall promote equality of opportunity in employment and will not discriminate directly or indirectly against an employee on the ground of race, color, sex, language, religion, disability, pregnancy, mental status, and in respect of recruitment, training, promotion, terms and conditions of employment or any matters arising out of employment. In the circumstances, Management was in breach of the law.	• The OAG informed the Committee that the matter had been resolved. • The Committee directed the Assembly to comply with the law and put policies and strategies in place to achieve the set percentages.
Overpayment of Mileage Allowances to the Nominated Members	During the year under review, seventeen (17) nominated Members of County Assembly of Turkana were paid mileage allowances in arrears amounting to Kshs.20,788,458, computed from 6 September, 2017 to 19 May, 2021. This is contrary to the advisory of the Salaries and	• The OAG informed the Committee that the matter had been resolved. •

	Remuneration Commission (SRC) communicated through circular Ref.CAT/SRC/Vol.4 (01-2020) dated 23 October, 2020 which authorized mileage allowances to be paid from 21 August, 2019 with no arrears or backdating. In the circumstances, Management was in breach of the law	
Non - Compliance with the Law on Ethnicity	Review of the payroll for the year ended 30 June, 2021 revealed that the County Assembly had a staff establishment of one hundred and twenty-six (126) employees, out of which one hundred and twenty (120) or 95% of the total number were members from the dominant ethnic community in the County. Further, review of records indicated that during the year under review, the County Assembly Service Board recruited nine (9) new officers on contract all of whom were from the same ethnic community. This is contrary to Section 7(1) and (2) of the National Cohesion and Integrity Act, 2008 which states that all public officers shall seek to represent the diversity of the people of Kenya in employment of staff and that no public institution shall have more than one third of its staff establishment from the same ethnic community. In the circumstances, Management was in breach of the law	• The OAG informed the Committee that the matter had not been resolved. • The Committee directed the Assembly to comply with the law and put policies and strategies in place to achieve the set percentages.
Account Receivables – Long Overdue Imprests.	The statement of financial assets and liabilities reflects account receivables – outstanding imprests balance of Kshs.6,750,500 as at 30 June, 2021 as disclosed in Note 14 to the financial statements. Review	• The OAG informed the Committee that the matter had not been resolved. • The Committee noted that there was no documentary evidence to show that outstanding imprests

	of records revealed that the balances includes an amount of Kshs.6,750,500 held by various officers which ought to have been surrendered by 30 June, 2021 contrary to Regulation 93(5) of the Public Finance Management (County Governments) Regulations, 2015 which stipulates that a holder of a temporary imprest shall account or surrender the imprest within seven working days after returning to duty station. In the circumstances, Management was in breach of the law.	balance of Kshs.6,750,500 had been surrendered. • The Committee directed the assembly to, within 30 days, write to the Senate and copy to the EACC measures to show that the outstanding imprests had been recovered with interest.
REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE		
Lack of an Independent Internal Audit Function	During the year under review, the internal audit department was reporting both functionally and administratively to the accounting officer as there was no audit committee in place. This is contrary to Regulation155(1) Public Finance Management (County Governments) Regulation 2015 which provides that the head of internal audit unit in a county government entity shall enjoy operational independence through the reporting structure by reporting administratively to the Accounting Officer and functionally to the audit committee	• The OAG informed the Committee that the matter had not been resolved. • The Committee noted that the term of the audit committee lapsed and the county is in the process of filling the vacancies. • The Committee directed the Chairperson of CASB to fill the vacancies in the audit Committee to provide oversight of finances in the county assembly within 90 days.
Lack of an IT Steering Committee	The County Assembly did not have an IT steering committee which is important in performing the oversight function and formulation of policies to ensure that IT department functions properly to assist in achievement of organizational objectives in an	• The OAG informed the Committee that the matter had been resolved

	economic, efficient and effective way. In addition, the County Assembly did not have periodic IT reports which are supposed to assess the status of implementation of IT systems and suggest corrective measures. Consequently, the information technology governance may be overlooked as part of the County Assembly's overall governance	
Lack of Risk Management Policy	As previously reported, the Management of County Assembly of Turkana did not have a risk management policy in place during the year ended 30 June, 2021 contrary to Regulation 158(1) of the Public Finance Management (County Governments) Regulations, 2015. The regulation requires each county government entity to develop risk management strategies and a system of risk management to enable the county identify and develop appropriate risk strategies in order to improve on effective and efficient management of public resources.	• The OAG informed the Committee that the matter had not been resolved. • The Committee directed the assembly to within 90 days adopt and implement the risk management policy.
Failure to Tag Fixed Assets	Annex 4- summary of fixed asset register reflects that the County Assembly had assets with a historical cost balance of Kshs.1,373,737,828 as at 30 June, 2021. The assets have been classified under land, buildings and structures, transport equipment, office equipment, furniture and fittings and ICT equipment. However, as previously reported, the County Assembly Management has not tagged or branded its assets as	• The OAG informed the Committee that the matter had not been resolved. • The Committee noted that the assembly does not have a budget for tagging its assets. • The Committee directed the Assembly to within 90 days provide a status update on process of tagging of fixed assets.

	required under Regulation 132(1) of the Public Finance Management (County Governments) Regulations, 2015. The regulation states that, "the Accounting Officer of a county government entity shall take full responsibility and ensure 101 that proper control systems exist for assets and that (a) preventative mechanisms are in place to eliminate theft, security threats, losses, wastage and misuse; (b) movement and conditions of assets can be tracked; and (c) stock levels are at an optimum and economical level."	

MIN/SEN/CPAC/532/2023- **CONSIDERATION OF THE AUDIT REPORT OF THE COUNTY ASSEMBLY OF TURKANA FOR THE FINANCIAL YEAR 2019/2020**

Basis for Qualified Opinion

Audit Query	Concern	Observation and Recommendations
Unreconciled Difference Between the Financial Statements Figures and IFMISReports	The statement of receipts and payments reflects total payments of Kshs.1,140,597,031 for the year ended 30 June, 2020 while the IFMIS reports reflects total payments of Kshs.733,764,833 resulting in unexplained and unreconciled difference of Kshs.406,832,198. Consequently, the accuracy of total payments of Kshs.1,140,597,031 reflected in the financial statements for the year ended 30 June, 2020 could not be confirmed	• The OAG informed the Committee that the matter had not been resolved. • The Committee noted that the Turkana County Executive paid salaries amounting to Ksh.173,474,887 to the staff and MCAs of the Turkana County Assembly. • The Committee was informed that the payroll given to the Executive was equivalent to Kshs.169 million. • The Committee noted that the meeting that resolved that the Ksh.173,474,887 be paid by the executive to the assembly was chaired by the Chairperson of the Commission on Revenue

		Allocation and all persons present in the meeting that authorized the illegality be held culpable.
Unreconciled Bank Balances	The statement of financial assets and liabilities and as disclosed in Note 13A to the financial statements reflects bank balance of Kshs.12,463,785 as at 30 June, 2020. However, the IFMIS bank reconciliation statements were not attached as annexures to the financial statements. This was contrary to the guidelines issued by Public Sector Accounting Standards Board through Circular No. AG. 4/16/3 Vol.1(9) of 24 June, 2020. In the absence of IFMIS bank reconciliation statements, the accuracy and completenessof the bank balance of Kshs.12,463,785 as at 30 June, 2020 could not be confirmed	• The OAG informed the Committee that the matter had not been resolved. • The Committee noted that the county failed to reveal reconciliation statements for the bank accounts. •
Irregular Use of Deposits and Retentions Monies	The statement of financial assets and liabilities reflects accounts payable - deposits and retentions monies balance of Kshs.39, 117,572. However, the deposits bank account reflects a balance of Kshs.10, 367,469 resulting in an unexplained and reconciled variance of Kshs.38, 080,803. Consequently, the accuracy and completeness of the accounts payable - deposits and retentions balance of Kshs.39, 117,572 could not be confirmed	• The Committee stated that it will utilise management responses to make a determination during its report writing.
Other Matter		
Budgetary Control and Performance	The statement of comparative budget and actual amounts	•

	reflects final receipts budget and actual on comparable basis of Kshs.1,360,793,832 and Kshs.1,140,177,985 respectively resulting to an under-funding of Kshs.220,615,847 or 16% of the budget. Similarly, the County Assembly expended Kshs.1,140,597,031 against an approved budget of Kshs.1,360,793,832 resulting to an under-expenditure of Kshs.220,196,801 or16% of the budget. The underfunding and underperformance affected the plannedactivities and may have impacted negatively on service delivery to the public	
Pending Bills	Note 7.9 on Other Disclosures to the financial statements reflects pending accounts payables amount of Kshs.41,173,476 comprising of Kshs.8,464,188 in respect of construction of buildings, Kshs.4,432,808 in respect of construction of civil works and Kshs.28,276,480 in respect of supply of goods and services. Failure to settle bills duringthe year to which they relate distorts the financial statements for that year and adversely affects the provisions for the subsequent year to which they have to be charged	•
Unresolved Prior Year Audit 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. Management	•

	has indicated that the issues have remained unresolved as the Senate has not met to deliberate on the same.	
REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES		
		•
		•
Construction of County Assembly Office Annex-Treasury Building	As reported in the previous year, an amount of Kshs.65,570,881 was paid in respect of construction of County Assembly Office Annex Treasury Building. The contract was varied from Kshs.65,000,000 to Kshs.72,854,312.45. However, approval for contract variation was not provided for audit review. Audit verification of the project revealed that the building was about 70% complete and the contractor was not on site. Consequently, value for money has not been realized in the implementation of the project	• The Committee was informed that the new county assembly offices was complete, however there was no completion of works certificate provided.
Stalled Construction of Speaker's Residence	The County Assembly entered into a contract for the construction of Speaker's Residenceat a contract sum of Kshs.75, 016,755.68. Physical verification of the project carried out in November, 2020 revealed that the works were about 40% complete and the contractorwas not on site. Consequently, value for money has not been realized in the implementation of the project	• The Committee was informed that the Speaker's residence is not complete despite it starting in 2014. • The Committee requested the EACC to look into the project.

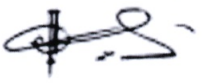
Construction of New County Assembly Offices	As reported in the previous year, the County Assembly entered into a contract for the construction of the County Assembly Offices at a contract sum of Kshs.179,736,282 on 28 June, 2016. Physical verification conducted in December, 2020 revealed that the restaurant works were about 90% and the County Assembly building was about 70% complete. However, the contractor was not on site and there was no work in progress. Consequently, value for money has not been realized in the implementation of the project	• The Committee was informed that the Speaker's residence is complete.
Unutilized Gymnasium Equipment	As reported in the previous year, the County Assembly incurred expenditure of Kshs.7,500,000 on the procurement of gymnasium equipment. Audit verification revealed that although the equipment had been received, they had not been installed as the County Assembly did not have a gymnasium room. Consequently, value for money has not been realized in the implementation of the project	• The Committee noted that the county assembly procured gym equipment without a gymnasium room. •
Recovery of Unremitted Tax Deductions	The statement of receipts and payments and as disclosed in Note 12 to the financial statements reflects other payments amounting to Kshs.118,728,853. Included in this amount is Kshs.118,728,835 being deduction by the Kenya Revenue Authority from the County Assembly's recurrent operational account because of non-remittance of Value Added Tax (VAT), Withholding income tax and Pay As You Earn (PAYE) for	•

	the period between July, 2016 to June, 2018. Consequently, the Management was in breaching the law by failing to deduct and remit taxes whose recovery affected which in turn affected service delivery at County Assembly.	
Account Receivables - Outstanding Imprests	The statement of financial assets and liabilities and as disclosed in Note 14 to the financial statements reflects account receivables - outstanding imprests balance of Kshs.26,234,741. Review of documents provided for audit revealed that an amount of Kshs.26,234,741 held by various officers was not surrendered on time. This was contraryto Regulation 93(5) of the Public Finance Management (County Governments) Regulations, 2015 which provides that a holder of a temporary imprest shall account or surrender the imprest within seven working days after returning to duty station. Consequently, Management was in breach of law	•
Lack of Risk Management Policy	The County Assembly Management had not put in place risk management policy, strategies and risk register to mitigate against risk. It was, therefore, not clear how the Management manages risk exposures. This is in contravention of Regulation 158 (1)(a) and (b) of the Public Finance Management (County Governments) Regulations, 2015 which requires the	•

	Accounting Officer to ensure that the county government entity develops risk management strategies, which include fraud prevention mechanism; and the county government entity develops a system of risk management and internal control that builds robust business operations.	
Tagging of Fixed Assets	Annex 4-summary of fixed asset register shows that the County Assembly had assets with a historical cost balance of Kshs.1,209,818,353 as at 30 June, 2020. Physical inspection of the assets revealed that the County Assembly Management has not tagged/branded its assets. This was contrary to Regulation 132(1) of the Public Finance Management (County Governments) Regulations, 2015 which requires the Accounting Officer of a county government to take full responsibility and ensure that proper control systems exist for assets and that preventative mechanisms are in place to eliminate theft,security threats, losses, wastage and misuse, and to ensure that movement and conditions of assets can be tracked.	•

MIN/SEN/CPAC/533/2023- **ADJOURNMENT AND DATE OF NEXT MEETING**

The meeting was adjourned at 1.44 p.m. The next meeting would be held on Thursday, 28th September, 2023 at 10:00 a.m for project visits and inspection.

