

Kshs.29,015,554. Verification of documents revealed that forty-nine (49) features under the ten (10) modules could not be captured and were not functioning. It was not clear whether all the features were required by the institution.

In the circumstances, the County Executive may not have received value for money from the payment for modules that were not developed and applied.

### **Management Responses**

The Health Management Information Systems (HMIS) was the best to be procured by County and the management reiterated its value for money. It is futuristic in its setup and will allow the growth of the Health Sector in Nandi County. The following are the factors that affect full utilization of the rich features this HMIS has;

- Existing Systems used by the County with external control: The following systems by national Government affect full utilization of existing modules in HMIS: IPPD, e-Procurement and IFMIS. For Payroll to be rolled out in HMIS
- Flow and availability of Consumables: For the hospital to get full benefits of the system, their supplies of various consumables need to be available and to be continuously captured and used in the system. Example is the availability of all consumables needed by Nurses to do their job in the Nursing module like the Cadex, if this is not available, the flow of information in the system will be hampered, and it will appear as if the system is not complete.
- Network and Hardware availability in all the other sub-county hospitals and Health Centres. A budget has been put in place to ensure Network and Hardware is provided for all the other facilities to enjoy the benefits of the HMIS. The capability of HMIS to run multiple hospitals have been demonstrated and tested and explained.

### **Committee Observation**

The Committee observed that forty-nine (49) features under the ten (10) modules of the Health Management Information Systems (HMIS) could not be captured and were not functioning in the system.

### **Committee Recommendation**

**The Committee recommends that the County executive provides an implementation status report to the Auditor General on Health Management Information Systems (HMIS) within 60 days of adoption of this report.**

## **7. Stalled Project on Construction of Nandi County Governor's Office**

As reported in the previous year, the County Executive hired a contractor to build the County Governor's Office at a cost of Kshs. 103,383,420. Thereafter, the contract was

varied to accommodate an additional floor at a cost of Kshs. 21,191,200 equivalent to 20.5% of the original contract price.

Review of the progress on the project revealed that payments totalling Kshs.97,685,287 had been made to the contractor. However, the contractor was not on site and the project had stalled. In addition, the County budget for the year 2019/2020 provided for an allocation of Kshs.20,780,655 to the project towards its completion but the funds were not utilized. In view of the delay, no value has been obtained on payments totalling to Kshs.97,685,287 made to the contractor.

### **Management Responses**

The contract for the construction of the governor's office was entered in the financial year 2013/2014 under contract NDCG/TA/12/2013/14 and the indicated payment of Ksh. 97,685,287 had already been made by the time the new administration came in. There was an active investigation relating to the said project at the EACC office. The county had a number of engagements with the EACC office in a bid to obtain clearance for works to continue at the site.

The office advised verbally that they would issue a letter of "No Objection" once their investigation was complete. This letter of no objection was finally sent to the County on 16<sup>th</sup> March 2021, hence all other activities geared towards the completion of the building began after the letter was received. The works were later awarded to Bowen Construction Company and which was on site with the project expected to be completed by May 2023.

### **Committee Observations**

The Committee observed that;

1. The EACC was investigating the matter;
2. There was a contract variation of Kshs.21,191,200 equivalent to 20.5% of the original contract price.
3. The project is not complete and the contractor was not on site as at 9<sup>th</sup> February, 2023.

### **Committee Recommendations**

**The Committee recommends that;-**

1. **The Ethics and Anti-Corruption Commission (EACC) expedites the ongoing investigation on the project and provide a status update to the Senate within 90 days of adoption of report;**
2. **OAG to monitor the issue in the subsequent audit cycles; and**
3. **The Controller of Budgets should not authorise further payments to this project until the county obtains the approval of the Senate Finance Committee to vary the ceilings on construction of Governors residences.**

## **8. Leased Medical Equipment**



As reported in the previous year, the County Executive signed a Memorandum of Understanding with the National Government for provision of medical equipment and related services. The equipment was to be procured by the National Government and thereafter supplied to the County in several lots as follows: Lot 1 -Theatre Equipment, Lot 2 Theatre Sterilization Equipment, Lot 5- Renal Dialysis Equipment, Lot 6 Intensive Care Unit Equipment and Lot 7- Radiology Imaging Equipment. Records presented for audit indicated that an amount of Kshs.131,914,894 was directly deducted by the National Treasury from the equitable share of revenue or payment for the leased equipment during the year under review, thereby bringing the total lease rental payments made by the County Executive to Kshs.522 million as at 30 June, 2020. Further, Lot 6 - Intensive Care Unit Equipment has not delivered. As a result, Nandi County did not establish an Intensive Care Unit as expected.

However, the values of the equipment supplied were not reflected in the County's asset records and the criteria used to charge the lease rentals could not be confirmed. In view of these anomalies, the valuation of the assets obtained through the Scheme and validity of the lease payments amounting to Kshs.131,914,894 for the year could not be confirmed.

### **Management Response**

All the leased equipment above, Lot1 – Lot 6, have been supplied to the County and all of them are operational. The Intensive Care Unit has been established as well and it is up and running. However, the value of the equipment supplied could not be reflected in the County's asset records since the deductions are effected at the source and no one knows the actual cost of the leased equipment.

### **Committee Observations**

The Committee observed that;

1. The county did not provide requisite documentation on the contract, equipment and supplies and carrying values;
2. The equipment supplied were not reflected in the County's asset records
3. the matter was interrogated by Senate ad-hoc committee on Medical Equipment Services (MES).

### **Committee Recommendations**

The Committee recommends that

- 1) The County CEO undertakes administrative action against the responsible officer(s) who failed to provide the requisite documentation on the contract, equipment supplied and carrying values to the auditors in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report;

- 2) County Executive should ensure that all assets are presented in the format prescribed by the National Treasury; and
- 3) the County executive provides a status report on the implementation of this project within 60 days of the adoption of this report.

#### **9. Non-Compliance with the Public Finance Management (County Governments) Regulations, 2015**

During the year under review, the Nandi County Assembly had an approved budget of Kshs.674,665,357, equivalent to 10% of the total revenues of the county government of Kshs.6,671,704,894. The former exceeded the lower of seven per cent of the total revenues of the county government of Kshs.6,671,704,894 or twice the personnel emoluments of the County Assembly of Kshs.743,754,274, (which is lower). This is contrary to Regulation 25 (1) (f) of the Public Finance Management (County Governments) Regulations, 2015.

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

#### **Management Response**

The budget ceiling for recurrent expenditure for the County Assembly is set by the Commission on Revenue Allocation. During the FY under review, the figure was set at Ksh.649,760,252. Further, the assembly has been undertaking the construction of its chambers which has been ongoing for the last 5 years. The contract value for the chambers complex is Ksh.469 Million and a yearly provision has always been made based on the estimated pace of works. In the FY 19/20, the budgeted amount was Ksh.200,250,000. The CRA ceiling for assembly chambers is set at KSh.500 million, hence the Ksh.469 Million is within the approved limits.

#### **Committee Observations**

The Committee noted that the County Executive was in breach of law contrary to Regulation 25 (1) (f) of the Public Finance Management (County Governments) Regulations, 2015.

#### **Committee recommendation**

**The Committee therefore recommends that the Senate Standing Committee on Finance and Budget to review ceilings allocated to County Assemblies in CARA to ensure county compliance with the thresholds in the Public Finance Management (County Governments) Regulations, 2015.**

#### **10. Delayed Completion of Projects**

Physical verification of projects was conducted in the December, 2020 and January, 2021. A total of forty-six (46) projects with a total budget of Kshs.733,244,090 and total payments of Kshs.411,189,931 were verified. Out of the forty six (46) projects verified,



thirty-four (34) projects were complete. However, the twelve (12) projects with total payments of Kshs.311,578,818 were found either not complete and put into use or works were ongoing or the contractors were not on site.

Consequently, value for money has not been realized because of the inefficiencies in the implementation of some of the projects.

### **Management Response**

The County initiated a total of 1415 projects, out of which 917 projects are complete and operational, 115 are complete and not operational, 181 are ongoing while 135 and 67 were yet to start and stalled respectively. The County Annual Progress Report (CAPR) 2019/2020 was submitted for Committee's verification.

### **Committee Observations**

The Committee observed that;

1. twelve (12) projects with total payments of Kshs.311,578,818 were found either not complete and put into use or works were ongoing or the contractors were not on site;
2. contracts that require purchase of Letters of Credit are costly and result in imprudent use of public resources; and,
3. delay in projects implementation was detrimental to the county residents and negatively affected service delivery.

### **Committee Recommendations**

The Committee therefore recommends that:

1. the County Government takes immediate action to complete and/or operationalise the projects and provides a report to Auditor-General on project status.
2. The County executive should undertake proper project conceptualization, planning and execution to ensure timely completion of the projects as well as realization of value for money.
3. Auditor General to follow up on this matter in its subsequent audit cycle.

## **REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, GOVERNANCE RISK MANAGEMENT**

### **Basis for Conclusion**

#### **1. Fixed Assets Register**

Annex 5 - summary of fixed assets register to the financial statements discloses the total value of the County Executive's fixed assets as at 30 June, 2020 amounted to Kshs.6,733,309,506. The balance excludes assets which had been taken over from

defunct local authorities which includes land, buildings, motor vehicles, computers and other office equipment. The fixed assets register was not provided for audit review. In the circumstances, it has not been possible to ascertain the value of the assets owned by the County Government of Nandi

### **Management Response**

The Fixed Assets register was presented for audit review during the audit and was resubmitted during the appearance for the committee's verification.

### **Committee Observations**

The Committee observed that:

1. The County Executive did not have an updated Fixed Assets Register;
2. The County Executive did not have the values of all the assets and liabilities inherited from the defunct local authorities. This has affected the correct position of the assets and liabilities of the county executive; and,
3. The management did not submit the relevant documents and information to the Auditor General at the time of audit.

### **Committee Recommendations**

The Committee recommends that the-

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

## **2. Internal Audit Function and Audit Committee**

During the year under review, the Internal Audit Unit was reporting both functionally and administratively to the Accounting Officer while the Audit committee members had also resigned after citing lack of goodwill from the management in discharging their duties.

Whereas the Internal Audit Department is well staffed with twelve (12) officers, who are duly qualified to discharge their mandate, the function had no budgetary provision to support its activities. Consequently, internal audit function lacks operational independence and may not adequately discharge its mandate.



## **Management Response**

The Audit Committee resignation was majorly occasioned by mismatch in expectations. The committee received the necessary induction training and was tasked with streamlining the internal audit function as well as reviewing the annual financial statements during audit. This was the first assignment. The team however could not deliver and instead asked for benchmarking trips which the budget could not allow at the time. The resignation paved way for appointment of a new team that was in office and was executing its mandate as expected.

The internal audit function was adequately staffed with competent staff as indicated here. Further the budget for the function is rightfully domiciled in finance department. Trainings and capacity building for the internal audit function had been done using the budget under finance department. All other requisitions for the unit were channeled through the Chief Officer, Finance and the same were honored. This is evidenced by the adequate furniture provided, computers/laptops and other accessories requested by the internal audit function. External trainings requested have always been considered on need basis as assessed by the Head of Internal Audit.

## **Committee Observations**

The Committee observed that;

1. there was no Audit Committee in place as at the time of the audit;
2. Internal Audit unit had no budgetary provision to support its activities.

## **Committee Recommendation**

**The Committee recommends that the Cabinet Secretary for National Treasury and Economic Planning amends the Public Finance Management (County Government) Regulations, 2015 to mandate county governments to provide sufficient budgetary allocations to the Audit Committee and the Internal Audit Unit.**

## **3. Information and Communication Technology**

Review of the Information Technology internal controls revealed that the County Executive did not have an approved ICT Policy, IT security policy, policy on physical access to IT environment and IT continuity and disaster recovery plan to guide ICT operations. It did not have an approved IT Steering Committee which is important in performing the oversight function and formulation of policies to ensure that IT department functions properly.

No risk assessment was done during the year and no risk management policy was in place. As a result, there is a likelihood that risks occurring in the normal course of operations of the County Government may not be identified and corrected. In the circumstances it has not been possible to establish whether the County Executive have an effective ICT infrastructure to assist in the achievement of organizational objectives.