SIGNATURE…  **……**

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

DATE: 4th December, 2024

MINUTES OF THE NINETY SECOND (92ND) (B) MEETING OF THE COUNTY PUBLIC ACCOUNTS COMMITTEE TO CONSIDER AUDIT REPORTS FOR KISII COUNTY ASSEMBLY FOR THE FINANCIAL YEARS 2020/2021 AND 2021/2022, HELD ON MONDAY, 20TH NOVEMBER, 2023 AT THE K.I.C.C., SHIMBA HILLS HALL, FROM 10:00 A.M.

PRESENT

1. **Sen. Kajwang' Moses Otieno, MP** - **Chairperson**
2. Sen. Okoiti Andrew Omtatah, MP - Member
3. Sen. Cherarkey Samson Kiprotich, MP - Vice-Chairperson
4. Sen. Methu John Muhia, MP - Member
5. Sen. Sifuna Edwine Watenya, MP - Member

IN ATTENDANCE
KISII COUNTY ASSEMBLY

1. **Hon. Dr. Phillp Nyanumba** - **Speaker, Kisii County Assembly**
2. Mr. Jacob Onkeo - Clerk, County Assembly
3. Mr. James Ondari -Vice Chair, CPSB
4. Mr. Moses Ratemo - Director, Finance and Accounting Services
5. Mr. Edward Ondieki - Head, Supply Chain Management

OFFICE OF THE AUDITOR GENERAL (OAG)

1. Mr. David Sumaili - Parliamentary Liaison Officer
2. Mr. Wilson Maiyo - Office of the Auditor General, Kisii

ETHICS AND ANTI-CORRUPTION COMMISSION

CPA Evah Wacuka - Parliamentary Liaison Officer

THE NATIONAL TREASURY

Dr. Cyrus Munyua - Parliamentary Liaison Officer

CONTROLLER OF BUDGET

CPA Theodora Bosibori - Parliamentary Liaison Officer

SENATE SECRETARIAT

1. Mr. George Otieno - Principal Clerk Assistant
2. Mr. Boniface Kiambi - First Clerk Assistant
3. Mr. Ibrahim Oruko - Media Relations Officer
4. Mr. William Zenton - Audio Officer
5. Ms. Annette Kwamboka - Legal Counsel
6. Mr. Martin Mulandi - Research Officer
7. Mr. Osman Mohammed - Research Officer

8. Mr. James Ngusya - Serjeant-at-Arms

MIN/SEN/CPAC/635/2023 PRELIMINARIES AND PRAYERS

The Committee Chairperson called the meeting to order at 10:49 a.m. followed by a word of prayer. Thereafter introductions followed.

MIN/SEN/CPAC/636/2023 ADOPTION OF AGENDA

The agenda of the meeting was adopted having been proposed by **Sen. Okiya Omtatah, MP** and seconded by **Sen. John Methu, MP** as follows;

1) Preliminaries;
    a. Prayer.
    b. Introductions.
2) Adoption of Agenda.
3) Administration of Oath.
4) **Meeting with the County Assembly of Kisii to interrogate the Reports of the Auditor General on the Financial Statements for Financial Year 2020/2021 and 2021/2022.**
5) Any Other Business.
6) Date of the Next Meeting and Adjournment.

MIN/SEN/CPAC/637/2023 ADMINISTRATION OF OATH

The Governor of Kisii County took Oath of Witnesses and tabled the Management responses and supporting documents for the Financial Years 2020/2021 and 2021/2022.

MIN/SEN/CPAC/638/2023 CONSIDERATION OF THE AUDIT REPORTS OF KISII COUNTY ASSEMBLY FOR THE FINANCIAL YEARS 2020/2021 AND 2021/2022

Basis for Qualified Opinion

Audit Query	Concerns	Observation and Recommendations
	FY 2020-2021	
Unsupported Expenditure on Foreign and Domestic Travel	The statement of receipts and payments for the year ended 20 June, 2021 reflects an expenditure of Kshs.301,913,481 on use of goods and services as disclosed in Note 5 to the financial statements. The balance includes an amount of Kshs.2,454,662 in respect of foreign travel and subsistence. However, supporting documents for the expenditure were not provided for audit review. Further, the Note includes domestic travel and subsistence expenditure of Kshs.137,306,830 out of which an amount of Kshs.11,350,000 was incurred on public participation. The expenditure was incurred through cash purchases from temporary imprests issued to Members of the County Assemblies (MCAs) for hiring of public address system, public ground, tents and chairs; purchase of stationeries, refreshments, snacks and	a) The OAG verified that the Management had provided the supporting evidence for foreign travel. b) It was noted that the management had not provided satisfactory explanation on the receipts without KRA ETR supporting the public participation. c) The OAG was instructed to closely monitor the issue to ensure compliance with the law.

	beverages; and payment of facilitation fees to the members of public during various public participation activities in April, May and June, 2021. Review of documents supporting the public participation imprest surrender vouchers revealed that the attendance list was not signed by all participants. Further, the attached cash sales receipts did not have official KRA electronic tax register receipts to confirm that the trading entities were tax compliant.	
Budgetary Control and Performance	The statement of comparison of budget and actual amounts - recurrent and development combined for the year ended 30 June, 2021 reflects final receipts budget and actual on comparable basis amounts of Kshs.1,021,250,968 and Kshs.962,258,658 respectively, resulting in an under-funding by Kshs.58,992,310 or 6% of the budget. Similarly, the County Assembly spent an amount of Kshs.962,297,766 out of the approved expenditure budget of Kshs.1,021,250,968 resulting in under expenditure of Kshs.58,953,202 or 6% of the budget	a) In mitigation, the Management explained that it is true there was under-absorption of the budget for Financial Year under review by 6%. b) It was explained that this was mainly due to delays in exchequer releases relating to development expenditure.
Late Exchequer Releases	The statement of receipts and payments for the year ended 30 June, 2021 reflects transfer from County Treasury/Exchequer releases of Kshs.962,258,658 which includes an amount of Kshs.77,431,718 disbursed by the County Treasury in July, 2021 after 30 June, 2021. Late exchequer releases could have had adverse effects on the implementation of the planned activities and projects by the County Assembly of Kisii.	a) The Management explained that the Assembly received exchequer releases of Kshs.77,431,718 between 1st to 7th July, 2021. This was facilitated through an agreement between the National Treasury and Planning and the Council of Governors and communicated through a joint statement dated Friday, 2nd July, 2021 (Copy attached). b) It was noted that the National Treasury accorded County Government entities adequate time to process and transmit payments through the Integrated Financial Management Information System (IFMIS).
Non-Compliance with	The statement of receipts and payments reflects	The OAG informed the

the Law on Fiscal Responsibility-Wage Bill	expenditure of Kshs.604,885,796 as disclosed in Note 4 to the financial statements. The expenditure is 63% of the Assembly's total exchequer receipts of Kshs.962,258,658 in the year under review. The Management was in breach of the law.	Committee that management did not provide satisfactory explanation therefore the matter remained unresolved.
Non-Compliance with Law on Ethnic Composition	The statement of receipts and payments reflects expenditure of Kshs.604,885,796 as disclosed in Note 4 to the financial statements. The expenditure is 63% of the Assembly's total exchequer receipts of Kshs.962,258,658 in the year under review. The Management was in breach of the law. A review of the personnel records indicate that the County Assembly had two hundred and seventy four (274) employees as at 30 June, 2021 out of which, two hundred and sixty seven (267) or 97% comprised members of the ethnic community dominant in the County. This is contrary to Section 65(1) of the County Governments Act, 2012 and Section 7(1) and (2) of the National Cohesion and Integration Act, 2008. The Management was in breach of the law.	**a)** The OAG informed the Committee that management had not provided satisfactory explanation, therefore the matter remained unresolved. **b)** The entity was put to task to demonstrate measures it had put in place to ensure that the Assembly operates within the law. **c)** The Committee directed the entity to develop a policy to ensure that recruitment and appointments are done in conformity with the relevant legislation and public service policies/procedures.
Lack of an Approved ICT Policy	Review of IT control environment revealed that the ICT Policy addressing areas of security and program change management, physical access, environmental and logical access control was still in draft form and had not been approved by Management. As a result, the County Assembly was exposed to breaches of information confidentiality, data integrity and loss of business continuity.	a) It was noted that the policy is still in draft form thus the matter remained unresolved. b) In mitigation, the Management explained that the performance of the past administration was hugely disrupted by the effects of Covid-19.
FY 2021-2022		
Unexplained Voided Transactions	Review of the Integrated Financial Management Information System (IFMIS) payments indicated that nine hundred and ninety-nine (999) transactions amounting Kshs.179,292,886 which had been approved by the Controller of Budget, were voided during the year under review. Management has attributed voiding of these transactions to lack of funds to pay and an error in one of	g) It was reported that this was contrary to Section 23 of the COB Act, 2016. h) The Committee observed that the diversion of approved funds was a conduit for loss of public funds.