## **Management Responses**

The County Executive has an effective ICT infrastructure. There is a well formulated ICT Policy that has been guiding the operations of the County over the years. The policy has 23 Chapters attached and the County is implementing them gradually. The recent application being the Chapter on Data security to operationalize the new Data Centre at the Hospital.

#### **Committee Observations**

The Committee noted that;

1. The ICT policy and IT steering committee were not in place as at the time of audit;
2. It was not possible to establish whether the County Executive had an effective ICT infrastructure to assist in the achievement of organizational objectives; and,

#### **Committee Recommendations**

**The Committee recommends that the County Executive expedites the establishment of a working IT Steering Committee and formulation of an ICT policy and submit evidence to the OAG within 60 days of the adoption of this report.**



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

## Qualified Opinion

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		subsequent Financial Years.		
2	<p><b>Budgetary Control and Performance</b></p> <p>The summary statement of appropriation: recurrent and development combined for the year ended 30 June, 2020 reflects final receipts budget and actual on comparable basis of Kshs.7,001,976,762 and Kshs.6,074,876,690 respectively resulting to a shortfall of revenue totalling Kshs.927,100,072 or 13% of the budget. Similarly, the County Executive spent Kshs.5,996,474,615 against an approved budget of Kshs.7,001,976,762 resulting to an under-expenditure of Kshs.1,005,502,147 or 14% of the budget.</p> <p>In addition, the County Executive had budgeted to collect Kshs.250,000,000 in County own -generated revenue during the year under review but collected Kshs.187,324,098 resulting in a shortfall of Kshs.62,675,902 or 25 % of the budget.</p>	<p>The Committee recommends that:</p> <ol style="list-style-type: none"> <li>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</li> <li>2. the County executive puts in place measures to enhance its own generated revenue in order to meet its revenue target and address revenue shortfalls.</li> </ol>	<p>1)The National Treasury</p> <p>2)The Auditor General</p>	Immediate
3	<p><b>1. Unsatisfactory Implementation of Projects</b></p> <p>Ninety (90) projects valued at Kshs.320,138,261 contracted for execution were not implemented during the year under review.</p> <p>Forty (40) projects budgeted at Kshs.378,299,813 and on which actual expenditure of Kshs.275,987,745 had been</p>	<p>The Committee recommends that the Auditor General undertakes further verification of the queried projects and submits a status report on level of completion and status of utilization, to the Office of the Auditor General within sixty days of the adoption of this report.</p>	The Auditor General	within 60 days from the adoption of this report



	incurred, had not been completed at time of audit. Eleven (11) projects contracted in the previous year at a cost of Kshs95,572,787 had stalled at time of audit.			
4	<p><b>1.1 Unapproved Variation of Construction Works</b></p> <p>There was no evidence of the requisite approvals having been granted before variations were made that led to additional expenditure totalling Kshs 7,313,893.</p>	<p>The Committee recommends that;-</p> <ol style="list-style-type: none"> <li>1. the County Executive should expedite the process of handing over of the project so that it can be put to immediate use for the residents of Nyamira to realize value for money.</li> <li>2. the county government should undertake proper project conceptualization, planning, monitoring and execution to ensure timely completion of the project as well as realization of value for money</li> <li>3. contract agreements should be developed with clauses that have liquidated damages for non-completion or non-execution of projects and should be drafted by County Attorneys</li> <li>4. the Auditor General keeps the matter in view in the subsequent audit cycle in line with this recommendation.</li> </ol>	<p>i)The County CEO</p> <p>ii)The Auditor General</p>	Continuous
5	<p><b>1.2 Incomplete and Abandoned Projects</b></p> <p>No adequate explanation was provided for the reason why seven(7) projects that cost Kshs 20,233,298 , were either not complete, or had been</p>	<ol style="list-style-type: none"> <li>1. The Auditor General undertakes a value for money audit on the projects and submits a report to the Office of the Auditor General within</li> </ol>	1)The Auditor General	1)6 months from the adoption of this report.

	completed but not put to use or had stalled after being abandoned by contractors.	<p>six months of adoption of this report;</p> <p>2. the county government takes immediate action to complete the incomplete projects and provide a report on project status to the office of the Auditor General within sixty (60) days from the adoption of this report;</p> <p>3. the county executive should operationalize and facilitate its Monitoring and Evaluation department to monitor and report the status of county projects.</p>	2)The Governor, Nyamira County	2)60days from the adoption of this report
6	<p><b>1.3 Delayed Completion of Road Upgrading Project</b></p> <p>Kshs.18,404,779 was paid to a contractor for upgrading the 13.95 kilometres long B5 Borabu Inn-Golani Heights Resort – Jua Kali – Nyamira Boys – B5 Nyabite Market Road to bitumen standards. However, audit inspection of the works in October, 2020 indicated that even though the contract period had expired, the certified executed works were equivalent to 50% of the value of the contract.</p> <p>No plausible explanation was provided by Management for the delay in completing the project.</p> <p>As a result of the delay, the benefits expected from the project were not realized.</p>	The Committee recommends that the Auditor General reviews the matter in the subsequent audit cycle to verify whether the project has been fully delivered and reports back to the Office of the Auditor General.	The Auditor General	Continuous



7	<b>1.4 Unserviceable Street Lights</b> i) eight (8) out of nineteen (19) light towers installed were not in use as the solar panels and batteries had been vandalized ii) the Department of Environment and Energy did not keep records on the status of the completed street lights and had not drawn plans for their security and maintenance.	The Committee recommends that the management should expedite implementation of the measures to secure the lights.	The County CEO	60 days from the adoption of this report
8.	<b>1.5 Unimplemented Covid-19 Isolation Building Project</b> Management's decision to restrict participation in the tender contravened Section 91(1) of Public Procurement and Asset Disposal Act, 2015 which prescribes open tendering as the preferred method for procurement of goods, works and services by public entities.	The Committee recommends administrative action be taken by the County CEO against the responsible officer(s) who contravened Section 91(1) of Public Procurement and Asset Disposal Act, 2015 in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report.	The County CEO	Within 60 days from the adoption of this report
9.	<b>2.1 Failure to Update Property Valuation Roll</b> Examination of Revenue Department records indicated that the land rates prescribed were set in the Valuation Roll prepared in 2006 by the defunct Local Authority.	The Committee recommends that the County executive should expedite updating of valuation roll in accordance with Section 3 of the Valuation for Rating Act CAP 266 so as to reflect current market values for optimal revenue collection and comply with the guidelines of the Public Sector Accounting Sector Boards of reporting in the FY 2023/2024.	The County CEO	FY 2023/2024
10	<b>2.2 Long Outstanding Land Rent Arrears</b> The records reflected accumulated arrears totalling Kshs.44,444,313 comprised of principal amount of Kshs.34,185,004 and penalties	The Committee recommends that;- The County Executive should provide evidence to the Office of the Auditor General of how much outstanding arrears was collected following the waivers	1) The County CEO	Within 60 days from the adoption of this report

	totalling Kshs.10,259,309 which had been outstanding from the year 2010.	and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report.	2) the Inter-Governmental Relations Technical Committee	
11.	<b>2.3 Incomplete Revenue Automation System</b> Installation of the system was yet to be completed even though the project was fifteen (15) months behind its set completion date.	The Committee recommends that the accounting officer initiates the process of debarring the project vendor, Riverbank Solutions, due to under-performance. The county should urgently acquire a competent alternative system to ensure efficiency in revenue collection.	The County CEO	Immediately
12.	<b>3.0 Underfunding of Bursary Fund</b> In the year under review, the total County budget amounted to Kshs.7,001,976,762 and therefore the grants should have amounted to Kshs.175,049,419. Therefore, amounts disbursed totalling Kshs.126,520,000 fell short of the legal threshold by Kshs.48,529,419.	The Committee recommends that the matter be addressed by the Senate County Public Investment and Special Funds Committee.	The County Public Investment and Special Funds Committee.	Immediately
13.	<b>4.0 Overpayment of Tax Arrears to Kenya Revenue Authority</b> No explanation was provided by Management for the overpayment of the tax bill by Kshs.1,178,331.	The Committee therefore recommends that the National Treasury and the Kenya Revenue Authority should put a moratorium on payments of interests and penalties attributed to delay in exchequer release.	1)The National Treasury 2)The Kenya Revenue Authority	Immediately
14.	<b>5.1 Unsustainable Wage Bill</b> the County Executive's wage bill during the FY 2019/2020 stood at 45% of the its total receipts which exceeds the ratio of 35% set in regulation 25(1)(b)	1)That the County Executive to strictly adhere to the provision of paragraph 25(1)(b) of the PFM Act (county government) regulations, 2015 which stipulate that the county wage bill should not exceed 35 per cent of the county total revenue;	The County CEO	60 days from the adoption of this report.



		<p>2) all staff compensations be processed through the IPPD system for accountability.</p> <p>3) That County Executive to provide to the Auditor General the measures put in place to contain the county higher wage bill within sixty (60) days from the adoption of this report.</p>		
15.	<p><b>5.2 Salaries Paid Outside the Integrated Payroll and Personnel Database (IPPD)</b></p> <p>No explanation was provided by Management for the use of the manual system that is not only less efficient but is more prone to error, misuse and fraud.</p>	<p>The Committee recommends that;</p> <p>1) The County Executive should engage the State Department of Public Service to fast-track the issuance of personal numbers to enable them onboard all employees on the Integrated Personnel and Payroll Database (IPPD) System; and</p> <p>2) the Auditor General to monitor the matter in subsequent audit cycle.</p>	The County CEO	60 days from the adoption of this report.
16.	<p><b>5.3.1 Lack of Disclosures on Recruitment Process</b></p> <p>Examination of the county payroll for the month of June, 2020 indicated that forty (40) officers were, in the financial year under review, recruited and paid personal emoluments totalling Kshs.3,538,835 per month.</p> <p>However, it was not possible to confirm that the appointments were made in a fair and transparent way as required of public appointments and prescribed</p>	<p>The Committee, recommends that the County CEO undertakes administrative actions against the officers who failed to provide the documents to the auditors in accordance with section 156 of the Public Finance Management Act and provides a status report to the Office of the Auditor General within 60 days from the adoption of this report.</p>	The County CEO	60 days from the adoption of this report

	<p>in Section 65(2) of County Governments Act, 2012. In addition, it was not possible to confirm that the new employees possessed the skills and competencies required for their respective posts.</p> <p>The supporting documents were later provided to the Auditors.</p>			
17.	<p><b>5.3.2 Filled Positions not in Approved Establishment</b></p> <p>the County Executive had four thousand eight hundred and five (4805) employees out of whom eight hundred and sixty-two (862) held posts that were not in the approved staff establishment</p>	<p>1. The County Executive to strictly adhere to the provision of the PFM Act, 2012 on the fiscal responsibilities on county government expenditure on wages and benefits.</p> <p>2. The Auditor General to closely monitor the enforcement of the fiscal responsibility's principles by the County Treasury in managing county government finances.</p>	<p>1)The County CEO</p> <p>2)The Auditor General</p>	Continuous
18.	<p><b>5.3.3 Irregular Recruitment of Members of the County Public Service Board</b></p> <p>Four (4) members lacked Tax Compliance Certificates, Certificates of Good Conduct and Ethics and Anti-Corruption Commission Clearance Certificates, all of which had been prescribed as mandatory in the advertisements for the posts.</p> <p>These documents were later provided to the Auditors.</p>	<p>The Committee recommends that the County CEO undertakes administrative actions against the officers who failed to provide the documents to the auditors in accordance with section 156 of the Public Finance Management Act and provides a status report to the Office of the Auditor General within 60 days from the adoption of this report.</p>	<p>The County CEO</p>	60 days from the adoption of this report
19.	<p><b>5.4 Lack of Training Needs Assessment</b></p>	<p>The Committee recommends that the County Public Service Board should fully comply with the provision of Human</p>	<p>The County CEO</p>	Continuous



	Needs assessments were not conducted to guide the Human Resource Management Advisory Committee in nominating officers for the training courses.	Resource Policies and Procedures Manual.		
20.	<b>5.5 Lack of Ethnic Diversity in Staff Establishment</b> Personnel records presented for audit indicated that the employees of the County Executive numbered 4,805 as at 30 June, 2020 out of whom 4,532 or 94% were members of the ethnic community dominant in the County	The county executive should work progressively towards attaining the requirement of the provisions of Section 65(1)(e) of County Government Act on ethnic inclusivity.	1)The Senate  2)The County CEO	Immediate

## Qualified Opinion

### 1. Unconfirmed Balances

#### 1.1 Errors in the Financial Statements

The financial statements contain the following casting errors and inaccuracies:

- i) The statement of budget execution by programmes and sub-programmes reflects actual comparable expenditure totalling Kshs.5,996,474,615, but a recast of the respective payments schedules reflects payments totalling Kshs.6,032,819,189 resulting to an unexplained difference of Kshs.36,344,574.
- ii) Note 12A to the financial statements reflects cash and cash equivalents balance of Kshs.721,334,351 and prior-year balance of Kshs.1,428,139,359. However, a recast of the accounts in the prior year balance yields Kshs.1,314,059,059 resulting to an unexplained difference of Kshs.114,080,300.

In view of these discrepancies, the accuracy and completeness of the aggregate expenditure and cash and cash equivalents balances reflected in the financial statements for the year ended 30 June, 2020 has not been confirmed.

### Management Response

The management submitted that they had undertaken the following actions;

- i. Provision of an explanation that Kshs. 36,344,574 being temporary imprest schedules which were presented together with payment details to the office of the Auditor General.  
These were imprests issued to officers to undertake various official assignments that were captured in the IFMIS system as provision for encumbrances and once surrendered, they were to be removed from the

encumbrances register. The surrenders were included in payment details (register) and inclusion of the imprest as part of payments will lead to a double count hence their exclusion. Casting of the payment schedules excluding the imprest would amount to Kshs. 5, 996, 474, 615 as reflected in the financial statements.

- ii. Provision of an explanation that a recast of note 12 A of the financial statements gave a discrepancy of Kshs. 114,080,300 due to an error of omission to bank name Kenya Urban Support Program (KUSP) A/C number 1000394374 held at the central of bank with a reconciled bank balance of Kshs. 114,080,300 as at 30th June 2020.

#### **Committee Observation**

The Committee noted that the matter has since been addressed.

#### **Committee Recommendation**

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

#### **1.2. Variance between Financial Statements and Cashbook Balances**

The statement of assets and liabilities reflects cash and cash equivalents balance totalling Kshs.721,334,351 as at 30 June, 2020, as further disclosed in Note 12A to the financial statements. The balance includes cash totalling Kshs.151,929,500 held in six (6) bank accounts as at 30 June, 2020. However, the reconciled cashbook balances for the accounts reflected an aggregate balance of Kshs.116,473,116 on the said date. The variance amounting to Kshs.35,456,384 between the two sets of records was not satisfactorily explained.

In addition, note 12A to the financial statements reflects bank balances for various health centres totalling Kshs.25,601,141 as at 30 June, 2020. However, Annexure 6 reflects inter-entity transfers made during the year under review that do not, however, include remittances to any health facility. In addition, Management did not provide bank reconciliation statements and bank certificates for the accounts.

Consequently, the accuracy of the bank balances totalling Kshs.721,334,351 reflected in the financial statements as at 30 June, 2020 was not confirmed.

#### **Management Response**

The management had undertaken the following actions;

- i. A clarification that when draft financial statements were presented reported bank balance was as per unreconciled cashbook balances. As per the guidelines issued by International Public Sector Accounting Standards Board (IPSASB) which is an entity that regulates public financial reporting by County Governments, the amendment on the reported bank balances in the final report of the financial statement was based on the reconciled cash book balances on the six bank accounts as tabulated below;

	<b>BALANCE AS PER DRAFT REPORT(UN</b>	<b>FINANCIAL STATEMENT BALANCE</b>	
<b>BANK</b>			<b>VARIANCE</b>



		RECONCILE D)	(RECONCILE D BANK BALANCE)	
1	CBK RMLF	21,183,904.00	20,579,326.00	(604,578.00)
2	CBK VILLAGE POLYTECHNIC	67,422,399.00	66,627,399.00	(795,000.00)
3	CBK THS	4,364,650.00	2,150,928.00	(2,213,722.00)
4	CBK UIG	12,960,019.00	12,860,019.00	(100,000.00)
5	KCB SALARY ACCOUNT	2,253,145.00	-	(2,253,145.00)
6	TVETS	8,288,999.00	49,711,828.00	(41,422,829.00)
	<b>TOTAL</b>	<b>116,473,116</b>	<b>151,929,500.00</b>	<b>35,456,384.00</b>

The variance of Kshs. 35,456, 384.00, was thus as a result of change in reporting from actual bank balance to reconciled cash book balance which was adopted by the International Public Sector Accounting Standards Board (IPSASB).

An explanation that annexure 6 erroneously excluded an inter entity transfer of Kshs. 91,126,922 relating to transfer of health facilities. The reporting of this transactions was done under other grants and payments (note 9) of the financial statements. Further, bank reconciliation statements and bank certificates for the health facilities accounts had been forwarded to the office of the auditor general.

#### **Committee Observations**

The Committee noted that the County Executive had submitted the bank reconciliation statements and bank certificates for the six (6) bank accounts in question after the audit cycle.

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

#### **Committee Recommendations**

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

#### **1.3. Unreconciled Retention and Deposits Bank Balance**

The cash and cash equivalents balance totalling Kshs.721,334,351 as at 30 June, 2020 further includes a retention bank balance of Kshs.85,424,928. However, Central Bank of Kenya records reflected retentions totalling Kshs.71,119,347 on 30 June, 2020. The difference amounting to Kshs.14,305,581 between the two sets of records was not satisfactorily explained.

In view of these anomalies, the validity, accuracy and the completeness of the bank balance totalling Kshs.721,334,351 reflected in the statement of assets and liabilities as at 30 June, 2020 could not be confirmed.

### **Management Response**

The Controller of Budget and the National Treasury allowed counties to clear payments related to various supply of goods and services processed in the IFMIS as at 30<sup>th</sup> June 2020 in the month of July. The management took note of the auditor's observation that as at 30<sup>th</sup> June 2020, the reconciled bank balance of the retention account was Kshs. 71, 119,347, however a number of payments were cleared in early July relating to financial year 2019/2020 which were allowed as explained above. As such the reconciled bank balance of the retention account was presented as Kshs. 85,424,928 as opposed to Kshs. 71,119,347.

### **Committee Observation**

The Committee noted that the County Executive had not submitted an updated statement of assets and liabilities at the time of audit.

### **Committee Recommendations**

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

#### **1.4 Unreconciled Exchequer Releases**

Note 1 to the financial statements reflects Exchequer releases totalling Kshs.5,598,420,838 comprised of equitable share of Kshs.5,160,719,200 and donor funds totalling Kshs.437,701,638. However, analysis of the Integrated Financial Management Information System (IFMIS) records indicated that the equitable share of receipts to the County Government during the year under review totalled Kshs.4,104,493,204. The variance amounting to Kshs.1,056,225,996 between the two sets of records had not been reconciled.

Consequently, the accuracy, validity and completeness of the Exchequer releases balance totalling Kshs.5,160,719,200 for the year ended 30 June, 2020 could not be confirmed.

### **Management Response**

The management submitted that a reconciliation of the same variance had been done and exchequer releases amounting to Kshs. 1,056,225,996 had been captured and processed through the IFMIS system in the miscellaneous receipts register.

### **Committee Observation**

The Committee noted that the County Executive had submitted updated financial statements on exchequer releases.

### **Committee Recommendations**

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

#### **1.5 Unsupported Procurement of Goods and Services**

Note 7 to the financial statements reflects use of goods and services payments totalling Kshs.1,153,551,732 which in turn include office and general supplies and services totalling Kshs.59,505,653. Included in the latter balance is Kshs.17,290,850 and Kshs.11,575,380 spent on purchase of stationeries and cleaning materials, and



disinfectants and detergents respectively. However, the purchases were not supported with Requests for Quotations as prescribed in Section 106 (2)(b) of Public Procurement and Asset Disposal Act, 2015 which requires as many persons as necessary be invited to bid for supply of contracts to ensure effective use of public funds.

Further, acceptance and inspection reports as well as receipts of stationeries and cleaning materials, disinfectants and detergents purchased at Kshs.22,720,410 and Kshs.11,575,380 respectively were not recorded in stores ledgers. In the absence of appropriate evidence, it was not possible to confirm whether the items were inspected before they were received into the stores as required in Section 48 (3)(b) of the Public Procurement and Asset Disposal Act, 2015. In addition, requisitions for their issue from the stores or the identities of the persons they were issued to were not provided for audit. As a result of these omissions, value for money, receipt and proper use of the purchases worth Kshs.40,011,260 in aggregate has not been confirmed.

### **Management Response**

The management clarified that request for quotations were not used given that procurement was done through framework agreement as per section 114 (7) of the PPADA 2015 whereby unbundling of procurement was done as per sec 154 (2) of the PPADA 2015 in order for the County Government to meet the threshold for preference and reservation groups (AGPO) in reference to treasury circular in relation to 30% preference achievement.

Further, all the goods received and issued from the stores were fully authorized by the person delegated by the accounting officer. Most goods were issued during the Covid-19 pandemic when Fumigations was done frequently.

### **Committee Observation**

The Committee noted that the matter has since been addressed.

### **Committee Recommendation**

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

### **1.6 Insufficient Disclosure on Fixed Assets**

Annex 5 to the financial statements reflects Kshs.4,915,394,131 in respect of historical cost of assets as at 30 June, 2020. However, the fixed asset register was not up-dated and did not include important information on the assets on record. The missing information included the dates the assets were acquired and the costs of some assets.

As a result, the assets register did not provide adequate disclosure on the assets as required in Regulation 136(1) of the Public Finance Management (County Governments) Regulations, 2015. In addition, assets taken over from the defunct local authorities had not been incorporated in the asset register.

In the circumstances, the existence and valuation of the assets and the accuracy and completeness of the historical cost balance of Kshs.4,915,394,131 as at 30 June, 2020 could not be confirmed.

### **Management Response**

The management agreed with the auditor's observation that the fixed asset register provided in the financial year 2019/2020 did not have adequate information. The County Government of Nyamira controlled two kinds of assets; Assets inherited from former Local Authority and assets acquired since devolution time. The process of transferring assets inherited from local authority was still ongoing. Assets acquired during the devolution period were initially recorded in the asset schedules as the county government was in the process of acquiring an automated fixed assets management system. The process of acquiring an automated asset fixed management system had been concluded and the county government of Nyamira was in the process of transferring information from the fixed assets schedule to the system.

#### **Committee Observation**

The Committee observed that the delay in completion of the exercise of valuation of assets and liabilities from the defunct local authorities had affected the correct statement of assets and liabilities that county governments inherited.

#### **Committee Recommendations**

The Committee recommends that the-

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

#### **1.7 Unsupported Pending Bills**

Notes 6.8(1) and 6.8(3) of other disclosures to the financial statements reflect pending accounts payables and other pending payables respectively. However, the disclosures provided contain the following anomalies.

##### **1.7.1 Lack of Control Ledger Accounts on Pending Accounts Payable**

Note 6.8(1) to the financial statements – other important disclosures, reflects pending accounts payable totalling Kshs.285,421,626 as at 30 June, 2020. However, the respective control ledger account was not provided for audit. As a result, the accuracy, validity and completeness of the pending accounts payables balance totalling Kshs.285,421,626 as at 30 June, 2020 could not be confirmed.

#### **Management Response**

The management submitted that the details of the pending bills and supporting documents had been forwarded to the Office of the Auditor General.

#### **Committee Observation**

The Committee noted that the matter has since been addressed.



**Committee Recommendation**

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

**1.7.2 Other Pending Payables**

Note 6.8(3) to the financial statements reflects other important disclosures-other pending payables totalling Kshs.337,384,522 as at 30 June, 2020. The balance includes debts owed to County Government entities and third parties totalling Kshs.51,962,896 and Kshs.285,421,626 respectively. However, contract documents, invoices and ledgers related to the balance were not provided for audit.

Consequently, the accuracy, validity and completeness of the pending bills balance totalling Kshs.337,384,522 as at 30 June, 2020 could not be confirmed.

**Management Response**

The management acknowledged the auditors' observation that pending bills for the County Government of Nyamira totalling to kshs.337, 384,522 related to recurrent and development for the County Executive totalling to Kshs. 285,421,626 and the un disbursed amount to the County Assembly of Ksh. 51, 962,896 respectively. Invoices and other related documents amounting to Kshs. 285,421,626 had been forwarded to the office of the Auditor General.