	the payments request batches. However, no evidence was provided to show that the voidable transactions were paid in the financial 2022/2023. In the circumstances, the accuracy and completeness of the financial statements could not be confirmed.	
Budgetary Control and Performance	The summary statement of appropriation: recurrent and development reflects budgeted receipts of Kshs.1,101,585,582 and actual receipts of Kshs.960,962,827, resulting to a budget shortfall of Kshs.140,622,755 (or 13%) of the budget. Similarly, the Assembly spent Kshs.960,968,829 against an approved budget of Kshs.1,101,585,582, resulting to an under-expenditure of Kshs.140,616,753 (or 13%) of the budget. In circumstances, the underfunding and under-expenditure could have adversely affected provision of services.	**a)** In mitigation, the Management explained that the underfunding under – expenditure of 13% of the budget during the year under review was as a result of delayed exchequer releases from the National Treasury to the County Assembly. **b)** It was noted that this was more evident towards the end of the financial year whereby the Assembly did not receive its allocation for the month of June 2022. **c)** It was further noted that the Management had not adhered to budgetary controls pursuant to Regulation 104 (1) of the Public Finance Management (County Government) Regulations 2015.
Unresolved Prior Year Matters	The Public Sector Accounting Standard Board (PSASB) financial reporting template issued in June, 2021 stipulates that the Management should reflect a progress on follow up on auditor's recommendations indicating issues raised by the auditor, status and timeframe when the issues are expected to be resolved. However, Note 16 on other disclosures to the financial statements shows that seven (7) issues raised by the Auditor General in the report for 2020/2021 had been resolved However, Management did not	a) It was noted that the entity was in compliance with the Public Sector Accounting Standards Board templates and The National Treasury's Circular Ref: No. AG.4/16/3 Vol.1(9) dated 24 June, 2020

	provide supporting documents to prove the status. No reason was given for the omission.	
Failure to Observe One-Third Rule in Employment	Review of the Assembly's staff establishment and employment records for the year under review revealed that the Assembly had four hundred and twenty-seven (427) employees. However, out of this number, four hundred and nineteen (419) employees or 98% were from the dominant ethnic community in the County, while only six (6) employees or 2% were from the other ethnic communities, contrary to the provisions of Section 65(1)(e) of the County Government Act, 2012 which state that there is need to ensure that at least thirty percent of the vacant posts at entry level are filled by candidates who are not from the dominant ethnic community in the county;	a) The OAG informed the Committee that management had not provided satisfactory explanation, therefore the matter remained unresolved. b) The entity was put to task to demonstrate measures it had put in place to ensure that the Assembly operates within the law. c) The Committee directed the entity to develop a policy to ensure that recruitment and appointments are done in conformity with the relevant legislation and public service policies/procedures.
Irregular Payment of Subscription Fees	The statement of receipts and payments reflects expenditure on use of goods and services totalling Kshs.285,763,173 which includes an amount of Kshs.27,331,024 in respect of other operating expenses. Included in this balance is an amount of Kshs1,500,000 paid as subscription fees to the Society of Clerks-At-The-Table in Kenyan Legislatures ((SOCATT (K)). However, acknowledgement receipt of the subscription fees was not provided for audit review. Further, the subscription was not based on any law.	a) The Committee directed that payment of subscription to SOCATT and CAF was illegal. b) The Accounting Officer to be held liable and the money recovered from the officer concerned.

MIN/SEN/CPAC/639/2023 ADJOURNMENT AND DATE OF NEXT MEETING

It was observed that there was need for legislation to achieve financial autonomy for County Assemblies' to enhance effective implementation of its mandate and safeguard it from interference by the County Executive.

MIN/SEN/CPAC/640/2023 **ADJOURNMENT AND DATE OF NEXT MEETING**

The meeting was adjourned at 12.46 p.m. The next meeting would be held on notice.

SIGNATURE...  **.....**

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

DATE: 4th December, 2024

MINUTES OF THE SEVENTY SECOND (72ND) (A) MEETING OF THE COUNTY PUBLIC ACCOUNTS COMMITTEE TO CONSIDER AUDIT REPORTS FOR UASIN GISHU COUNTY ASSEMBLY FOR FINANCIAL YEARS 2019/2020 and 2020/2021 HELD ON MONDAY, 18TH SEPTEMBER, 2023 AT THE SHIMBA HILLS HALL, K.I.C.C, FROM 10:00 A.M.

PRESENT

1. **Sen. Kajwang' Moses Otieno, MP** - **Chairperson**
2. Sen. Okoiti Andrew Omtatah, MP - Member
3. Sen. Sifuna Edwine Watenya, MP - Member
4. Sen. Omar Mariam Sheikh, MP - Member
5. Sen. Mwenda Gataya Mo Fire, MP - Member
6. Sen. Onyonka Richard Momoima, MP - Member

IN ATTENDANCE

UASIN GISHU COUNTY ASSEMBLY

1. Hon. Phillip Muigei - Speaker, Uasin Gishu County Assembly
2. Mr. Shadrack Choge - Clerk, Uasin Gishu County Assembly
3. Hon. Gilbert Kosgei - Chair, PIC / PAC
4. Mr. William Koech - Deputy Clerk
5. Mr. Peter Oayo - Finance Officer
6. Mr. Elvis Tarus - Finance Officer
7. Ms. Sally Jesang - Accountant

OFFICE OF THE AUDITOR GENERAL (OAG)

Mr. Bonface Ongwen - North Rift Region Audit Office

CONTROLLER OF BUDGET

Ms. Theodora Ochichi - Parliamentary Liaison Officer

NATIONAL TREASURY

Dr. Cyrus Munyua - Parliamentary Liaison Officer

ETHICS AND ANTI-CORRUPTION COMMISSION

CPA Evah Wacuka - Parliamentary Liaison Officer

SENATE SECRETARIAT

1. Mr. Boniface Kiambi - Clerk Assistant 1

2. Mr. Crispus Tima - Clerk Assistant I
3. Mr. Hussein Salat - Fiscal Analysst
4. Mr. Gilbert Juma - Legal Counsel
5. Mr. Peter Katana - Researcher I
6. Mr. James Ngusya - Serjeant-at-Arms
7. Mr. William Omondi - Audio Officer

MIN/SEN/CPAC/501/2023 PRELIMINARIES AND PRAYERS

The Committee Chairperson called the meeting to order at 10:20 am followed by a word of prayer. Thereafter introductions followed.

MIN/SEN/CPAC/502/2023 ADOPTION OF AGENDA

The agenda of the meeting was adopted having been proposed by Sen. Okoiti Omtata, MP and seconded by Sen. Omar Sheikh, MP as follows;

1) Preliminaries
    a. Prayer
    b. Introductions
2) Adoption of Agenda
3) Administration of Oath
4) **Meeting with the County Assembly of Uasin Gishu to interrogate the Reports of the Auditor General on the Financial Statements for Financial Years 2019/2020 and 2020/2021; and**
5) Any Other Business
6) Date of the Next Meeting and Adjournment

MIN/SEN/CPAC/503/2023 ADMINISTRATION OF OATH

The Speaker and Clerk of Uasin Gishu County Assembly took Oath of Witness respectively and tabled the Management responses and supporting documents for the financial year 2019/2020.

MIN/SEN/CPAC/504/2023 CONSIDERATION OF THE AUDIT REPORT OF UASIN GISHU COUNTY ASSEMBLY FOR THE FINANCIAL YEAR 2020/2021

Basis for Qualified Opinion

Audit Query	Concerns	Observation and Recommendations
1.0 Variances Between Financial Statements and Integrated Financial Management Information System (IFMIS)	The balances reflected in the statement of receipts and payments for the year ended 30 June, 2021 were at variance with the IFMIS report, the differences have not been explained or reconciled.	• In mitigation, the client indicated that reconciliations had been done however did not provide any evidence of the same. • The office of the OAG could not verify the reconciliation had been done.

		• The matter remained unresolved.
2.0 Temporary Employees Paid Outside Integrated Personnel and Payroll Database (IPPD) System	The expenditure balance was at variance with an amount of Kshs.39,474,492 reflected in the supporting schedules, resulting in an unexplained and unreconciled variance of Kshs.321,412.	• It was noted that majority of partisan staff working under the offices of the MCAs were not under the IPPD, yet their payments were drawn from the County Assembly. • Concerns were raised that a list of all the staff not on IPPD was not provided for verification. • The matter remained unresolved.
3.0 Unsupported Rent for Ward Offices	The statement of receipts and payments reflects use of goods and services expenditure of Kshs.338,260,166. Financial statements include Kshs.8,239,110 incurred on rentals of produced assets. As previously reported, however, the expenditure was not supported by invoices and the lease agreements or contracts between the County Assembly and the landlords.	• It was noted that a ceiling of Kshs 15,000 rent per month was provided for in the statutes governing the rent for County offices, however the client could not satisfactorily explain how all the offices were paid a flat rate of the maximum amount. • The Committee directed the entity to ensure preparation of proper lease agreements and submit to the OAG for verification.
	Other Matter	
4.0 Budgetary Control and Performance	Recurrent and development combined reflected final receipts budget and actual on a comparable basis of Kshs.946,014,946 and Kshs.702,372,120 respectively, resulting in an underfunding of Kshs.243,642,826 or 26% of the budget. Similarly, the County Assembly expended Kshs.702,140,890 against an approved budget of Kshs.946,014,946, resulting in an under-expenditure of Kshs.243,874,056 or 26% of the budget.	• It was noted that the law was flouted and the guidance of the treasury was required. • Evidence of handling of this expenditure outside the financial year was not provided. • The matter remained unresolved.

5.0 Pending Bills	The creditors' ageing analysis was not provided for audit verification. Further, included in the pending bills balance of Kshs.24,063,037 is an amount of Kshs.300,000 carried forward from the 2019/2020 financial year which should have been paid as a first charge in the 2020/2021 financial year was still outstanding as of 30 June, 2021.	• It was noted that documents required had not been provided at the time of the audit. • It was further noted that the aging analysis provided by the client was not complete. • Concerns were raised as to the late submission of documents for verification. • The matter remained unresolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

1.0Compensation of Employees **1.1 Non-Compliance with the Law on Fiscal Responsibility - Wage Bill**	During the year under review, the County Assembly spent Kshs.329,762,052 on compensation of employees and Kshs.17,748,097 on social security benefits totalling Kshs.347,510,149 representing 49% of the total receipts of Kshs.702,372,120. This is contrary to provisions of PMF Regulations.	• The Committee noted that the County Assembly of Uasin Gishu was not compliant with the Public Finance Management (PFM) Act, 2012, and the attendant PFM (Regulations), 2015, that set the threshold of not more than 35 per cent of wage bill to total revenue ratio.
1.2 Staff Ethnic Diversity	Review of the payroll for June 2021, revealed that the County Assembly had ninety (90)) employees, out of which seventy-five (75) or 83% of the total number were from the dominant community in the County. Further, County Assembly Service board recruited 6 new staff from the same ethnic community.	• Concerns were raised as to unbalanced ethic composition of the assembly. • The management explained that the County Assembly had developed a roadmap on how to address the matter in subsequent recruitments.

1.3 Non-Compliance with One Third Rule on Salary Pay Deduction	Review of the County Assembly payrolls for the year under review revealed that forty-six (46) employees had over-committed their salaries beyond the two-thirds of their basic pay.	• The management explained that this occurred because members were on recess as per the County Assembly Calendar of meetings, consequently the members could not be able to meet the one third rule since there were no sitting allowances during the said months, considering that they were repaying Car and Mortgage Loan during the period.
1.4 Non-compliance with The National Treasury's Circular on Domestic Travel	The expenditure totalling Kshs.23,965,000 incurred on domestic travel and subsistence allowance outside the county contrary to the National Treasury Circular No. 20/2015 dated 11 April, 2015 on curtailing domestic travel and related expenditure.	The matter remained unresolved.
1.5 Failure to Submit Accounts of the County Assembly Service Board	The County Assembly Management did not prepare and submit the financial statements of the County Assembly Service Board to the Auditor-General, with copies to the County Treasury, CoB and Commission on Revenue Allocation for the year ended 30 June, 2021.	• In mitigation the client informed that Committee that this was due to lack of a template from the Public Sector Accounting Standards Board for financial statements. • It was noted that the National Treasury issues templates in the month of May every year, thus the entity was in breach of the law.
REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE		
Lack of an Independent Internal Audit Function	The County Assembly has established an internal audit unit. However, the internal auditor reports both functionally and administratively to the Accounting Officer instead of an Audit Committee. An Audit Committee has not been constituted.	• It was noted that the lack of an established Audit Committee and a weak Internal Audit Unit during the period under review was a matter of concern, considering their pivotal role in ensuring fiscal responsibility.

		• The matter remained unresolved.
Lack of ICT Risk Management Policy	Review of the Information and Communication Technology (ICT) revealed that during the year under review, the County Assembly had not established a Risk Management Policy for effective and efficient management of the entity's IT resources.	• It was noted that the entity had developed and operationalized an ICT policy.

MIN/SEN/CPAC/505/2023 **CONSIDERATION OF THE AUDIT REPORT OF UASIN GISHU COUNTY ASSEMBLY FOR THE FINANCIAL YEAR 2019/2020**

Basis for Qualified Opinion

Audit Query	Concerns	Observation and Recommendations
1. Unsupported Cash and Cash Equivalents	Cash books for the ward offices accounts were not provided for audit verifications. Further, the County Treasury authority for the operationalization of the ward bank accounts was not provided for audit review.	• The matter was addressed in the subsequent audit year.
2.0 Unsupported Payment of Rent for Ward Offices	Expenditure totalling Kshs.6,340,000 incurred on rentals of produced assets. Review of records provided revealed that there was no lease agreement or contract between the County Assembly and the landlords. Further, the invoices in support of the payment of rent were not provided for audit review.	• The matter was addressed in the subsequent audit year.
3.0 Unsupported Payment of Wages toward Employees	Expenditure totalling Kshs.30,636,000 paid to one hundred and forty-one (141) ward employees working for the Members of County Assembly. However, personal files and other employment documents were not provided for audit	• The matter was addressed in the subsequent audit year.

	verification.	
4.0 Unsupported Foreign Travel	The foreign travel and subsistence allowance included an amount of Kshs.4,050,749 paid to staff members while participating in the East Africa Local Authorities Sports and Cultural Association (EALASCA) in Kampala, Uganda. However, members of staff did not attach bus hire invoices or tickets to account for an amount of Kshs. 10,00 that was disbursed for transportation costs. Further, members of staff did not produce certificates of participation to confirm their participation in the games.	• This matter was resolved
5.0 Irregular Subscriptions to the Society of Clerks Table and County Assembly Forum	The amount paid for annual subscription to Society of Clerks Table of Kshs.500,000 and County Assembly Forum of Kshs.2,000,000. However, there was no legislation or policy in place to authorize such subscriptions and to justify the payments.	• It was noted that these subscriptions, just like the Law Society of Kenya should be made by the members themselves, but not the Assembly. • The Committee directed that this shall be a surcharge on the officers who authorized the irregular payments.
Key Audit Matters Other Matter		
1.0 Budgetary Control and Performance	The statement of comparative budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.733,014,946 and Kshs.683,014,946 respectively resulting to an under-expenditure of Kshs.50,000,000 or 6.8% of the budget.	• The matter was addressed in the subsequent audit of 2020-2021 Financial Year.
2.0 Unresolved Prior Year Audit Matters	In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on	• The matter was addressed in the subsequent audit year of 2020-2021.

	Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls. However, the management had not resolved the issues nor given any explanation.	

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

1.0 Expenditure on Salaries, Emoluments and Benefits	The County Assembly spent Kshs.326,292,687 on compensation of employees and Kshs.12,659,795 on social security benefits. The total expenditure of Kshs.338,942,482 on the two items represents 50% of the total receipts of Kshs.682,950,255 which was against PMF Act on set limit of 35% on county expenditure on wages and benefits for public officers.	• The matter was addressed in the subsequent audit year of 2020-2021.
2.0 Failure to Observe One Third Rule on Staff Establishment	A review of human resource records revealed that the County Assembly had a staff establishment of ninety-nine (99) employees out of whom eighty-nine percent (89%) were from the dominant community.	• The matter was addressed in the subsequent audit year of 2020-2021.
3.0 Members of County Assembly and Employees Earning Less Than a Third of their Basic Pay	Audit review of the payroll for the months of December, 2019 to March, 2020 revealed that Members of County Assembly and employees of the assembly were receiving salaries less than a third of their basic pay contrary to Employment Act, 2007.	• The matter was addressed in the subsequent audit year of 2020-2021.
REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE		
1.0 Lack of Information Communication Technology Policies	Review of the Information and Communication Technology (ICT) of the County Assembly revealed that the Assembly did not have an IT Policy, Data	• The matter was addressed in the subsequent audit year of 2020-2021.

	Recovery Plan (DRP) and IT security policy in the year 2019/2020.	
2.0 Lack of Audit Committee and Weak Internal Audit Unit	The County Assembly had not constituted an audit committee. Further, the Internal Audit Unit was reporting both functionally and administratively to the Accounting Officer due to the absence of an audit committee.	• The matter was addressed in the subsequent audit year of 2020-2021.

MIN/SEN/CPAC/506/2023 ANY OTHER BUSINESS

Concerns were raised as the lack of gender balance in the team that appeared before the Senate.

MIN/SEN/CPAC/507/2023 ADJOURNMENT AND DATE OF NEXT MEETING

The meeting was adjourned at 12.58 pm. The next meeting would be held on Tuesday, 19th September, 2023 at 10:00am.

SIGNATURE…  **……**

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

DATE: 4th December, 2024

MINUTES OF THE EIGHTIETH (80TH) MEETING OF THE COUNTY PUBLIC ACCOUNTS COMMITTEE TO CONSIDER AUDIT REPORTS FOR TANA RIVER COUNTY ASSEMBLY FOR FINANCIAL YEARS 2019/2020 AND 2020/2021 HELD ON MONDAY, 9TH OCTOBER, 2023 AT K.I.C.C, SHIMBA HILLS HALL FROM 10:00 A.M.

PRESENT

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

IN ATTENDANCE

Sen. Danson Mungatana, MP - Area Senator, Tana River County

IN ATTENDANCE
TANA RIVER COUNTY ASSEMBLY

1. **Hon. Osman Nur Galole** - **The Speaker**
2. Mr. Abdullahi Hussein - Clerk, Tana River County
3. Mr. Alex Onturi - Principal Accountant
4. Mr. Wehliye Mohamed - Senior Accountant
5. Mr. Ahmed Musa - Human Resource Officer
6. Mr. Suleiman Jarso - Procurement Officer
7. Hon Boru Masha - MCA
8. Hon. Mahmud Gabo - MCA
9. Mr. Hussein Hersi - Serjeant-at-Arms

IN ATTENDANCE
TANA RIVER COUNTY ASSEMBLY PUBLIC ACCOUNTS COMMITTEE

1. Hon. Lina Jara - Chairperson
2. Hon. Muhamud Ali - Vice-Chairperson

OFFICE OF THE AUDITOR GENERAL (OAG)

1. Mr. David Sumaili - Parliamentary Liaison Officer

2. Mr. Herrie Njoroge - Director of Audit

ETHICS AND ANTI-CORRUPTION COMMISSION

Ms. Evah Wacuka - Parliamentary Liaison Officer

OFFICE OF THE CONTROLLER OF BUDGET (COB)

Ms. Theodora Bosibori - Parliamentary Liaison Officer

NATIONAL TREASURY

Dr. Cyrus Munyua - Parliamentary Liaison Officer

SENATE SECRETARIAT

1. Mr. George Otieno - Principal Clerk Assistant
2. Mr. Kevin Kibet - Clerk Assistant III
3. Ms. Purity Orutwa - Clerk Assistant III
4. Mr. Malcolm Ngugi - Legal Counsel
5. Mr. Martin Mulandi - Researcher III
6. Mr. Peter Katana - Researcher III
7. Mr. Osman Hire - Researcher III
8. Ms. Linet Aseka - Researcher III
9. Mr. Hussein Salat - Fiscal Analyst
10. Mr. James Ngusya - Serjeant-at-Arms
11. Mr. Ibrahim Oruko - Media Relations Officer
12. Mr. William Zenton - Audio Officer

MIN/SEN/CPAC/555/2023 PRELIMINARIES AND PRAYERS

1) The Committee Chairperson called the meeting to order at 10:22 am followed by a word of prayer. Thereafter introductions followed.
2) The Committee raised concern on the delegation of Tana River County Assembly and urged them to in future comply with gender balance.

MIN/SEN/CPAC/556/2023 ADOPTION OF AGENDA

The agenda of the meeting was adopted having been proposed by **Sen. John Methu, MP** and seconded by **Sen. Mwenda Gataya Mo Fire, MP** as follows;

1. Preliminaries
    a) Prayer
    b) Introductions
2. Adoption of Agenda
3. Administration of Oath
4. **Meeting with the County Assembly of Tana River to interrogate the Report of the Auditor General on the Financial Statements for Financial Years 2019/2020 and 2020/2021; and**
5. Any Other Business
6. Date of the Next Meeting and Adjournment

MIN/SEN/CPAC/557/2023 ADMINISTRATION OF OATH

The Speaker and the Clerk of Tana River County Assembly took Oath of Witnesses

respectively and tabled the Management responses and supporting documents for the Financial Years 2019/2020 and 2020/2021.

MIN/SEN/CPAC/558/2023 **CONSIDERATION OF THE AUDIT REPORT OF TANA RIVER COUNTY ASSEMBLY FOR THE FINANCIAL YEAR 2020/2021**

Basis for Qualified Opinion

Audit Query	Concerns	Observation and Recommendations
1.0Unsupported Mileage Allowance	Mileage allowance of Kshs.33,273,337. However, the expenditure was not supported by the relevant documents including a report from the transport section of the State Department of Public Works	• The Auditor informed the Committee that the matter had been resolved.
2.0 Unsupported Domestic Travel and Subsistence	Expenditure of Kshs.11,616,500 made to Members of the County Assembly (MCAs) and staff as subsistence allowance while on official duties outside their duty station was not supported with relevant documents such as travel documents, duly approved invitations for the meetings or training. Further, a return to office report was not prepared.	• The Auditor informed the Committee that the matter had been resolved.
3 Unsupported Training Expenses	Payments amounting to Kshs. 1,985,816 were not supported with training needs assessment report, travel documents and attendance register.	• The Auditor informed the Committee that the matter had been resolved.
4 Unconfirmed Office and General Supplies	Included in the use of goods and services amount of Kshs.214,148,843 is office and general supplies amount of Kshs.33,053,222 out of which procurement and payment documents to support an expenditure of Kshs.2,575,000 were not provided for audit.	• The Auditor informed the Committee that the matter had been resolved.
5 Irregular and Unsupported Contributions to County Assemblies Forum	Included in other operating expenses amount of Kshs.24,191,765 is an amount of Kshs.5,000,000 made to the County Assemblies' Forum. However, no evidence was provided for audit to indicate that the payments were received by County Assemblies Forum	• The Auditor informed the Committee that the matter was still outstanding. • The Committee directed the county assembly to cease any payments to CAF and SOCATT until it is regularized.

	(CAF).	• The Committee informed the county assembly that any future payments to CAF and SOCATT will be surcharged to the person responsible.
	Other Matter	
1. Late Exchequer Releases	During the year under review, the County Assembly received exchequer amount of Kshs.43,452,450 in the month of June, 2021. Due to the late remittances by The National Treasury, the Assembly could not undertake the planned and budgeted for programmes on time.	• The Auditor informed the Committee that the matter had not been resolved. • The Committee stated that it will utilise the management responses to make a determination on this matter during its report writing.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

1. Exceeded Number of Assembly Staffs	A review of the payroll system for the County Assembly revealed that there were seventy-seven (77) employees in the year under review. This is against the provision of the Commission on Revenue Allocation which had set the limit of the County Assembly employees to seventy-five (75) and therefore exceeding the required number by two (2) employees.	• The Auditor informed the Committee that the matter had been resolved.
2. Over Commitment of Salary	An analysis of the payrolls for the year ended 30 June, 2021 revealed that seven (7) employees received net salaries of less than a third of their basic salary contrary to provisions of Employment Act.	• The Auditor informed the Committee that the matter was still outstanding. • The Committee urged the OAG to keep the matter in view in the subsequent financial audit.