Pending bills amounting Ksh. 51, 962,896 related to undisbursed County Assembly ceiling which expired at the expiry of 2019/2020 Nyamira appropriation Act and it ought not to have been included in the pending bills report.

**Committee Observation**

The Committee noted that the matter has since been addressed.

**Committee Recommendation**

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

**1.8 Misreported Bank Balance**

The statement of assets and liabilities reflects cash and cash equivalents balance totalling Kshs.721,334,351 as at 30 June, 2020, as further disclosed in Note 12A to the financial statements. The balance includes Kshs.123,630,746 for Nyamira County Education Support Fund. However, the financial and other affairs of the Fund are managed and reported on separately from those of the County Executive.

Consequently, the bank balance totalling Kshs.721,334,351 was inflated by Kshs.123,630,746 and therefore, misrepresented the financial position of the County Executive as at 30 June, 2020.

**Management Response**

The management noted the auditor's observation that Ksh. 123,630,746 relating to Nyamira County Education fund ought to have been excluded from the financial statements of County Executive as per the Public Finance Management Act section 167 that guides on the reporting of funds created by the County Executive Committee Member for Finance. These funds were reported and audited independently. The

County Government of Nyamira prepared financial statements for Nyamira County Bursary Fund for the financial year ending 30<sup>th</sup> June 2020 and presented them to the office of the Auditor General.

#### **Committee Observation**

The Committee noted that the matter has since been addressed.

#### **Committee Recommendation**

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

#### **2.0 Unreturned Exchequer Issues**

The statement of receipts and payments for the year ended 30 June, 2020 reflects returned County Revenue Fund issues totalling Kshs.29,608,480. However, the statement of financial assets and liabilities reflects prior year cash and cash equivalents totalling Kshs.1,428,211,479. Therefore, bank and cash balances amounting to Kshs.1,398,602,999 were not transferred to the County Revenue Fund Account at the end of the financial year on 30 June, 2020.

Failure to return all unspent funds to the County Revenue Fund Contravened Section 136 (2) of the Public Finance Management Act, 2012. The provision requires appropriated money withdrawn from the County Exchequer Account but not spent by the end of the respective financial year, to be repaid to the County Exchequer Account.

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#### **Management Response**

The management took note of the auditors' observation that returns to CRF was Kshs. 29,608,480 as opposed to Kshs. 1,428,211,479 as reflected in the statement of assets and liabilities for the following reasons;

- Kshs. 1, 017,220,344 was held at the County Revenue Fund Account (CRF) at Central Bank of Kenya hence there was no need for refund.
- Grants amount held in various Special Purpose Accounts were not to be returned to the CRF account as per the Controller of Budget guidelines and these included:
  - 1) Kenya Road maintenance Levy fund Kshs. 69,308,787
  - 2) KUSP Kshs. 114,080,300
  - 3) ASDSP Kshs. 7,218,777
  - 4) Village polytechnics Kshs. 37,594,951
  - 5) THS UC (SPA) 7,890,537
  - 6) NAGRIP Kshs. 70,796,390
  - 7) Cooperative Bank NARIG Ksh. 394,295
  - 8) KCB NAGRIP Kshs. 1,751
  - 9) KCB-ASDSP Kshs.7,396
- Amount held in the retention account amounting to Kshs. 65,853,231 was held in suspense for third parties and was not returned to the CRF at the end of the financial year.

#### **Committee Observation**

The Committee noted that the matter has since been addressed.

#### **Committee Recommendation**



	<b>Project Name</b>	<b>Contract Sum (Kshs.)</b>	<b>Amount Paid (Kshs.)</b>	<b>Project Status</b>
1.	Construction of Monoremes and Rigoma Markets Shades	7,037,752	7,037,752	Completed but not put to use
2.	Construction of Nyabite Market	4,515,300	2,715,165	Stalled. The respective contractors were not on project sites at the time of the audit.
3.	Construction of Classrooms and Pit Latrine at Matiero Primary ECDE	3,600,000	3,275,200	
4.	Construction of Classrooms at Gesore Primary ECDE	2,729,130	1,105,886	
5.	Construction of Classrooms at Bigege Vocational Training Centre	2,220,600	1,722,592	
6.	Construction of Twin House at Kiendege Talent Academy	3,934,509	1,674,483	Incomplete Project
7.	Construction of Classrooms and Toilets at Raitigo Youth Polytechnic	2,702,220	2,702,220	

## **Management Response**

### **1. Construction of Moturumesi Market Shade**

The management concurred with the auditor's observation that the project was complete but not in use at the time of audit. However, the market was now in use and the County were collecting revenue.

### **Construction of Rigoma Market Shade**

The management concurred with the auditor's observation that the project was complete but not in use at the time of audit due to various challenges that the county was facing. However, the County had taken steps to ensure the market would be in use.

### **2. Construction of Nyabite Market**

The management concurred with the auditor's observation that the project was abandoned by the contractor and was not on site during the time of the audit. However, the process of termination was ongoing and would be completed in due course.

### **3. Matierio Primary ECDE**

The management clarified that the contract was awarded at a contract sum of Ksh. 3,600,000. At the time of audit review, payment amounting to Kshs. 3,275,200 had been made. The inspection and acceptance report were available. The class was complete and in use and posting of an ECD teacher had been done.

### **4. Gesore Primary ECDE**

The management stated that the contract was awarded at a contract sum of Ksh. 2,729,130. A payment Ksh. 1,105,886 had been paid to the contractor as part payment for 40% of works completed. The contractor was unable to complete remaining works

and the contract had since been terminated in accordance with section 153 of the PPAD Act 2015 read together with Section 141(5) of the Public Procurement and Asset Disposal Regulations 2020 in readiness for re- tendering.

#### **5. Bigege Vocational Training Centre**

The management clarified that the contract was awarded at a contract sum of Ksh.2, 220,600, at the time of audit a sum of Kshs. 1,722,592 had been paid to the contractor. The contract was terminated and re-tendering done and as at 2021 the project was completed and put into use.

#### **6. Construction of Twin House at Kiendege Talent Academy**

The management concurred with auditor's observation that the twin house had stalled during the time of review and this was as a result of the COVID 19 pandemic effects, however since then the project was complete and in use.

#### **7. Raitigo Vocational Training Centre**

The management clarified that the contract was awarded at a contract sum of Ksh.2, 702,220 at the time of audit the classroom was complete while the toilet was incomplete. The contractor requested for Contract extension which was granted. The project was now complete and ready for equipping.

#### **Committee Observations**

The Committee noted that Nyabite market and Matierio Primary ECDE projects were not complete. With respect to Nyabite market, the Committee noted that the County Government took inordinately long to take action from the time the contractor abandoned the site to issuance of warning and default notices.

#### **Committee Recommendations**

**The Committee recommends that:**

- 1. the Auditor General undertakes a value for money audit on the projects and submits a report to the Office of the Auditor General within six months of adoption of this report;**
- 2. the county government takes immediate action to complete the incomplete projects and provide information on project status to the OAG within sixty (60) days of adoption of this report;**
- 3. the county executive should operationalize and facilitate its Monitoring and Evaluation department to monitor and report the status of county projects.**

#### **1.3 Delayed Completion of Road Upgrading Project**

As disclosed in Note 11 to the financial statements, the County Executive spent Kshs.274,526,007 on construction of roads during the year under review. Included in the payments were Kshs.18,404,779 paid to a contractor for upgrading the 13.95 kilometres long B5 Borabu Inn-Golani Heights Resort – Jua Kali – Nyamira Boys – B5 Nyabite Market Road to bitumen standards. The project was funded under the Kenya Urban Support Programme.



The works were to be executed at a cost of Kshs.104,373,213.30 in one year starting from 5 August, 2019 to 5 August, 2020. However, audit inspection of the works in October, 2020 indicated that even though the contract period had expired, the certified executed works were equivalent to 50% of the value of the contract. No plausible explanation was provided by Management for the delay in completing the works. As a result of the delay, the benefits expected from the project were not realized.

#### **Management Response**

The management concurred with the auditor's observation that at the time of audit the project was behind schedule and an extension was sought from the contractor which was granted. The contractor had fully executed project works and the road was in motorable condition at 99%, working on final phase of raising final certificate and preparation of final inspection.

#### **Committee Observation**

The Committee noted that the matter was not fully mitigated as the contract had not been fully executed since the transfer of project vehicle to the county government of Nyamira had not been done.

#### **Committee Recommendation**

**The Committee recommends that the Auditor General reviews the matter in the subsequent audit cycle to verify whether the project has been fully delivered and reports back to the Office of the Auditor General within 60 days of adoption of this report.**

#### **1.4 Unserviceable Street Lights**

Expenditure records indicated that Kshs.13,277,268 was spent on installation of solar lights in various locations in the County. However, verification of the solar-powered street lights revealed that eight (8) out of nineteen (19) light towers installed were not in use as the solar panels and batteries had been vandalized. Further, the Department of Environment and Energy did not keep records on the status of the completed street lights and had not drawn plans for their security and maintenance.

In the absence of means to secure and maintain the street lights, the project has not provided the level of utility expected of it to the residents and there may be no value for money on the expenditure.

#### **Management Response**

The management concurred with the auditor's observation that a number of street lights had been vandalized. The management noted that in the financial year 2020/2021 funds had been allocated for normal repair and maintenance of street lights.

Further, management had set aside a budget in the current financial year (2022/2023) to undertake the following measures;

- Installation of metal spikes
- Reinforcement of solar panels in metal holding frames
- Oiling and greasing of the poles to make them slippery
- Installation of batteries in underground concrete box structure

### **Committee Observation**

The Committee noted the mitigation plans by the County Executive.

### **Committee Recommendations**

**The Committee recommends that the management should expedite implementation of the measures to secure the lights.**

### **1.5 Unimplemented Covid-19 Isolation Building Project**

Revenue records indicated that Nyamira County Government received funding for Covid-19 pandemic mitigation totalling to Kshs.111,822,000. The County Government on 25 September, 2020 awarded a contract for construction of a 160-bed isolation complex at Nyamira County Referral Hospital at a contract sum of Kshs.95,860,834. The contract was awarded through restricted tendering.

However, Management's decision to restrict participation in the tender contravened Section 91(1) of Public Procurement and Asset Disposal Act, 2015 which prescribes open tendering as the preferred method for procurement of goods, works and services by public entities. Audit inspection of the project in November, 2020 indicated that the works, including ground-breaking activities, had not started.

Consequently, the County Executive is in breach of the law and the propriety and value for money on the contract valued at Kshs.95,860,834 had not been attained. Further, the mitigation against Covid-19 that the building was expected to provide in the County had not been realized.

### **Management Response**

The County Government of Nyamira awarded a contract for construction of a 160-bed isolation complex at Nyamira County referral Hospital through restricted tendering as observed by the auditor. The management decision to choose this method was informed by the Covid-19 emergency circumstances that required an urgent response in terms of infrastructure construction for isolation of patients. Because time was of essence, this method was selected as it met the requirements of the PPAD Act 2015 section 102 (1) (b).

Works including ground breaking activities had not commenced by the time of the audit, however works started on 27th January 2021. This delay was occasioned by extra time needed by the contractor for mobilization of specialized materials, equipment and personnel to the site since there were restrictions in place from the Ministry of Health due to Covid 19 pandemic.

The management acknowledged non-completion of the project within the contract period as raised by the auditor. Arising from delays, the project manager issued a warning default notice. Upon non-response from the contractor, the management called for dischargement of bank guarantee to recover advance payment of Ksh. 19,172,166.90 after which the contractor went to court. The matter is still pending in court awaiting determination.

### **Committee Observation**

The Committee noted that



1. informed that the contractor obtained Court orders barring termination of the contract, a factor that has caused stalling of the project.
2. The Committee observed that the management violated the procurement laws and procedures as it contravened Section 91(1) of Public Procurement and Asset Disposal Act, 2015.