3 Over Employment of Staff in the County Wards Offices	Management of the Assembly engaged one hundred and forty-nine (149) employees for both elected and nominated Members of County Assembly in their respective wards' offices instead of sixty-nine (69) employees as required by Commission of Revenue Allocation Circular resulting in an irregular expenditure totalling Kshs. 16,312,962 during the year under review.	• The Auditor informed the Committee that the matter was still outstanding. • The Committee urged the Assembly to comply with the set budget and wage bill.
4. Compensation of Employees in Relation with Total Receipts	The County Assembly incurred expenditure of Kshs.271,274,548 as compensation of employees. This was 44% of the total revenue of Kshs.614,549,783 and thus exceeded the recommended ratio of 35% stipulated under PMF regulations.	• The Auditor informed the Committee that the matter had not been resolved. • The Committee stated that it will utilise the management responses to make a determination on this matter during its report writing.
5 Failure to Establish Audit Committee	The Assembly had not established an Audit Committee contrary to PMF regulations, 2015 which requires the County Government entities to establish audit committee to monitor the entities governance processes, accountability processes and control systems, offer objective advice on issues concerning risk control and governance and associated assurance and also follow up on the implementation of the recommendations of internal and external auditors.	• The Auditor informed the Committee that the matter was still outstanding. • The Committee directed the County assembly to establish an audit Committee within 2 months.
6. Lack of Functional Internal Audit Unit	During the year under review, the Assembly did not have a functional internal audit department contrary to PMF Act, 2015 which states that a County Government entity shall ensure that it has appropriate arrangements for conducting internal audit according to the guidelines issued by the Public Sector Accounting Standards Board	• The Auditor informed the Committee that the matter had been resolved. • The Committee urged the assembly to always be accompanied by the internal auditor.

7. Stalled Construction of Speakers Residence	During the year under review, the Assembly Management incurred expenditure of Kshs.5,188,028 in respect of the construction of Speaker's residence. However, physical inspection conducted on 12 November, 2021 revealed that works at the site had stalled at the sub structure level as the contractor was not on site at the time of inspection, nine (9) months past the expected completion	• The Auditor informed the Committee that the matter was still outstanding. • The Committee noted that the assembly had paid out Kshs.5,188,028 so far for the speaker's residence which is 30% complete. • The Committee noted that the assembly had terminated the contract with the earlier contractor. • The Committee was informed that the assembly had re-advertised for the construction of the Speaker's residence. • The Committee directed the Auditor to keep the matter in view and do a detailed analysis on the procurement process around the speaker's residence.
REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE		
1. Ineffective Internal Controls on Cash and Bank	The Assembly prepared its bank reconciliation statements manually instead of using IFMIS. Further, Management did not submit the bank reconciliations to the Office of the Auditor-General as required by PMF Regulation	• The Auditor informed the Committee that the matter was still outstanding. • The Committee observed that the Assembly prepared its bank reconciliation statements manually instead of using IFMIS. • The Committee directed the Assembly to write to the National Treasury within 7 days to seek for further training and capacity building on auto-reconciliation and other IFMIS modules.

2. Lack of Updated Fixed Assets Register	The Assembly did not however, have in place policies and procedures relating to asset management. Non-current assets were not physically inspected on a regular basis. In addition, the Assembly did not maintain a register of land and buildings records.	• The Auditor informed the Committee that the matter had not been resolved. • The Committee noted that the County was poorly presenting their assets and not complying with the reporting template. •

MIN/SEN/CPAC/559/2023 **CONSIDERATION OF THE AUDIT REPORT OF TANA RIVER COUNTY ASSEMBLY FOR THE FINANCIAL YEAR 2019/2020**

Basis for Qualified Opinion

Audit Query	**Concerns**	**Observation and Recommendations**
Unsupported Expenditure - Use of Goods and Services **1.1Domestic Travel and Subsistence**	Expenditure amounting to Kshs.17,682,700 paid to Members of County Assembly and staff as subsistence allowance while on official duties outside their duty station was not supported with relevant documents such as travel documents, duly approved invitation for meetings or trainings.	• The Auditor informed the Committee that the matter had been resolved.
1.2 Expenditure on Foreign Travel	Expenditure amounting to Kshs.926,182 incurred on training of Members of County Assembly in Singapore was not supported with relevant documents including passport, boarding passes, workshop program and a report on the training to the County Assembly.	• The Auditor informed the Committee that the matter had been resolved.
1.3 Training Expenses	Payments amounting to Kshs.1,218,848 were not supported with training needs assessment report, travel documents and attendance register.	• The Auditor informed the Committee that the matter had been resolved.

1.4 Routine Maintenance - Vehicles and Other Transport Equipment	Expenditure amounting to Kshs.2,581,550 was not supported with motor vehicle work tickets, reports on defects and pre- and post-inspection certificates.	• The Auditor informed the Committee that the matter had been resolved.
1.5 Unconfirmed Office and General Supplies	Audit review of the expenditure records revealed that an expenditure of Kshs.1,260,000 was not supported by procurement and payment documents.	• The Auditor informed the Committee that the matter had been resolved.
2. Unsupported Acquisition of Assets Expenditure	Expenditure amounting to Kshs.7,176,142 was not supported with the relevant documents such as Bill of Quantities, tender documents and other stores records. Consequently, the propriety of the expenditure of Kshs.7,176,142 on acquisition of assets for the year ended 30 June, 2020 could not be confirmed.	• The Auditor informed the Committee that the matter had been resolved. •
Key Audit Matters **Other Matter**		
1. Budgetary Control and Performance	The assembly experienced under-funding of Kshs.20,101,324 or 12.5% of the budget. Further, the County Assembly expended Kshs.116,380,545 against an approved budget of Kshs.160,000,000 resulting to an under-expenditure of Kshs.43,619,455 or 27% of the budget.	• The Auditor informed the Committee that the matter was still outstanding. • The Committee stated that it will utilise the management responses to make a determination on this matter during its report writing.
2. Unresolved Prior Year Matters	The Management has not resolved the issues or given any explanation for failure to resolve the prior year matters.	• The Auditor informed the Committee that the matter was still outstanding. • The Committee stated that it will utilise the management responses to

		make a determination on this matter during its report writing.
REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES		
1. Failure to Adhere to the Commission on Revenue Allocation Guidelines.	A review of the payroll system for the County Assembly revealed that there were eighty one (81) employees in the year under review. This is against the provision of the Commission on Revenue Allocation which had set the limit of the County Assembly employees to sixty-five (65) and therefore exceeding the required number by sixteen (16) employees.	• The Auditor informed the Committee that the matter was still outstanding.
2. Non-Compliance with the County Assembly's Human Resource Manual, 2015	During the year under review, six (6) employees of the County Assembly were paid salary advances amounting to Kshs.1,320,000 which was more than their one month's basic salary. Further, thirteen (13) Members of County Assembly were paid salary advances amounting to Kshs.5,525,000 without regulations governing issuance of advances to Members of County Assembly and therefore the salary advances were paid irregularly.	• The Auditor informed the Committee that the matter was still outstanding. • The Committee noted that the Assembly does not have any directors and principals. • The Committee directed the assembly to implement their staff establishment as approved by the board.
3. Failure to Use IFMIS in E-procurement	It was established that only tendering and sourcing activities was done through e-procurement. The County Assembly therefore failed to adhere and implement the executive order that all public procuring entities undertake all their procurement through the e-	• The Auditor informed the Committee that the matter was still outstanding. • The Committee directed the Assembly to write to the National Treasury within 7 days to seek for

	procurement module.	further training and capacity building on auto-reconciliation and other IFMIS modules.
4. Contributions to County Assemblies Forum	Examination of payment records and other documents revealed that the County Assembly made payment of Kshs.1,200,000 to the County Assemblies' Forum. However, there were no legal authority supporting the expenditure.	• The Auditor informed the Committee that the matter was still outstanding. • The Committee directed the county assembly to cease any payments to CAF and SOCATT until it is regularized. • The Committee informed the county assembly that any future payments to CAF and SOCATT will be surcharged to the person responsible.
REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE		
1. Weak Internal Controls on Cash & Bank and Expenditure	Scrutiny of the payment vouchers and other supporting documents for the year under review revealed that payments amounting to Kshs.3,989,132 were made without passing through examination section. The vote book certificates for the same were not signed hence the internal controls for processing of payments were not working properly.	• The Auditor informed the Committee that the matter was still outstanding.
2. Lack of Functional Internal Audit Unit	The County Assembly did not appoint an internal auditor and does not have an appropriate arrangement for conducting internal audit according to the guidelines issued by the Public Sector Accounting Standards Board	• The Auditor informed the Committee that the matter had been resolved in the subsequent year.
3. Lack of Updated Fixed Assets Register	The fixed assets register provided excludes assets inherited from defunct local authority and only captured	• The Auditor informed the Committee that the

	office tools and equipment from various departments whose acquisition period and value could not be ascertained.	matter had been resolved in the subsequent year.

MIN/SEN/CPAC/560/2023 **ADJOURNMENT AND DATE OF NEXT MEETING**

The meeting was adjourned at 1.07 pm. The next meeting would be held on Thursday, 12th October, 2023 at 10:00 am.

SIGNATURE... .....

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

DATE: 4th December, 2024

MINUTES OF THE EIGHTH (78TH) B MEETING OF THE COUNTY PUBLIC ACCOUNTS COMMITTEE TO CONSIDER AUDIT REPORT FOR KIRINYAGA COUNTY ASSEMBY FOR FINANCIAL YEARS 2019/2020 AND 2020/2021 HELD ON MONDAY, 2ND OCTOBER, 2023 AT THE LAKE TURKANA ROOM, K.I.C.C, FIRST FLOOR FROM 10:00 A.M.

PRESENT

1. **Sen. Cherarkey Samson Kiprotich, MP** - **Vice-Chairperson**
2. Sen. Adan Dullo Fatuma, CBS, MP - Member
3. Sen. Onyonka Richard Momoima, MP - Member
4. Sen. Methu John Muhia, MP - Member

ABSENT WITH APOLOGY

5. **Sen. Kajwang' Moses Otieno, MP** - **Chairperson**
6. Sen. Mwenda Gataya Mo Fire, MP - Member
7. Sen. Okoiti Andrew Omtatah, MP - Member
8. Sen. Omar Mariam Sheikh, MP - Member
9. Sen. Sifuna Edwine Watenya, MP - Member

IN ATTENDANCE

KIRINYAGA COUNTY ASSEMBLY

1. **Hon. Muteti Murimi** - **Speaker/Chairperson, County Assembly Service Board (CASB)**
2. Mr. Kamau Aidi - County Assembly Clerk
3. Mr. M.M Njeru - Director, Finance
4. Mr. C. Kinyanjui - Deputy Director, Finance
5. Mr. L. Mwai - Finance Directorate
6. Mr. Murage S.M - Head of Procurement
7. Mr. Peter Njoroge - Internal Auditor
8. Mr. James Gakono - Assistant Director Procurement

KISUMU COUNTY ASSEMBLY BENCHMARKING TEAM

1. Hon. Kennedy Ouko - Chairman, PAIC
2. Hon. Reuben Rakwach - Member, PAIC
3. Mr. Austin Ochieng - Clerk, PAIC
4. Mr. Peter Okoyo - Hansard Officer
5. Ms. Faith Atieno - Serjeant-At-Arms

OFFICE OF THE AUDITOR GENERAL (OAG)

1. Mr. Alex Ndungu - Manager of Audit
2. Mr. Fredrick Kitili - Auditor

ETHICS AND ANTI-CORRUPTION COMMISSION

Ms. Evah Wacuka - Parliamentary Liaison Officer

THE NATIONAL TREASURY

Dr. Cyrus Munyua - Parliamentary Liaison Officer

SENATE SECRETARIAT

1. Mr. George Otieno - Principal Clerk Assistant
2. Mr. Kevin Kibet - Clerk Assistant III
3. Mr. Malcom Ngugi - Legal Counsel
4. Mr. Peter Katana - Research Officer III
5. Mr. James Ngusya - Serjeant-at-Arms
6. Mr. Ibrahim Oruko - Media Relations Officer
7. Mr. William Zenton - Audio Officer

MIN/SEN/CPAC/543/2023 PRELIMINARIES AND PRAYERS

The Vice-Chairperson called the meeting to order at 10:27 am followed by a word of prayer. Thereafter introductions followed.

MIN/SEN/CPAC/544/2023 ADOPTION OF AGENDA

The agenda of the meeting was adopted having been proposed by Sen. Adan Dullo Fatuma, CBS, MP and seconded by Sen. Onyonka Richard Momoima, MP as follows;

1) Preliminaries
    a. Prayer
    b. Introductions
2) Adoption of Agenda
3) Administration of Oath
4) **Brief on the Audit Report of the Financial Statements of the County Assembly of Kirinyaga for Financial Year 2019/2020 and 2020/2021 (Committee Paper No.).**
5) **Meeting with the County Assembly of Kirinyaga to interrogate the Report of the Auditor General on the Financial Statements for the Financial Year 2019/2020 and 2020/2021; and**
6) Any Other Business
7) Date of the Next Meeting and Adjournment

MIN/SEN/CPAC/545/2023 ADMINISTRATION OF OATH

The Speaker and Clerk of Kirinyaga County Assembly took Oath of Witness and tabled the Management responses and supporting documents for the financial year (FY) 2019/2020 and 2020/2021.

MIN/SEN/CPAC/546/2023 CONSIDERATION OF THE AUDIT REPORT OF KIRINYAGA COUNTY ASSEMBLY FOR THE FINANCIAL YEAR 2019/2020

Basis for Qualified Opinion

Audit Query	Concerns	Observation and Recommendations
Unconfirmed Balances		
Variances Between the Financial Statements and Integrated Financial Management Information System (IFMIS) Balances	The financial statements reflect an aggregate balance of Kshs.570,628,835 in respect to four (4) accounts, whereas Integrated Financial Management System (IFMIS) records reflect Kshs.570,764,950 against the accounts. No explanation has been provided by Management for the variances between the two sets of records. In the circumstance, the accuracy of the four accounts' balances reflected in the financial statements was not been confirmed.	• The OAG informed the Committee that the query had not been resolved. • The Committee noted that the assembly is experiencing capacity issues. • The Committee directed the assembly to continuously engage the National Treasury. • The Committee directed the assembly to provide correspondences with the National Treasury seeking for help in building the capacity of staff in the department.
Unexplained Variance in Accounts Receivables Comparative Balance	The statement of financial assets and liabilities reflects an accounts receivable brought forward balance amounting to Kshs.5,054,286, as disclosed in Note 14 to the financial statements. However, the certified 2018/2019 financial statements reflected Kshs.488,765 in respect to the account. The increase in the balance by Kshs.4,565,521 from the previous year has not been explained. As a result, the accuracy of the statement of assets and liabilities has not been confirmed	• The OAG informed the Committee that the query had been resolved. •
Misstatement of Pending Bills	Note 7.10.1, other important disclosures, reflects a Nil pending bills balance as at 30 June, 2020 and at the beginning of the year on 1 July, 2019; and nil additions or payments in the year. However, the audited financial statements for 2018/2019 financial year reflected pending bills totaling Kshs.5,223,399 as at 30 June,	• The OAG informed the Committee that the query had been partially resolved. •

	2019 which sum should have been reflected as the opening balance in the statements for the year under review. Further, Annex 1- analysis of pending accounts payable - reflects pending bills totalling Kshs.3,602,250.	
Other Matter		
Budget Control and Performance	The summary statement of appropriation: recurrent and development combined for the year ended 30 June, 2020 reflects final receipts budget and actual on comparable basis totalling Kshs.690,254,050 and Kshs.570,764,950 respectively, resulting to an under-funding of Kshs.119,489,100 or 17% of the budget. Similarly, the County Assembly spent Kshs.570,650,061 against an approved budget of Kshs.690,254,050 resulting to an under-expenditure of Kshs.120,674,868 or 17% of the budget. The revenue shortfall appears to have constrained implementation of projects and activities planned for execution during the year	• The OAG informed the Committee that the query had not been resolved. • The Committee stated that they will utilise management response during its report writing.
Inadequate Disclosure on Follow-up of Previous Years Issues	The progress on follow-up of auditor recommendations report in Note 8 - other disclosures - of the financial statements asserts all five issues raised in the report for the prior year had since been resolved. However, no evidence was cited or provided to confirm the assertion made by Management. In view of the omission, the report does not fulfil the requirements set by the Public Sector Accounting Standards Board (PSASB).	• The OAG informed the Committee that the query had not been resolved. • The Committee stated that they will utilise management response during its report writing
Personal Allowances and Salaries Payment Outside the Integrated Payroll and Personnel Database (IPPD) System	Examination of personnel records indicated that payments of personal allowances totalling Kshs.91,169,834 included a sum of Kshs.901,462 paid manually	• The OAG informed the Committee that the query had been partially resolved.

	without reference to the Integrated Payroll and Personnel Database (IPPD) system. The payments were made to five (5) officers who were recruited during the year under review. In addition, records on advertisements for the vacancies and the processes followed in appointing the officers to the posts were not provided for audit review. Management breached the law by making the payments outside of the IPPD which is the system prescribed for payment of salaries for public servants. In addition, it was not possible to confirm that the officers were recruited in a lawful way.	• The Committee stated that they will utilise management response during its report writing.
Irregular Expenditure on Security Services	Examination of expenditure records on purchase of goods and services indicated that a sum of Kshs.1,268,000 was paid to a private firm for security services provided to the County Assembly. However, the payment was not supported with the contract agreement signed with the firm. In the circumstance, the validity of the expenditure totalling Kshs.1,268,000 paid to the firm could not be confirmed	• The OAG informed the Committee that the query had been resolved
Lack of Approved Staff Establishment	During the year under review, the County Assembly did not have an approved staff establishment for its 130 employees, contrary to Section B 5(2) and Section B 6(3) of the County Public Service Human Resource Manual 2013. The provision requires each County Government entity to maintain optimum staffing levels derived from an authorized establishment and organization structure. Consequently, it was not possible to confirm whether the	• The OAG informed the Committee that the query had been resolved

	staffing and the organization structure of the County Assembly were optimized.	
Failure to Observe Ethnic Diversity in Recruitment	Examination of personnel records indicated that the County Assembly had one hundred and thirty (130) employees as at 30 June, 2020 out of whom five (5) staff were recruited during the year under review. However, contrary to Section 65 1(e) of the County Governments Act, 2012, all the new employees were from the dominant ethnic community in the County. The provision requires at least thirty percent of the vacant posts at entry level to be filled by candidates who are not from the dominant ethnic community in the County. In the circumstance, the Management is in breach of the law.	• The OAG informed the Committee that the query had not been resolved. • The Committee urged the Assembly to utilise the national dailies to advertise jobs. • The Committee directed the assembly to provide their staff establishment within 7 days.
REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE		
Lack of Information, Communication Technology (ICT) Plans	Review of internal control and risk management system indicated that the County Assembly did not have a Disaster Recovery Plan and documented emergency procedures prescribed in Regulation 158(1)(b) Public Finance Management (County Governments) Regulations, 2015. The provision requires the Accounting Officer in each public entity to develop a system of risk management and internal control that builds robust business operations. Consequently, continuity of operations and recovery of vital data and information in the system may not be possible should unexpected events occur.	• The OAG informed the Committee that the query had been resolved. •

MIN/SEN/CPAC/547/2023 **CONSIDERATION OF THE AUDIT REPORT OF KIRINYAGA COUNTY ASSEMBLY FOR THE**

FINANCIAL YEAR 2020/2021

Basis for Qualified Opinion

Audit Query	Concerns	Observation and Recommendations
Variances Between the Financial Statements and Integrated Financial Management Information System (IFMIS) Balances	The statement of receipts and payments for the year ended 30 June, 2021 reflects total payments of Kshs.838,684,352. However, a comparison with the ledger balances on the Integrated Financial Management System (IFMIS) records reflected total expenditures of Kshs.837,620,221 resulting to an un-explained variance of Kshs.1,064,131. In the circumstance, the accuracy of total expenditure of Kshs.838,684,352 for the year ended 30 June, 2021 could not be confirmed.	• The OAG informed the Committee that the query had not been resolved. • The Committee noted that the assembly is experiencing capacity issues. • The Committee directed the assembly to continuously engage the National Treasury. • The Committee directed the assembly to provide correspondences with the National Treasury seeking for help in building the capacity of staff in the department.
Unsupported Expenditure on Fuel	The statement of financial performance and as disclosed in Note 5 to the financial statements reflects Kshs.268,832,730 in respect to use of goods and services. Included in this amount is Kshs.2,765,530 relating to fuel, oil and lubricants. However, it was observed that the fuel register did not indicate the fuel quantities procured hence was not possible to match the same with the payment vouchers. In absence of proper fuel records, the accuracy and completeness of fuel, oil and lubricants of Kshs.2,765,530 could not be confirmed.	• The OAG informed the Committee that the query had been resolved. •
Incomplete Fixed Assets Register	Disclosed at Annex 4 to the financial statements is a summary of non-current asset register with a balance of Kshs.350,043,787 as at 30 June, 2021. However, the County Assembly's asset register was not complete and lacked information on assets value, date	• The OAG informed the Committee that the query was partially resolved. • The Committee noted that the updated asset register was not provided during the audit.

	of acquisition, supplier, type of asset, location and the custodian. In the circumstance, the completeness and accuracy of the reported non-current assets of Kshs.350,043,787 could not be confirmed.	• The Committee directed the OAG to keep the matter in view.
Other Matter		
Budgetary Control and Performance	The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.1,098,254,050 and Kshs.838,685,823 respectively resulting into unrealized revenue collection amounting to Kshs.259,568,227 or 24% of the budget. Similarly, the County Assembly expended Kshs.838,684,352 against an approved budget of Kshs.1,098,254,050 resulting to under absorption of Kshs.259,569,698 or 24% of the budget. The underfunding and underutilization of approved budget affects the planned activities and may have negatively impacted service delivery to the citizens	• The OAG informed the Committee that the query had not been resolved. • The Committee will make a determination on this matter during its report writing.
Delay in Projects Completion	The County Assembly awarded tenders to various contractors for various projects. However, it was observed that some of the projects delayed completion beyond the contract period and without evidence of approved variation of contract timeframe. The delay in project completion beyond stipulated contract period may result in stalled projects, un-achievement of intended objectives and lack of value for money.	• The OAG informed the Committee that the query had not been resolved. • The Committee was informed that the County Assembly chamber is complete and being utilised by the MCAs. • The Committee noted that the assembly did not have the certificate of completion of the assembly. • The Committee was informed that 10 ward offices have been completed.