### **Committee Recommendation**

**The Committee recommends administrative action be taken by the County CEO against the responsible officer(s) who contravened Section 91(1) of Public Procurement and Asset Disposal Act, 2015 in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report.**

### **2. Unsatisfactory Management**

As highlighted elsewhere in this report, the County Executive had budgeted to collect Kshs.250,000,000 County own-generated receipts during the year under review but collected Kshs.187,324,098 resulting in a shortfall of Kshs.62,675,902. Audit review of the revenue collection system suggested that the following anomalies may have contributed to the unsatisfactory performance:

#### **2.1 Failure to Update Property Valuation Roll**

Land rent records indicated that rents collected during the year totalling Kshs.13,798,137 were less by Kshs.3,202,284 from the sum of Kshs.17,000,421 collected in the previous year.

Examination of Revenue Department records indicated that the land rates prescribed were set in the Valuation Roll prepared in 2006 by the defunct Local Authority.

Management had not updated the Roll even though land prices in the County have since risen. As a result, the County Executive has not realized the full potential of land rent revenue available in the County.

### **Management Response**

The management concurred with the auditor's observation that at the time of audit, the valuation roll was not up to date due to budgetary constraints and Covid 19 effects. The County Government of Nyamira had budgeted for phase 1 of valuation roll for key municipalities and multinational companies within Nyamira County. At the time of appearance, terms of reference for the consultancy services were being done awaiting procurement process to commence.

### **Committee Observation**

The Committee noted that the County Executive had not updated its valuation roll leading to under-collection of rent and rates.

### **Committee Recommendation**

**The Committee recommends that the County executive should expedite updating of valuation roll in accordance with Section 3 of the Valuation for Rating Act CAP 266 so as to reflect current market values for optimal revenue collection and**

**comply with the guidelines of the Public Sector Accounting Sector Boards of reporting in the FY 2023/2024.**

## **2.2 Long Outstanding Land Rent Arrears**

The records indicated that land rent collections totalling Kshs.1,413,287 was missing during the year under review. However, the records further reflected accumulated arrears totalling Kshs.44,444,313 comprised of principal amount of Kshs.34,185,004 and penalties totalling Kshs.10,259,309 which had been outstanding from the year 2010. There was no evidence of Management having dedicated effort to collect the long outstanding revenues.

### **Management Response**

The management concurred with the auditor's observation that there was outstanding plot rent. To enhance collection, the management issued a waiver notice in the newspaper where some of the defaulters paid. Upon expiry of the waiver notice, management further issued demand notices to defaulters to pay in the financial year under review which had since expired.

Further, to ensure recovery of outstanding arrears, management had employed the following strategy: Issuance of any license is subject to clearance of all plot rent arrears.

### **Committee Observation**

The Committee noted that the county government inherited the arrears from the defunct local government authorities.

### **Committee Recommendations**

**The Committee recommends that:**

- 1. the County Executive should provide evidence to the Office of the Auditor General of how much outstanding arrears was collected following the waivers and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report; and**
- 2. the Inter-Governmental Relations Technical Committee should fast-track valuation of assets and liabilities from defunct local authorities to enable county governments update their financial statements accurately.**

## **2.3 Incomplete Revenue Automation System**

Examination of records indicated that a sum of Kshs.9,599,300 was spent on acquisition of intangible assets during the year under review. Included in the expenditure was Kshs.7,900,000 paid to a vendor for supply, delivery, customization, commissioning and maintenance of a revenue collection and management system at a contract sum of Kshs.39,500,000. The system was to be installed in sixty (60) days starting from 23 May, 2019 to 23 August, 2019. At the time of the audit in October, 2020, payments made to the supplier totalled Kshs.19,750,000.

Audit review of the project indicated that installation of the system was yet to be completed even though the project was fifteen (15) months behind its set completion date. The outstanding deliverable components included supply of handheld Geographical Positioning System (GPS) enabled enforcement devices, high-end



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

### **3.0 Prior-Year Adjustments**

Note 16 to the financial statements reflects a prior year bank account credit adjustment amounting to Kshs.804,848,000. However, the adjustment was affected in the current financial year instead of the prior year, contrary to International Public Sector Accounting Standard No.3 which provides that except in special circumstances, prior period errors shall be corrected retrospectively in the first set of financial statements authorized for issue thereafter. Further, the Note reflects a cash equivalents brought forward balance of Kshs.1,428,139,359, whereas the comparative statement of assets and liabilities reflects Kshs.1,428,211,479 as at 30 June, 2019.

Consequently, the adjustment does not conform to the IPSAS and further, its accuracy and validity has not been confirmed.

### **Management Response**

The management concurred that the prior year adjustments should have been carried out in the financial year 2018/2019 (statement of assets and liabilities page 26). However, the County Executive presented to the office of the Auditor General the statement of assets and liabilities based on the guidelines of the Public Sector Accounting Standards Board.

### **Committee Observation**

The Committee noted that the matter has since been addressed.

### **Committee Recommendation**

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

### **Other Matter**

#### **Budgetary Control and Performance**

The summary statement of appropriation: recurrent and development combined for the year ended 30 June, 2020 reflects final receipts budget and actual on comparable basis of Kshs.7,001,976,762 and Kshs.6,074,876,690 respectively resulting to a shortfall of revenue totalling Kshs.927,100,072 or 13% of the budget. Similarly, the County Executive spent Kshs.5,996,474,615 against an approved budget of Kshs.7,001,976,762 resulting to an under-expenditure of Kshs.1,005,502,147 or 14% of the budget.

In addition, the County Executive had budgeted to collect Kshs.250,000,000 in County own -generated revenue during the year under review but collected Kshs.187,324,098 resulting in a shortfall of Kshs.62,675,902 or 25 % of the budget.

The underfunding and under-expenditure may have constrained delivery of services and execution of projects planned for the year.

### **Management Response**

The management concurred with the observations made by the auditor. However, the management clarified that during the period under review, underperformance occurred due to late exchequer release of its last tranche which was received in mid-July after

closure of the financial year 2019/2020 and conditional grants received towards the end of the financial year hence could not be implemented within the appropriated timeframe. The county initiated a supplementary budget which incorporated all the categories of funds as opening balances and eventually appropriated in the first revised estimates. The details of the appropriations and evidences of the opening balances were shown in the budget extract for first supplementary budget 2020/2021 and the refund statement dated 30<sup>th</sup>, July 2020.

In the financial year 2021/2022, the budget absorption improved to 83%. Further the underperformance of own source revenue was attributed to a number of issues ranging from the emergence of Covid-19 pandemic which adversely affected revenues collected from avenues such as markets and business licensing since most of them were shut down or downsized. However, there had been improvement in revenue collection with the introduction of Health Facility Improvement Fund (FIF) and the introduction of fully automated revenue collection system.

#### **Committee Observation**

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

#### **Committee Recommendations**

**The Committee recommends that:**

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

### **REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

#### **Basis for Conclusion**

##### **1. Unsatisfactory Implementation of Projects**

Examination of the Project Status Report as at 30 June, 2020 indicated that ninety (90) projects valued at Kshs.320,138,261 contracted for execution during the year under review was not implemented. In addition, forty (40) projects budgeted at Kshs.378,299,813 and on which actual expenditure totalling Kshs.275,987,745 had been incurred as at 30 June, 2020, had not been completed at the time of the audit in October, 2020.

The report further indicated that eleven (11) projects contracted in the previous year at an aggregate cost of Kshs.95,572,787 had since stalled as no works were ongoing at the time of audit. No adequate explanation was provided by Management on why the projects had stalled.

As a result, the residents of the County did not enjoy the benefits due from the unexecuted and incomplete projects.

In addition, the following unsatisfactory issues were observed in respect to projects included in the audit sample:



laptops, volume licenses for antivirus software, and a server for local backup and registration of a client database. No adequate explanation was provided by Management for the delay in execution of the contract.

In view of the failure to complete the project, the anticipated improvements in collection and accounting for revenues in the County had not been realized.

#### **Management Response**

The management concurred with Auditor General's observation that the contract between the County Government of Nyamira and Riverbank Solutions Ltd on revenue automation was not complete as at the time of audit. The delay in delivery of the said hardware was attributed to the economic shutdown in the countries where the service provider had made orders for importation due to Covid-19 pandemic. But since then, the provider had executed her contractual obligations and the contract had come to an end with no extension due to under performance and a new service provider had been procured.

#### **Committee Observation**

The Committee noted that the county government did not realize value for money from the procurement of the Revenue Automation system as the revenue collection modules were not efficient.

#### **Committee Recommendation**

**The Committee recommends that accounting officer initiates the process of debarring Riverbank Solutions due to under-performance.**

#### **2.4 Incomplete Use of the Electronic Revenue Collection System**

Revenue records indicated that the County own-generated receipts in the year under review totalled Kshs.187,324,098. The balance included Kshs.94,660,809 revenue collected outside the electronic revenue collection system procured by the County. The daily transactions report indicated that collections made through the system totalled Kshs.92,663,289 during the year under review against Kshs.94,660,809 collected manually. Management did not provide an adequate explanation for the electronic system's lower performance.

Consequently, value for money and effectiveness of the electronic system could not be confirmed.

#### **Management Response**

The management concurred with the auditor's observation that there was revenue under collection during the year under review. However, management clarified that of the Kshs. 187,324,098 included Kshs. 94,660,809 collected through Health Management Information System and Kshs. 92,663,289 collected through Riverbank solutions (ZIZ).

#### **Committee Observation**

The Committee noted that the county government did not realize value for money from the procurement of the Revenue Automation system as the revenue collection modules were not efficient.

### **Committee Recommendation**

**The Committee recommends that accounting officer initiates the process of debarring Riverbank Solutions due to under-performance.**

### **3.0 Underfunding of Bursary Fund**

Expenditure records on other grants payments indicated that scholarship grants and other educational benefits totalling Kshs.126,520,000 were disbursed during the year under review. However, Section 12(1) of Nyamira County Education Act of 2016 provides that educational grants and benefits should amount to 2.5% of the County budget for the respective year. In the year under review, the total County budget amounted to Kshs.7,001,976,762 and therefore the grants should have amounted to Kshs.175,049,419. Therefore, amounts disbursed totalling Kshs.126,520,000 fell short of the legal threshold by Kshs.48,529,419.

Consequently, the Management may not have fulfilled the need for scholarship grants and benefits in the County during the year under review.

### **Management Response**

The management concurred and took note of the audit observation and illustrated in the table below that; 25% of the appropriated budget after lessening transfers from other government entities, proceeds from domestic and foreign grant, returned issues to County Revenue Fund (CRF) was Ksh. 167,821,125.

However, 2.5% of the actual receipts after lessening transfers from other government entities, proceeds from domestic, foreign grants and returned issues to CRF was Ksh. 144,643,623.

The actual transferred amount was Ksh.126,520,000 as appropriated in the budget, the variation between the budget and the actual transferred amount was Ksh. 41,301,125, the variation between actual receipts and actual transfers was Ksh. 18,123,623 which could not be accomplished due shortfall in own source revenue.

<b>Details</b>	<b>Adjustments</b>	<b>Balances</b>
Total Budget	7,001,976,762	0
Less Transfers from other government entities	243,059,750	6,758,917,012
Less Proceeds from domestic and foreign Grants	16,463,524	6,742,453,488
Less Return Issues to CRF	29,608,480	6,712,845,008
2.50%	0	167,821,125
Actual Receipts	6,074,876,690	0
Less Transfers from other government entities	243,059,750	5,831,816,940
Less Proceeds from domestic and foreign Grants	16,463,524	5,815,353,416



### **Management Response**

**a) Ninety (90) projects valued at Kshs.320, 138,261 contracted for execution during the year under review were not implemented.**

The management concurred with the auditor's observation that at the time of audit, ninety projects were not implemented. This was occasioned by late appropriation of the supplementary budget, prevailing covid-19 pandemic and an advisory from the National Government to scale down on development projects and focus more on covid-19 mitigation measures.

Out of the ninety (90) outlined projects, fifty-four (54) valued at ksh.190, 171,533 were reinitiated, implemented and completed in the subsequent financial years 2020/2021, 2021/2022.

**b) Forty (40) projects not completed at the time of the audit.**

The management concurred with the auditor's observation that 40 projects were not completed at the time of audit. However, management clarified that, out of the 40 projects, four (4) were multi year. Further, thirty-one (31) had since been completed and were in use.

**c) Stalled Eleven (11) projects contracted in the previous year stalled at the time of Audit.**

The management took note of the Auditor's observation and clarified that these were water projects within the County. The budget was for drilling and casing of twenty (20) boreholes by the County Government of Nyamira in collaboration with the National Water Harvesting and Storage a follow up was done and seven projects valued at Ksh. 76,625,055 had been completed and were in use. Four projects had been completed however installation of power was still outstanding.