		• The Committee directed the Assembly to regularise by getting certificate of completion within 14 days.
Long Outstanding Receivables	The statement of financial assets and liabilities and as disclosed under Note 14 to the financial statements reflects account receivables - amount retained by county treasury of Kshs.19,634,029. Included in this amount are account receivables of Kshs.6,057,397 which are long outstanding with some dating back from January, 2017 to June, 2020. The realization of these long outstanding receivables is doubtful and the non-recovery may significantly affect effective service delivery	• The OAG informed the Committee that the query had not been resolved. • The Committee noted that the payment voucher provided by the assembly was not authenticated and not admissible. • The County directed the assembly to within 7 days provided an authenticated payment voucher to the OAG.
Unresolved Prior Year Matters	In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, the Management has not resolved the issues or given any explanation for failure to adhere to the provisions of the Public Sector Accounting Standards Board templates	• The OAG informed the Committee that the query had not been resolved. • The Committee will make a determination on this matter during its report writing.
REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES		
Failure to Adhere to a Third Rule on Basic salary	Analysis of some sampled staff from the payroll revealed that thirty-six (36) employees were earning less than one third of their basic salaries in different months which amounted to Kshs.749,787. This is contrary to Section D.22 (2) of County Public Service Human Resource Manual that requires a public officer to retain	• The Auditor indicated that the matter was still outstanding. •

	a net salary of not less than 1/3 of his basic salary per month. It also contravenes Section 19(3) of the Employment Act, 2007 which requires that the total amount of all deductions made by an employer from the wages of his employee at any one time shall not exceed two thirds of such wages. In the circumstances, Management was in breach of the law	
Failure to Observe Ethnic Diversity in Recruitment	As reported previously, review of personnel records indicated that the County Assembly had one hundred and three (103) employees as at 30 June, 2021. It was, however, noted that one hundred and two (102) members of staff which translates to 99.02% are from the dominant ethnic community in the County. This contravenes the provisions of Section 65(e) of the County Government Act, 2012 which requires County Governments to ensure that at least thirty (30) percent of the vacant posts at entry level are filled by candidates who are not from the dominant ethnic community in the county. • In the circumstances, Management was in breach of the law.	• The OAG informed the Committee that the matter was had not been resolved. • The Committee will make a determination on this matter during its report writing.
Non-submission of the County Assembly Service Board Financial Statements	The County Assembly Management did not submit the financial statements of the County Assembly Service Board for the year ended 30 June, 2021 to the Auditor-General with copies to the County Treasury, Controller of Budget and Commission on Revenue Allocation. Further, the Management did not publish and publicize the financial	The OAG informed the Committee that the matter was had been resolved

	statements as required by Section 32 of the County Assembly Services Act, 2017. In the circumstances, Management was in breach of the law	
REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE		
Lack of Risk Management Policy	The County Assembly of Kirinyaga did not have a risk management policy in place to guide the management on risk assessment and formulation of risk mitigation strategies. This is contrary to Section 158(1)(a) and (b) of the Public Finance Management Act (County Governments) Regulations, 2015 which requires the Accounting Officer to develop risk management strategies which include fraud prevention mechanism and internal control that builds robust business operations. In the absence of a risk management policy, the County Assembly may not have a broad spectrum of its business risks and their impact on achievement of strategic goals resulting in ineffective strategic and operational planning.	The OAG informed the Committee that the matter had been resolved
Lack of a Disaster Recovery Plan/Business Continuity Plan	The County Assembly of Kirinyaga lacks a disaster recovery plan/business continuity plan contrary to Section 99 of the PFM Act, 2012 which stipulates the role of a disaster recovery plan is to secure the County Government's ability to meet its obligations to provide basic services or its financial commitments, identify the financial problems and be designed to place the county government in a sound and	• The OAG informed the Committee that the matter was addressed satisfactorily. •

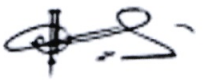
	sustainable financial condition as quickly as possible to avoid the risk of data loss. Without a disaster recovery plan, the County Assembly may not quickly recover in the event of a disaster that leads to system failure.	

MIN/SEN/CPAC/548/2023 ANY OTHER BUSINESS

1. The Committee urged the County Assembly of Kirinyaga leadership to build the capacity of its Members through benchmarking in the Senate.
2. The Committee urged the Assembly to embrace gender balance in their future appearance before the Senate.
3. The Committee stated that the Senate is pursuing legislation to give county assemblies financial autonomy for seamless oversight in the counties without interference by the governors.

MIN/SEN/CPAC/549/2023 ADJOURNMENT AND DATE OF NEXT MEETING

The meeting was adjourned at 12.14 pm. The next meeting will be by notice.

SIGNATURE…  **……**

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

DATE: 4th December, 2024

MINUTES OF THE EIGHTY SEVENTH (87TH) MEETING OF THE COUNTY PUBLIC ACCOUNTS COMMITTEE TO CONSIDER AUDIT REPORTS FOR NYERI COUNTY ASSEMBLY FOR THE FINANCIAL YEARS 2019/2020 AND 2020/2021, HELD ON MONDAY, 30TH OCTOBER, 2023 AT THE K.I.C.C., SHIMBA HILLS HALL, FROM 10:00 A.M.

PRESENT

1. **Sen. Kajwang' Moses Otieno, MP** - **Chairperson**
2. **Sen. Cherarkey Samson Kiprotich, MP** - **Vice-Chairperson**
3. Sen. Methu John Muhia, MP - Member
4. Sen. Okoiti Andrew Omtatah, MP - Member
5. Sen. Omar Mariam Sheikh, MP - Member
6. Sen. Onyonka Richard Momoima, MP - Member

ABSENT WITH APOLOGY

7. Sen. Mwenda Gataya Mo Fire, MP - Member
8. Sen. Adan Dullo Fatuma, CBS, MP - Member
9. Sen. Sifuna Edwine Watenya, MP - Member

IN ATTENDANCE
NYERI COUNTY ASSEMBLY

1. **Hon. James Gichuhi** - **Speaker, Nyeri County Assembly**

2. Mr. Jenard Muigeh - Clerk, Nyeri County Assembly
3. Mr. Eustace Kiagu - Accountant
4. Mr. Joseph Kimiti- - Accountant
5. Mr. Josiah Mathenge - Director, Human Resource
6. Ms. Wambui Ngunjiri - Director, Legal Services

OFFICE OF THE AUDITOR GENERAL (OAG)

1. Mr. David Sumaili - Parliamentary Liaison Officer
2. Mr. Alex Ndungu - Office of the Auditor General, Nyeri
3. Mr. Joseph Marig - Office of the Auditor General, Nyeri

ETHICS AND ANTI-CORRUPTION COMMISSION

CPA Evah Wacuka - Parliamentary Liaison Officer

NATIONAL TREASURY

Dr. Cyrus Munyua - Parliamentary Liaison Officer

CONTROLLER OF BUDGET

CPA Theodora Bosibori - Parliamentary Liaison Officer

SENATE SECRETARIAT

1. Mr. George Otieno - Principal Clerk Assistant
2. Mr. Boniface Kiambi - Senior Clerk Assistant
3. Mr. James Ngusya - Serjeant-at-Arms
4. Mr. Ibrahim Oruko - Media Relations Officer
5. Mr. William Zenton - Audio Officer
6. Mr. Hussein Salat - Fiscal Analyst
7. Mr. Ngera Rosebella - Public Communication Officer
8. Ms. Maureen Kiplagat - Intern

MIN/SEN/CPAC/600/2023 PRELIMINARIES AND PRAYERS

The Committee Chairperson called the meeting to order at 10:08 a.m. followed by a word of prayer. Thereafter introductions followed.

MIN/SEN/CPAC/601/2023 ADOPTION OF AGENDA

The agenda of the meeting was adopted having been proposed by **Sen. John Methu, MP** and seconded by **Sen. Richard Onyonka, MP** as follows;

1) Preliminaries;
    a. Prayer.
    b. Introductions.
2) Adoption of Agenda.
3) Administration of Oath.
4) **Meeting with the County Assembly of Nyeri to interrogate the Reports of the Auditor General on the Financial Statements for Financial Years 2019/2020 and 2020/2021.**
5) Any Other Business.
6) Date of the Next Meeting and Adjournment.

MIN/SEN/CPAC/602/2023 ADMINISTRATION OF OATH

The Speaker and the Clerk of Nyeri County took Oath of Witnesses respectively and tabled the Management responses and supporting documents for the Financial Years 2019/2020 and 2020/2021.

MIN/SEN/CPAC/603/2023 CONSIDERATION OF THE AUDIT REPORT OF NYERI COUNTY ASSEMBLY FOR THE FINANCIAL YEAR 2020/2021

Basis for Qualified Opinion

Audit Query	Concerns	Observation and Recommendations
Ward Administration Expenses	The statement of receipts and payments reflects use of goods and services amount of Kshs.393,971,037 for the year ended 30 June, 2021 and as disclosed under Note 5 to the financial statements. Included in this	a) It was noted that the circular provided the management did not address the payment Kshs.54,408,441, in

	amount is Kshs.54,408,441 in respect of other operating expenses out of which Kshs.26,164,623 was spent on ward administration expenses. A review of payment records revealed that the County Assembly spent Kshs.58,000 on operations costs per ward per month instead of Kshs.35,500. This resulted to an over expenditure of Kshs.22,500 per month or Kshs.270,000 per year per ward thus translating to a total over expenditure of Kshs.12,150,000 for the forty-five (45) wards. This is contrary to the Commission of Revenue Allocation circular No.CSO/CMG/9/VOL.V(43) of June, 2018 which set the total ward costs at Kshs.118,333 per ward per month, and operation cost at 30% or Kshs.35,500. In the circumstances, the propriety of excess expenditure of Kshs.12,150,000 on ward administration expenses for the year ended 30 June, 2021 could not be confirmed.	respect of other operating expenses out of which Kshs.26,164,623 was spent on ward administration expenses. b) It was reported that County Assembly spent Kshs.58,000 on operations costs per ward per month, instead of Kshs.35,500 contrary to the Commission of Revenue Allocation circular. c) After the mitigation from the Management, the Committee resolved to mark the audit query as addressed.
Other Matter **Budgetary Control and Performance**	The summary statement of appropriation - recurrent and development combined for the year ended 30 June, 2021 reflects final receipts budget and actual on comparable basis totaling Kshs.756,085,232 and Kshs.701,736,261 respectively, resulting to an under-funding of Kshs.54,348,971 or 7% of the budget. Similarly, the County Assembly spent Kshs.701,734,865 against an approved budget of Kshs.756,085,232 resulting to an under-expenditure of Kshs.54,350,367 or 7% of the budget. The underfunding and underperformance constrained execution of planned activities and delivery of services to the public. It was further noted that quarter four allocation amounting to Kshs.104,628,500 was received after the end of financial year on 16 July, 2021 as a result of delayed disbursement by The National Treasury. There is need for The National Treasury to prioritize disbursement of funds to the	• It was noted that any unresolved prior issue matters must form the part of the subsequent audit reports.

	County Governments in time for effective and efficient service delivery to the Citizens of the Counties.	
Unresolved Prior Year Audit Matters	In the audit report of the previous year, several issues were raised under the Report on Financial Statements and Report on Lawfulness and Effectiveness in Use of Public Resources. However, the Management has not resolved the issues or given any explanation for failure to adhere to the provisions of the Public Sector Accounting Standards Board templates.	
REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES		
Meetings and Retreats held Outside the Precincts of the County Assembly	The statement of receipts and payments reflects use of goods and services amount of Kshs.393,971,037 and as disclosed under Note 5 to the financial statements. Included in this amount is Kshs.166,158,805 for domestic travel and subsistence out of which Kshs.44,581,951 was spent in meetings and retreats held outside the precincts of the County Assembly. This is despite the Assembly having in place adequate facilities inhouse to hold such meetings. Further, approvals from the Speaker and reports of the deliberations were not provided for audit. This contravenes Section 165 of the County Assembly of Nyeri Standing Orders which states that a sitting of a committee shall be held at such a place, date and time as shall be determined by the chairperson or on a petition made by at least seven members of that committee but no meeting of a committee may be held outside the precincts of the Assembly without the approval of the speaker. In the circumstances, the propriety and regularity of Kshs.44,581,951 expenditure on committee meetings held outside the precincts of the County Assembly for the year ended 30 June, 2021 could not be confirmed.	• It was noted that the
Subscription Fees to Society of Clerks-at-the-Table (SOCATT)	As pointed out in the previous year, the statement of receipts and payments reflects an expenditure of Kshs.393,971,037 under	• The Committee noted that this was an

	use of goods and services which, as disclosed under Note 5 to the financial statements includes an amount of Kshs.54,408,441 in respect of other operating expenses which in turn includes an amount of Kshs.750,000 in respect to subscription fees made to the Society of Clerks-at-the-Table (SOCATT). However, there is no law governing such subscriptions. In the circumstances, the propriety of the expenditure of Kshs.750,000 on subscription fees to Society of Clerks-at-the-Table (SOCATT) could not be confirmed.	irregular charge on the public funds. • Concerns were raised on the subscription to SOCATT and CAF considering that there is no law governing such subscriptions. • The Committee directed the EACC to write to all accounting officers with a view to initiate mechanisms to recover the irregular payments.
Non-Compliance with Ethnic Diversity	As previously reported, examination of human resource records revealed that the County Assembly had sixty-three (63) permanent employees out of which 92% were from the dominant ethnic community. Further, during the year under review, the County Assembly Service Board recruited twelve (12) staff members and all of them representing 100% were from same dominant ethnic Community in the County. This is contrary to Section 65(e) of the County Governments Act, 2012 which requires the County Governments to ensure that at least thirty percent of the vacant posts at entry level are filled by candidates who are not from the dominant ethnic community in the county. In the circumstances, Management was in breach of the law.	• Resolved
Non-Submission of the County Assembly Service Board Financial Statements	The County Management did not submit the financial statements of the County Assembly Service Board for the year to the Auditor General with copies to the County Treasury, Controller of Budget and Commission on Revenue Allocation. Further, the Management did not publish and publicize the financial statement as required by Section 32 of the County Assembly Services Act, 2017.	• Resolved