### **Committee Observations**

The Committee noted that the Management response was unsatisfactory.

The Committee further noted that the Auditor General had not completed the verification of all the projects in question.

### **Committee Recommendation**

**The Committee recommends that the Auditor General undertakes further verification of the queried projects and submits a status report on level of completion and status of utilization, to the Office of the Auditor General within sixty days of the adoption of this report.**

#### **1.1 Unapproved Variation of Construction Works**

A sum of Kshs.32,999,967 was paid to a contractor hired to build amenity wards at Nyamira County Referral Hospital under a contract valued at Kshs.142,319,154 awarded through open tender. Audit verification of the project in October, 2020 confirmed that most of the contracted works had been completed. However, the scope of works on the main building were varied and as a result, the costs increased by Kshs.7,313,893. There was no evidence of the requisite approvals having been granted before the variations were made.

Consequently, the validity of the additional expenditure totalling Kshs.7,313,893 spent on the project was not confirmed.

### **Management Response**

The management clarified that there were no contract variations at the time of audit for financial year 2019/20. However, during the execution, the project implementation team did an appraisal and noted that there were design deficiencies on three elements of mechanical, Electrical and builders works which the team approved within the original contract sum of Kshs. 142,319,154. Towards the end of the project and in consultation with the Public Procurement Review Authority, the accounting officer approved project appraisal which varied the cost by Kshs. 21,813,097.74 translating to 16% of the contract sum. The project is complete and the process of handing over was ongoing.

### **Committee Observation**

The Committee noted that contract variations and delays in project completion indicate challenges with contract execution and project conception, planning and implementation.

### **Committee Recommendations**

The Committee thus recommends that-

1. the county Executive should expedite the process of handing over of the project so that it can be put to immediate use for the residents of Nyamira to realize value for money;
2. the county government should undertake proper project conceptualization, planning, monitoring and execution to ensure timely completion of the project as well as realization of value for money;
3. contract agreements should be developed with clauses that have liquidated damages for non-completion or non-execution of projects and should be drafted by County Attorneys; and
4. the Auditor General keeps the matter in view in the subsequent audit cycle in line with this recommendation.

### **1.2 Incomplete and Abandoned Projects**

Included in the construction and civil works payments totalling Kshs.102,281,070 disclosed in Note 11 to the financial statements is a sum of Kshs.20,233,298 spent on seven (7) projects. However, the projects were, at the time of the audit in October, 2020, not complete, or had been completed but not put to use; or had stalled after they were abandoned by contractors. The projects are outlined in the Appendix to this report.

No adequate explanation was provided by Management for the unsatisfactory state of the projects. As a result, the funds spent on the projects have not provided the expected utility to the residents of Nyamira County and may not provide value for money expended.



Less Return Issues to CRF	29,608,480	5,785,744,936
2.50%	0	144,643,623
Actual Transferred	126,520,000	
Variance between budget and actual transfer	41,301,125	0
variance between the actual amount and actual transfer	18,123,623	0

#### **Committee Observation**

The Committee noted that the matter was under the purview of Senate County Public investment and special funds Committee.

#### **Committee Recommendation**

**The Committee recommends that the matter be addressed by the Senate County Public Investment and Special Funds Committee.**

#### **4.0 Overpayment of Tax Arrears to Kenya Revenue Authority**

Included in the expenditure are tax arrears and penalties totalling Kshs.92,289,456 paid to the Kenya Revenue Authority. However, examination of tax records indicated that the Demand Letter and schedule issued by the Authority was for tax arrears and penalties totalling Kshs.91,111,125 only. No explanation was provided by Management for the overpayment of the tax bill by Kshs.1,178,331.

Non-compliance with statutory requirements resulted in wasteful expenditure on tax penalties.

#### **Management Response**

The management concurred with the auditor's observation, that a total of Ksh. 91,111,125 plus Kshs. 1,178,331 was paid as arrears and penalties accumulated for a period of three years. This came as a result of;

- Late disbursement of funds by the National Treasury that led to delay in payroll execution thus attracting interest and penalties on the part of Pay as You Earn.
- The Kenya Revenue Authority issued a demand notice of Ksh. 91,111,125 on 20<sup>th</sup> August 2019 and the above transaction was executed by central bank of Kenya due to an agency notice issued by Kenya Revenue Authority on 13/01/2020. The differential time between the date of the notice and payment time attracted interest and penalties of Kshs. 1,178,331 hence resulting to a total of Kshs. 92,289,456. Similarly, in the month December 2022 and January 2023, Kenya revenue authority had also executed the agency notices on the payroll on the month of December 2022 and January 2023 which the county government was yet to receive the monies and pay the salaries.

#### **Committee Observation**

The Committee noted that the County Executive was penalized for reasons beyond their control as the delay in remitting the taxes was as a result of delays in exchequer releases from the National Treasury.

### **Committee Recommendation**

The Committee recommends that the national Treasury and the Kenya Revenue Authority should put a moratorium on payments of interests and penalties attributed to delay in exchequer release.

## **5.0 Irregularities in Personnel Management**

### **5.1 Unsustainable Wage Bill**

The statement of receipts and payments reflects compensation of employees of expenditure totalling Kshs.2,730,317,480 which translates to 45% of the County Executive's revenue receipts for the year under review totalling Kshs.6,074,876,690.

The proportion therefore exceeds the ratio of 35% set in Regulation 25(1)(b) of the Public Finance Management (County Governments) Regulations, 2015.

Excessive use of limited resources in payment of personnel emoluments reduces funds intended to finance development projects and critical public services and results in imprudent use of public resources.

### **Management Response**

Management concurred with the auditors' observation that the county wage bill was beyond the 35% set limit. This was due to Collective Bargaining Agreement (CBA) for the Nurses, Doctors and Clinical officers without corresponding funding, SRC salaries review 2018/2019, 2019/2020 and irregular promotions exponentially increasing the wage bill. The management initiated a corrective measure on irregular promotions which was reversed by a court ruling. However, the process had been reinitiated with the support of the Ministry of Public Service, Gender and Affirmative Action State Department for Public Service.

### **Committee Observation**

The Committee observed that the County Executive's wage bill during the FY 2019/2020 stood at 45% of the its total receipts. This affected the budgetary allocations available for development projects.

### **Committee Recommendations**

The Committee recommends-

1. That the County Executive to strictly adhere to the provision of paragraph 25(1)(b) of the PFM Act (county government) regulations, 2015 which stipulate that the county wage bill should not exceed 35 per cent of the county total revenue;
2. The County Executive should engage the State Department of Public Service to fast-track the issuance of personal numbers to enable them onboard all employees on the Integrated Personnel and Payroll Database (IPPD) System;
3. the Auditor General to monitor the matter in subsequent audit cycle; and



4. the management should provide to the Auditor General a three-year strategy of measures it will put in place to contain the high wage bill within sixty (60) days of the adoption of this report.

### **5.2 Salaries Paid Outside the Integrated Payroll and Personnel Database (IPPD)**

In addition, the compensation of employees' expenditure records indicated that payments totalling Kshs.2,707,851,266 were made through the prescribed electronic Integrated Payroll and Personnel Database (IPPD) system whereas the remainder amounting to Kshs.22,466,214 was processed and paid manually. No explanation was provided by Management for the use of the manual system that is not only less efficient but is more prone to error, misuse and fraud.

#### **Management Response**

The management concurred with the auditor's observation that during the year under review, some employees were paid outside the IPPD. This was as a result of; new recruitment which required officers to have personal numbers for their emoluments to be processed through IPPD and casuals who do not qualify for allocation of personal numbers thus could not be paid through IPPD system.

#### **Committee Observation**

The Committee observed that the County entity was processing salaries for some of its employees manually instead of using the IPPD system.

#### **Committee Recommendation**

**The Committee recommends that;**

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

### **5.3 Irregular Appointment of Staff**

#### **5.3.1 Lack of Disclosures on Recruitment Process**

Examination of the county payroll for the month of June, 2020 indicated that forty (40) officers were, in the financial year under review, recruited and paid personal emoluments totalling Kshs.3,538,835 per month. However, further examination of the records revealed the following anomalies:

- i. There were no advertisements for the vacancies and therefore the appointments were not made in accordance with the law.
- ii. The qualifications, including skills and competencies required for the posts were not disclosed.
- iii. Records on the recruitments including applications received from candidates, and those shortlisted, interviews conducted and lists of candidates selected were not presented for audit.

- iv. Requisitions made by user departments or minutes of the County Public Service Board and the County Human Resource Advisory Committee confirming appointment of the new staff were not presented for audit.

In view of these anomalies, it was not possible to confirm that the appointments were made in a fair and transparent way as required of public appointments and prescribed in Section 65(2) of County Governments Act, 2012. In addition, it was not possible to confirm that the new employees possessed the skills and competencies required for their respective posts.

#### **Management Response**

The management took note of the auditor's observation and wished to confirm that indeed the recruitment took place and that due process was followed. Relevant supportive documents for the entire process had been availed.

#### **Committee Observation**

The Committee noted that the matter was still outstanding. The Committee also noted with concern the failure of the County Government entity to submit documents on time to the Auditor General.

#### **Committee Recommendation**

**The Committee, therefore, recommends that the accounting officer undertakes administrative actions against the officers who failed to provide the documents to the auditors in accordance with section 156 of the Public Finance Management Act and provides a status report to the Office of the Auditor General within 60 days from the adoption of this report.**

#### **5.3.2 Filled Positions not in Approved Establishment**

Further, examination of personnel records indicated that the County Executive had four thousand eight hundred and five (4805) employees out of whom eight hundred and sixty-two (862) held posts that were not in the approved staff establishment. Payments for emoluments to the respective staff totalled Kshs.27,518,135 in the month of June,2020 alone. In appointing staff to posts not provided for in the approved establishment, Management acted contrary to Section B.5(2) of the County Public Service Human Resource Manual which provides that job vacancies should only be declared for posts that are in the authorized establishment.

Consequently, the compensation of employee's expenditure totalling Kshs.27,518,135 spent on the staff employed in unauthorized posts was irregular.

#### **Management Response**

Management concurred with the auditor's observation and clarified that the officers identified in the report were on deployment to departments where their substantive designations were not domiciled. At the time of audit review, the county was using CARPS REPORT as opposed to the approved staff establishment.

The management confirmed that an approved staff establishment was in place and its operationalization was ongoing.



### **Committee Observation**

The Committee noted failure by the County Treasury to enforce the fiscal responsibilities principles as spelt out under the PFM Act, 2012. The Committee observed that the high compensation to employee may reduce the fiscal space to undertake development activities for service delivery.

### **Committee Recommendations**

**The Committee recommends that-**

- 1. The County Executive to strictly adhere to the provision of the PFM Act, 2012 on the fiscal responsibilities on county government expenditure on wages and benefits; and**
- 2. The Auditor General to closely monitor the enforcement of the fiscal responsibility's principles by the County Treasury in managing county government finances.**

### **5.3.3 Irregular Recruitment of Members of the County Public Service Board**

Audit of the job application documents submitted by successful candidates for Nyamira County Public Service Board vacancies revealed that the four (4) members lacked Tax Compliance Certificates, Certificates of Good Conduct and Ethics and Anti-Corruption Commission Clearance Certificates, all of which had been prescribed as mandatory in the advertisements for the posts. Management did not explain why the requirements were ignored.

Consequently, the County Executive breached regulations it had set for appointment to the posts and it was therefore not clear whether the appointees complied with the requirements of Chapter Six of the Constitution.

### **Management Response**

The management took note of the Auditor's observation and had since forwarded the missing documents.

### **Committee Observation**

The Committee noted with concern the failure of the County Government entity to submit documents on time to the Auditor General.

### **Committee Recommendation**

**The Committee recommends that the accounting officer undertakes administrative actions against the officers who failed to provide the documents to the auditors in accordance with section 156 of the Public Finance Management Act and provides a status report to the Office of the Auditor General within 60 days from the adoption of this report.**

### **5.4 Lack of Training Needs Assessment**

Available records indicated that training expenses totalling Kshs.69,121,565 were incurred during the year under review. Included in the expenditure was a sum of Kshs.29,405,180 spent on training courses. However, contrary to Section 1.3 of the County Public Service Human Resources Manual, 2013, needs assessments were not

conducted to guide the Human Resource Management Advisory Committee in nominating officers for the training courses.

In the absence of a training needs assessment, there was no assurance that the funds totalling Kshs.29,405,180 spent on the courses were used in an effective way.

#### **Management Response**

The management concurred with the auditor's observation that as at the time of audit training needs assessment was not in place. However, the following steps were being undertaken to address this issue;

- Undertake a training needs assessment,
- Centralization of trainings through Departmental Human Resource Advisory Committee and County Human Resource Advisory Committee.

#### **Committee Observation**

The Committee noted that the County Executive did not comply with the County Public Service Human Resources Manual, 2013.

#### **Committee Recommendations**

**The Committee recommends that the County Public Service Board should fully comply with the provision of Human Resource Policies and Procedures Manual.**

#### **5.5 Lack of Ethnic Diversity in Staff Establishment**

Personnel records presented for audit indicated that the employees of the County Executive numbered 4,805 as at 30 June, 2020 out of whom 4,532 or 94% were of the ethnic community dominant in the County. This was contrary to Section 7(1) of the National Cohesion and Integration Act, 2008 which provides that all public establishments shall seek to represent the diversity of the people of Kenya in the employment of staff.

In the circumstance, the Nyamira County Executive is in breach of the law on promotion of ethnic diversity in public entities.

#### **Management Response**

Nyamira County Government in all its adverts encouraged applicants from all parts of the country to express interest of all openings for employment. However, few from other ethnicity expressed interest and even after they are shortlisted, they did not turn up for interviews. In the near future the County ensured they would keep encouraging all Kenyans to apply for vacancies.

#### **Committee Observation**

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



### **Committee Recommendations**

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

### **6.0 Failure to Observe All Accountability Reporting Requirements**

Contrary to the requirements of Section 54(1) of the Public Finance Management (County Governments) Regulations, 2015, Management did not submit monthly financial and non-financial budgetary reports to the County Treasury with copies to the Controller of Budget and the Auditor-General.

Consequently, the Management did not observe all accountability reporting requirements on the activities of the County Executive.

### **Management Response**

The management agreed with the auditor's observation as per PFM Act sec. 154(1) regulation 2015 County Government that required all accounting officers to prepare financial & non- financial reporting the format prescribed by the cabinet secretary in charge of National Treasury and present it to the County Treasury with copies to the Controller of Budget and Auditor General. At the time, the Public Sector Standards Board had given guidelines for the preparation and presentation of quarterly and yearly and non-financial reports for County Government entities.

### **Committee Observation**

The Committee noted that the County Executive was in breach of the law as they had not submitted the monthly financial report and non-financial reports to the County Treasuries and copies to the Controller of Budget and Auditor General.

### **Committee Recommendations**

**The Committee recommends that the management undertakes measures to ensure full compliance with the law by submitting the required documents in a timely manner.**

## **REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE**

### **1. Lack of an Audit Committee**

Regulation 167(1) of the Public Finance Management (County Governments) Regulations, 2015 requires each County Government entity to establish an Audit Committee in accordance with prescribed regulations. Review of internal control and governance processes in the County Executive of Nyamira, indicated that the term of the County Audit Committee expired in October, 2019. However, Management did not appoint a new Committee thereafter. In the absence of the Committee, oversight on the County Executive's overall governance and operating systems, including internal controls were not adequate.

### **Management Response**

The management concurred with the audit findings that at the time of audit review the Audit Committee term had expired. However, on 24th June 2020 there was an advertisement for appointment of the Audit Committee, inauguration and induction had been done and the committee was currently functional.

**Committee Observation**

The Committee noted that the matter has since been addressed.

**Committee Recommendation**

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

**2. Lack of Documented Risk Management Policy and Reports**

As similarly reported in previous years, the County Executive did not have a documented risk management policy in the year under review. Further, contrary to Regulation 158(1) of the Public Finance Management (County Governments) Regulations, 2015, no risk assessment activity was carried out during the year.

Therefore, Management lacked rational means to identify operational and other risks faced by the County Executive, to assess the likelihood of their occurrence and significance, and to establish means to mitigate their possible effects.

**Management Response**

The management concurred with the audit finding that as at the time of audit the County Risk Management Policy was not in place. However, the management stated that risk assessment for all departments had been conducted and a combined risk register was in place together with a risk management policy.

**Committee Observation**

The Committee noted that the matter has since been addressed.

**Committee Recommendation**

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



## CHAPTER ELEVEN

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

The Governor of Nyeri County, Hon. Mutahi Kahiga, EGH, appeared before the Committee on Wednesday, 8<sup>th</sup> February 2023 to respond (under oath) to audit queries raised in the Report of the Auditor General on Financial Statements for Nyeri County Executive for the Financial Year 2019/2020.

#### Qualified Opinion

EXECUTIVE SUMMARY OF UN-RESOLVED AUDIT QUERIES				
	Query	Recommendations	Actor	Timeline
1.	<p><b>Unsupported Expenditure- Domestic Travel and Subsistence Allowances</b></p> <p>ii) An amount of Kshs.362,050 was issued to an officer to pay allowances for officers who were scheduled to attend a drama festival. However, review of the surrender voucher revealed that the list of payees attached to the payment voucher included other unrelated activities such as County Sports Day and distribution of furniture transport allowance for 3 days for unspecified persons for which the imprest was not authorized for.</p>	<p>The Committee recommends that the accounting officer recovers imprest with interest from the imprest holder at the prevailing Central Bank interest rates as stipulated in the Public Finance Management (County Government) Regulation 93.</p>	<p>The CECM Finance</p>	<p>60 days from the adoption of this report</p>

2	<p><b>8.0 Accounts Receivables – Outstanding Imprests</b></p> <p>There is a discrepancy between the surrendered imprests amounts reflected in the IFMIS payment details and the financial statements, resulting in an unexplained difference and making it impossible to confirm the accuracy of the accounts receivables-outstanding imprests balance.</p>	<p>1) The County CEO undertakes administrative action against the officer(s) responsible for failure to undertake reconciliation of financial statements within the stipulated timelines and submit a report to the Office of the Auditor General within 60 days of adoption of this report.</p> <p>2) The County Executive in liaison with the National Treasury undertakes capacity building for the responsible officer(s).</p>	<p>The County CEO</p> <p>The National Treasury</p>	<p>Within 60 days of adoption of this report</p>
3	<p><b>9.1 Inaccurate Pending Bills Balances</b></p> <p>There are unexplained discrepancies in the pending bills balance and no explanation for the failure to pay them during the financial year, which affects the subsequent year's budget.</p>	<p>The Committee therefore recommends that:</p> <p>1) the National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate so as to enable county entities settle their obligations on time;</p> <p>2) the County Executive should disclose all pending bills in the format prescribed by the Public Sector Accounting Standards Board as stipulated under Section 104(1)(h) of Public Finance Management Act, 2012;</p> <p>3) the county executive puts in place measures to enhance</p>	<p>The County CEO (Governor)</p> <p>The National Treasury</p> <p>The DCI</p>	<p>Within 60 days of adoption of this report</p>



		<p>own generated revenue in order to meet its revenue target and address revenue shortfalls that contribute to the challenge of pending bills.</p> <p>4) Pending bills deemed ineligible should be forwarded to the Directorate of Criminal Investigation (DCI) for investigation proper legal action taken against those filing false claims.</p> <p>5) County Government to take note of judgement in a Kitale High Court Constitutional Petition E003 of 2023 that declared formation of pending bills verification committees unconstitutional and engage Office of the OAG and strengthen the internal audit functions.; and</p> <p>6) All valid pending bills that have been reviewed by the Office of the Auditor General be paid and a payment plan be submitted to the county assembly for approval and progress report on implementation sent to the Senate and the Office of the Controller of Budget.</p> <p>7) The County CEO undertakes administrative action against officer(s) responsible for failing to prepare accurate financial statements in accordance with Section 156 of the Public Finance Management Act, 2012 and submit a report to the Office</p>		
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		<p>of the Auditor General within 60 days of adoption of this report;</p> <p>8) The County Executive to identify training needs of its staff serving in the Finance Department and initiate capacity building and training in conjunction with the National Treasury within 60 days of adoption of this report.</p>		
4	<p><b>9.2 Pending Staff Payables</b></p> <p>Pending staff payables amount to Kshs.27,791,273, including unpaid travel and subsistence claims, some of which have been outstanding for over a year without justification, and the analysis of pending staff payables does not comply with the reporting template prescribed by the Public Sector Accounting Standard Board (PSASB.)</p>	<p>The Committee therefore recommends that:</p> <p>(a) the National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate so as to enable county entities settle their obligations on time;</p> <p>(b) the County Executive should disclose all pending bills in the format prescribed by the Public Sector Accounting Standards Board as stipulated under Section 104(1)(h) of Public Finance Management Act, 2012;</p> <p>(c) the county executive puts in place measures to enhance own generated revenue in order to meet its revenue target and address revenue shortfalls that contribute to the challenge of pending bills.</p> <p>(d) Pending bills deemed ineligible should be forwarded to the Directorate of Criminal Investigation (DCI) for investigation proper legal action taken against those filing false claims.</p>	<p>CECM Finance</p> <p>National Treasury</p>	<p>Within 60 days of adoption of this report</p>



		<p>(e) County Government to take note of judgement in a Kitale High Court Constitutional Petition E003 of 2023 that declared formation of pending bills verification committees unconstitutional and engage Office of the OAG and strengthen the internal audit functions.; and</p> <p>(f) All valid pending bills that have been reviewed by the Office of the Auditor General be paid and a payment plan be submitted to the county assembly for approval and progress report on implementation sent to the Senate and the Office of the Controller of Budget.</p>		
5	<p><b>9.3Other Undisclosed Pending Bills</b></p> <p>Undisclosed pending payables of Nyeri County include KPLC power bills, salaries paid to health workers, unpaid legal fee notes, and pending bills from defunct local authorities. No satisfactory explanation was given for the omissions, making it impossible to confirm the accuracy and completeness of the pending bills balance.</p>	<ol style="list-style-type: none"> <li>1. the County Government should not pay the Ministry of Health any money for provision of medical services that were undertaken before the full transfer of the health function to Counties;</li> <li>2. the National Treasury refunds the County Government any and all funds irregularly received ostensibly for provision of medical services that were undertaken before the full transfer of the health function to Counties.</li> <li>3. make adequate efforts to pay its pending bills as a first charge in the subsequent audit cycle;</li> <li>4. disclose all pending bills in the format prescribed by the Public Sector Accounting Standards Board as stipulated under section 104 (1)(h) of the</li> </ol>	<p>The County CEO</p> <p>The National Treasury</p>	Next Audit Cycle





	budget resulting in constraints to execution of planned activities and delivery of services to the residents of Nyeri County.	pursuant to Section 104(d) of the Public Finance Management Act, 2012 in order to meet its revenue target and address revenue shortfalls.	The County CEO	
8	<b>2.0Revenue Trend Analysis</b> Revenue collections in Nyeri County consistently failed to meet budget targets and have shown a decline over the past four years, 2016/2017 and 2019/2020 indicating possible revenue leakages and an inefficient revenue collection system.	The Committee recommends that the County Executive; <ol style="list-style-type: none"> <li>1. puts in place measures to enhance its own generated revenue pursuant to Section 104(d) of the Public Finance Management Act, 2012 in order to meet its targets.</li> <li>2. should adopt realistic revenue targets based on their mapped revenue streams; and</li> <li>3. should revise their budget to a realistic level based on past experience.</li> </ol>	The County CEO	Continuous
9	<b>3.0Late Exchequer Releases</b> As a result of delayed receipts, the County executive did not have sufficient time to absorb its total budget for the year.	The Committee recommends that the National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate.	The National Treasury	Continuous
10	<b>4.0Unresolved Prior Year Matters</b> Various prior year audit issues remained unresolved as at 30 June, 2020. Management has not provided reasons for the delay in resolving the prior year audit issues.	The Committee recommends that the County executive complies with section 53 of the Public Audit Act, 2015 by taking action on the issues raised by the Auditor General and submits a report to the Auditor General within 60 days of the adoption of this report.	<ol style="list-style-type: none"> <li>1. The County Chief Executive Officer.</li> <li>2. The Auditor – General.</li> </ol>	Within 60 days of adoption of this report