	In the circumstances, Management was in breach of the law.	
REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE		
Payment of Permanent Staff Outside IPPD Payroll	The County Assembly of Nyeri has an automated Integrated Payroll and Personnel Database (IPPD) system in place. However, the Assembly still uses an off-shelf payroll system for part of salary payments every month. Review of the monthly payrolls revealed that twelve (12) staffs had not been included in the database and were being paid salaries outside the IPPD payroll system. Explanation given by Management was that these were police officers engaged to offer security services to the assembly and thus they could not be included in the Integrated Payroll and Personal Data Base (IPPD). However, there is a risk of unauthorized payments as the off-shell payroll is not integrated and centrally managed and controlled in the public personnel database contrary to the National Treasury Circular No 9/2017 that requires personnel emolument to be supported by IPPD.	a) The Management explained the payments were mad to police officers who are not part of the County payroll. b) It was noted with concern that there was a risk of unauthorized payments as the off-shell payroll is not integrated and centrally managed and controlled in the public personnel database contrary to the National Treasury Circular No 9/2017 that requires personnel emolument to be supported by IPPD. c) Further concerns were raised that the documentation provided did not contain the details and evidence of payment of the twelve (12) security officers. d) The Committee directed the management to review the engagement of police officer and come up with a policy on government to government remittances within three months. e) The Committee further observed that there was need to review the policy on the posting of police officers outside the framework of urgent and needful security engagement such as fighting crime.

Assets not in Use	Included in acquisition of assets amount of Kshs.25,227,917 is a tagging machine and two (2) integrated reverse osmosis water dispensers costing Kshs.1,185,000 and Kshs.4,178,320 respectively. These items were received on 2 March, 2021 and 19 May, 2021 respectively. However, by the time of the audit exercise in October, 2021, the items had not been put to the intended use casting doubt on whether the expenditure was necessary.	• Resolved
FINANCIAL YEAR 2019-2020		
Inaccuracy of the Financial Statements **1.1 Balances Reflected in IFMIS Trial Balance but Omitted in the Financial Statements**	The following balances reflected in the IFMIS trial balance could not be traced in the financial statements for the year ended 30 June, 2020. Consequently, the accuracy and completeness of the financial statements for the year ended 30 June, 2020 could not be fully confirmed. 1.2 Variances Between the Financial Statements and Integrated Financial Management Information System (IFMIS) Balances The financial statements balances in respect to six (6) accounts differs from those reflected in the Integrated Financial Management System (IFMIS) records against the accounts as shown below: Item — Balance in Financial Statements (Kshs.) — Balance in IFMIS (Kshs.) — Records Variance Government Imprests — 0 — 10,535,700 — (10,535,700) Cash Balance — 0 — 2,937,891,182 — (2,937,891,182) CBK Deposit Account — 677,828 — 0 — 677,828	• It was noted that the financial statements balances in respect to six (6) accounts differs from those reflected in the Integrated Financial Management System (IFMIS) records. • The Committee directed the entity to liaise with the Treasury to have the matter resolved expeditiously.

	CBK Recurrent Account 175 (479,948,191) 479,948,366 CBK Development Account 1 (22,802,165) 22,802,166 Other Debtors and Prepayments 0 (1,326,444) 1,326,444 No explanation has been provided by Management for the variances between the two sets of records. In the circumstance, the accuracy of the six (6) accounts' balances reflected in the financial statements was not been confirmed. 1.3 Other Observations (i) The trial balance reflects a balance of Kshs.1,459,621 under suspense and clearance account, the nature of which has not been explained. (ii) The trial balance does not show the descriptions of account code 7399900 and account code 7380100 with balances of Kshs.2,942,257,161 and Kshs.448,618 respectively. (iii) The trial balance reflects a balance of Kshs.22,142,959 under system required liabilities. However, the code item is not in the chart of accounts and it is therefore, not clear what the item represents. Report of the Auditor-General on County Assembly of Nyeri for the year ended 30 June, 2020. Under the circumstances, the accuracy and completeness of the financial statements for the year ended 30 June, 2020 could not be confirmed.	
2. Unconfirmed Wage Payments to Temporary Employees	The statement of receipts and payments reflects an expenditure of Kshs.210,664,265 under compensation of employees which, as disclosed in Note 4 to	• The management explained that these employees were partisan staff.

	the financial statements, includes an amount of Kshs.30,547,795 incurred on basic wages for temporary employees in the ward offices. However, and as previously reported, manual payment vouchers were used to pay the wages instead of paying through the Integrated Payroll and Personal Data (IPPD) System. Further, muster rolls and the attendance register were not provided to confirm authenticity of the payments. Under the circumstances, the accuracy, occurrence and validity of the expenditure of Kshs.30,547,795 incurred temporary employees wages could not be confirmed.	• The Committee noted with concern that the entity used manual payment vouchers to pay the wages instead of paying through the Integrated Payroll and Personal Data (IPPD) System. • It was noted that the payment schedules were not provided at the time of the audit, an issue the management undertook to provide to the Auditor General.
Unsupported Expenditure on Public Relations and Stakeholder Management Training	The statement of receipts and payments reflects an expenditure of Kshs.343,213,821 under use of goods and services which, as disclosed in Note 5 to the financial statements, includes an amount of Kshs.29,976,017 relating to training expenses. The latter balance includes an expenditure of Kshs.920,000 for training on public relations and stakeholders management programme of eight participants from 20 to 24 January, 2020 in Arusha Tanzania. However, the annual training program, training needs assessment and nature of duties assigned to the staff who attended the training were not provided for audit review. Under the circumstances, it was not possible to confirm whether the training program was relevant to the staff in performance of their duties.	• Resolved
Expenditure on Repair of a Motor Vehicle not Supported by Inspection Report	The expenditure of Kshs.343,213,821 under use of goods and services also include an amount of Kshs.1,908,707 in respect of routine maintenance for vehicles and other transport equipment. The latter balance includes an amount of Kshs.985,232 paid to a dealer for the repairs and maintenance of motor vehicle KBJ 783U, being the cost of replacement of the vehicle engine.	• Resolved

	The dealer was issued with an LPO No. 2009 on 4 June, 2020 for the repairs. However, no inspection report from the Chief Mechanical Engineer was provided to ascertain the defects on the vehicle making it difficult to justify the expenditure incurred.	
Pending Bills	Annexure 1 to the financial statements reflects pending bills amounting to Kshs.3,025,164 which were outstanding as at 30 June, 2020. However, the creditors ageing analysis was not provided for audit verification. Further, procurements records on legal consultancy and related fees amounting to Kshs.1,398,660 were not provided. Report of the Auditor-General on County Assembly of Nyeri for the year ended 30 June, 2020, documents for an amount of Kshs.330,000 owed to the Kenya Industrial Estate (KIE) were not provided for audit review. Management has not provided an explanation for non-payment of the pending bills. Further, the analysis of pending bills did not include the original amount, amount paid to date and amount outstanding from the previous year as required in the reporting template prescribed by the Public Sector Accounting Standards Board (PSASB).	a) It was noted that documents for an amount of Kshs.330,000 owed to the Kenya Industrial Estate (KIE) were not provided for audit review. b) The Management explained that the concerned bills were not supported by contractual agreements. c) On legal payments, the Auditor reported that the matter had been resolved.
REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES		
Subscription Fees to County Assembly Forum and Society of Clerks at the Table	The statement of receipts and payments reflects an expenditure of Kshs.343,213,821 under use of goods and services which, as disclosed in Note 5 to the financial statements, includes an amount of Kshs.36,138,419 in respect of other operating expenses which in turn includes amounts of Kshs.5,300,000 and Kshs.500,000 relating to subscription fees Report of the Auditor-General on County Assembly of Nyeri for the year ended 30 June, 2020 made to the County Assemblies	• This was dealt with in the subsequent year.

	Forum (CAF) and the Society of Clerks at the Table (SOCAT), respectively. There is no law governing such subscriptions. Under the circumstances, the validity and propriety of the expenditure of Kshs.5,800,000 on subscriptions fees could not be confirmed.	
2. Wasteful Expenditure Due to Late Remittance of Statutory Deductions	The statement of receipts and payments reflects an expenditure of Kshs.343,213,821 under use of goods and services which, as disclosed in Note 5 to the financial statements, includes an amount of Kshs.36,138,419 in respect of other operating expenses. The latter balance includes an amount of Kshs.564,629 paid to LAPFUND on 18 September, 2019, being outstanding interest for late remittances of pension and gratuity over the years dating back to 2015. The penalties would have been avoided had the Management paid the statutory deductions within the set timelines.	• The manage ant explained that the payments were delayed as result of delay in exchequer release. • The matter was marked resolved.
Non-Compliance with Regional Diversity	Examination of human resource records revealed that the County Assembly had fifty (50) permanent employees comprising eleven (11) inherited staff at the inception of devolution and thirty-nine (39) staff recruited by the County Assembly Service Board. However, thirty-seven or 94.8% out of thirty-nine employees recruited by the County Assembly Service Board were from the dominant ethnic community in the County. This is contrary to Section7(2) of the National Cohesion and Integration Act, 2008 and Section 65(e) of the County Governments Act, 2012 which requires the County Governments to ensure that at least thirty percent of the vacant posts at entry level are filled by candidates who are not from the dominant ethnic community in the county.	• This was handled in the subsequent year.

	Management was therefore, in breach of law.	
Delayed Completion of Projects	As previously reported, the Management awarded two contracts valued at Kshs.10,672,231 in July, 2016 for construction of a gate at the County Assembly and refurbishment of a hotel for use by the County Assembly at contract sums of Kshs.3,818,905 and Kshs.6,853,326, respectively. The works were to be completed in February and August, 2017, respectively. However, the respective contracts lapsed before the works were completed. The contractors were, however, not on site and no explanation was provided for failure to complete the projects more than three (3) years after their contractual completion dates. As a result of the delay, and in spite of funds totalling Kshs.10,672,231 invested in the projects, the benefits which were expected to accrue to the County Assembly have not been realized.	• This was resolved.

MIN/SEN/CPAC/604/2023 ANY OTHER BUSINESS

While considering Any Other Business-

a) The Committee directed the Office of the Auditor General to include any unresolved prior issue matters, as the part of the subsequent audit reports.

b) The Committee observed that there was need for legislation to achieve financial autonomy for County Assemblies', to enhance effective implementation of its mandate and safeguard it from interference by the County Executive.

MIN/SEN/CPAC/605/2023 ADJOURNMENT AND DATE OF NEXT MEETING

The meeting was adjourned at 12.02 p.m. The next meeting would be held on notice.

SIGNATURE…  **……**

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

DATE: 4th December, 2024