<b>REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES.</b>				
<b>1.</b>	<b>1.0 Outstanding Imprests</b> Imprest balance of Kshs.5,671,031 ought to have been surrendered on or before 30 June, 2020 but remained outstanding after the due dates.	The Committee recommends that: 1) The County CEO undertakes administrative action against the officer(s) responsible for failure to undertake reconciliation of financial statements within the stipulated timelines and submit a report to the Office of the Auditor General within 60 days of adoption of this report; 2) the Accounting Officer recovers the outstanding imprest with interest at the prevailing Central bank rates from the officers who failed to surrender the safari imprest within 7 days of returning to duty station, pursuant to Regulation 93(6) of the PFM Act (County Governments) Regulations, 2015; 3) sanctions and surcharge of Accounting Officer who fails to recover outstanding imprests in line with Regulation 93(7) of the PFM (County Government) Regulations, 2015; and 4) The County Executive to identify training needs of its staff serving in the Finance Department and initiate capacity building and training in conjunction with the National Treasury within 60 days of adoption of this report.	County CEO  National Treasury	Within 60 days of adoption of this report
<b>2.</b>	<b>2.0 Arrears of Revenue</b>  Undisclosed arrears of revenue amounting to	The Committee recommends that;- a) the County executive should expedite updating of valuation roll in accordance with Section 3 of the Valuation for Rating Act CAP 266 so as to reflect	County CEO	Continuous



	<p>Kshs.3.4 billion as of 30 June 2020 were found, and no indication of recovery efforts was provided, casting doubt on the recoverability of the outstanding revenue.</p>	<p>current market values for optimal revenue collection and comply with the guidelines of the Public Sector Accounting Sector Boards of reporting in the FY 2023/2024. The County Executive should consider alternative dispute resolution as a way of fast-tracking the court case on Valuation Roll.</p> <p>b) the County Executive adopts and implements the report of the Inter-Governmental Relations Technical Committee on valuation of assets and liabilities from defunct local authorities and take charge.</p> <p>c) the County Executive should make efforts to collect the outstanding arrears from the defaulters.</p> <p>d) the county executive should provide a report of all revenue arrears in the financial statements in the format prescribed by the Public Sector Accounting Standards Board; and</p> <p>e) the Office of the Auditor-General continues to monitor the status of the county revenues and arrears in the subsequent audit cycle.</p>	The Auditor General	
3.	<p><b>Under-Banking of Hospital Revenue</b></p> <p>An analysis of revenue collection reports and pay-in-slips from Nyeri Provincial Referral Hospital, Mt. Kenya Hospital and Mukurwe-ini Hospital revealed under banking of</p>	<p>The Committee recommends that the CECM Finance, in line with section 116 of the Public Finance Management Act, 2012 to cause a Fund to be established for management of the revenues collected from hospitals and provides a status report to the OAG within 60 days of adoption of this report.</p>	The CECM Finance	Within 60 days of adoption of this report





	<p>indicating that most of the County's resources are spent on staff salaries, which negatively affects service delivery to Nyeri residents.</p>	<p>in order to address wage bill gap;</p> <p>c) The County Executive should engage the State Department of Public Service to fast-track the issuance of personal numbers to enable them onboard all employees on the Integrated Personnel and Payroll Database (IPPD) System; and</p> <p>d) the Auditor General to monitor the matter in subsequent audit cycle.</p>	CECM Finance	
6.	<p><b>4.2 Non-Compliance with Regional Diversity Requirement</b></p> <p>The County Executive had a workforce that was 92.8% from the dominant ethnic community, in breach of the National Cohesion and Integration Act, and only 12.6% of new hires were from minority communities outside the County, indicating a persistent breach of the law.</p>	<p>c) the County Executive should work progressively towards attaining the requirement of the provisions of Section 65(1)(e) of County Government Act 2012 on ethnic inclusivity.</p> <p>d) the County Executive and CPSB should provide to the Auditor General a five-year strategy of measures it will put in place to ensure compliance with Section 65 (1) (e) of County Government Act 2012 within sixty (60) days of the adoption of this report.</p>	<p>County CEO</p> <p>CPSB</p> <p>Auditor General</p>	Continuos

7.	<p><b>4.3 Failure to Comply with One Third Basic Salary Rule</b></p> <p>During February and March 2020, some employees of the County Executive were paid net salaries below one-third of their basic pay, in breach of the Employment Act, 2007.</p>	<p>a) The County Executive should provide to the Auditor General within sixty (60) days after the adoption of this report a plan of the measures put in place to mitigate on the issue as well as comply with the requirements of law;</p> <p>b) The county should configure their IPPD system such that it is able to lock out commitments beyond the accepted thresholds; and</p> <p>c) The Auditor General should continue monitoring the issue in subsequent financial years.</p>	<p>County CEO</p> <p>Auditor General</p>	<p>Within 60 days of adoption of this report</p>
8.	<p><b>5.0 Irregular Allowances to Alcoholic Drinks Control and Management Committee</b></p> <p>The County spent Kshs. 93,818,672 on domestic travel and subsistence, including Kshs. 2,429,600 paid to an alcohol regulation committee without approved regulations or meeting rates. The validity and propriety of the Kshs. 2,429,600</p>	<p>The Committee recommends that the County Executive liaises with the County Assembly to expedite enactment of the Nyeri County Alcoholic Drinks Control and Management Regulations and provide a status update to the Senate within 60 days from adoption of this report.</p>	<p>County Attorney</p>	<p>Within 60 days of adoption of this report</p>



	allowances could not be confirmed.			
9	<b>6.1 Regularity of Legal Fees</b> The County spent Kshs. 55,042,329 on legal fees for private lawyers who represented the County in various court cases despite having a County Attorney. Records show that fee notes amounting to Kshs. 32,125,703 remained unpaid as at the time of audit and were not included in the list of pending bills. The validity and completeness of legal fees for the year ended 30 June 2020 could not be confirmed.	1. County Executive makes a provision in its budget for contingency liability in respect of legal fees pursuant to regulation 25(2)(e) of the Public Finance Management (County Government) Regulations, 2015; and 2. The County Executive utilizes the Office of the County Attorney to provide legal advice and court representation. The county should provide evidence of compliance with the County Attorneys Act within 60 days of adoption of this report.	CECM Finance  County Attorney	Immediately
10	<b>6.2 Payment to County Public Service Board Consultative Forum</b> Kshs. 300,000 was paid as annual subscription without approved law or regulation. Validity of expenditure unconfirmed.	The Committee recommends that the irregular payments to the County Public Service Board Consultative Forum be stopped and further recommends the surcharge of any County Secretary who continues to make the irregular contribution. The EACC should oversee the recovery of all the public funds irregularly transferred to the County Public Service Board Consultative Forum.	CECM Finance	Immediately
11	<b>7 Rent of Liaison Office at the Council of Governors</b>	The Committee recommends that the irregular payments to the Council of Governors (COG) be stopped and further recommends the surcharge of any Governor, in their capacity as Chief Executive	The County CEO	Immediate

	<p>Amount of Kshs. 2,758,993 in respect of contribution to Council of Governors to defray expenses and rent for a Liaison Office at the Council of Governors offices in Westlands, Nairobi. However, the payment was made contrary to Section 37 of the Inter-Governmental Relations Act, 2012 which provides that operational expenses for the structures and institutions established by the Act is provided for in the annual estimates of the revenue and expenditure of the National Government.</p>	<p>Officer, who continues to make the irregular contribution. The EACC should oversee the recovery of all the public funds irregularly transferred to the Council of Governors (COG) by the Governor. This is in line with the Resolution of the Senate.</p>		
12.	<p><b>8.0 Other Grants and Transfers</b></p> <p>Kshs. 713,014,997 was transferred to various entities including Nyeri County Agriculture Mechanization Services and Wambugu Agricultural Training Centre, but the County lacked a policy on how the funds were to be spent and accounted for. Expenditure</p>	<ol style="list-style-type: none"> <li>1. The Committee recommends that- the County CEO undertakes administrative actions against the officers who failed to provide the documents to the auditors in accordance with section 156 of the Public Finance Management Act and provides a status report to the Office of the Auditor General within 60 days from the adoption of this report; and</li> <li>2. the County Executive should develop a policy on the administration of the fund within 60 days of the adoption of this report and submit to the</li> </ol>	The County CEO	Within 60 days of adoption of this report



	returns were not provided, hence the validity and propriety of Kshs. 11,113,064 expenditures could not be confirmed.	Auditor General for verification.		
13.	<p><b>9.1 Construction of Market Stalls at Kaheti</b></p> <p>The financial statement shows an expenditure of Kshs. 1,222,526,224 on asset acquisition, including Kshs. 66,677,566 spent on building construction. Kshs. 2,001,116 was used to build 12 instead of the 17 market stalls contracted. The validity and value for money of the expenditure could not be confirmed.</p>	<p>1. Ethics and Anti-Corruption Commission, and the Director of Public Prosecution cause investigation of the Head of Procurement with a view to instituting the prosecution of the officer for violation of Section 139 of the Public Procurement and Asset Disposal Act, 2015 and submits a report to the Office of the Auditor General within 60 days of adoption of this report.</p> <p>2. The Kenya Institute of Supplies Management (KISM) takes action(s) against the Head of procurement in Nyeri County for professional misconduct pursuant to Section 23(1)(d)(i) of the Supplies Practitioner Act 2007 and provides an update to the Office of the Auditor General within 60 days of adoption of this report.</p>	<p>EACC,</p> <p>KISM</p> <p>The County CEO</p>	Within 60 days of adoption of this report
14.	<p><b>9.2 Construction of Market Shed and Stalls at Ruthagati</b></p> <p>Kshs. 2,802,409 was spent on a market shed and stalls construction, but they were not utilized or in use. Therefore, there was no value for money.</p>	The Committee recommends that the County Executive should ensure timely completion and handover of projects to the beneficiaries to ensure value for money is achieved.	County CEO	Continuous
15.	<b>10.1</b>	The Auditor General confirms the completion and utilization of the	Auditor General.	Within 60 days of

	<b>Delayed implementation of projects</b> a) Upgrading and Rehabilitation of Thiha-Sagana Irrigation Scheme. 10.2 b) Desilting and Construction of Kiria Earth Dam	project within sixty (60) days of the adoption of this report.		adoption of this report
16.	<b>11.0 Construction of Roads</b> <b>11.1</b> a) PCEA Kihate-Miiri Road 11.2 b) Kamunyaka –Turi and Thungari Road	The Auditor General confirms the completion and utilization of the project within sixty (60) days of the adoption of this report.	Auditor General.	Within 60 days of adoption of this report
17.	<b>11.3 Wasteful Expenditure on Signposts</b>  County required contractors to erect steel signposts with murals of Governor and MCAs costing an estimated Kshs. 80,000 per project, totaling Kshs. 51,200,000 for 640 projects, an uneconomical and wasteful use of public resources. Expenditure on construction projects could not be confirmed.	The County CEO undertakes administrative actions against the responsible accounting officers for misuse of public resources in accordance with section 156 of the Public Finance Management Act and provides a status report to the Office of the Auditor General within 60 days from the adoption of this report.	County CEO	Within 60 days from the adoption of this report
18.	<b>12.0 Construction of Boundary Wall for the Proposed Solid</b>	The Committee, therefore, recommends that the County CEO undertakes administrative actions against the officers who failed to	County CEO	60 days from the adoption of this report



	<p><b>Waste Transfer Station in Nyeri</b> Kshs. 16,946,547 was spent on a boundary wall for a waste transfer station that was not utilized due to litigation. The value for money could not be confirmed.</p> <p>Documents to explain this were provided late.</p>	provide the documents to the auditors in accordance with section 156 of the Public Finance Management Act and provides a status report to the Office of the Auditor General within 60 days from the adoption of this report.		
19.	<p><b>13.0 Implementation of e-Procurement</b></p> <p>The County Executive didn't fully use e-procurement in acquiring goods and services. Some processes were done on the e-platform, while others were done manually due to staff access or IFMIS module implementation issues.</p>	The County Executive to identify training needs of its staff serving in the Finance Department and initiate capacity building and training in conjunction with the National Treasury within 60 days of adoption of this report	The County CEO	Immediate
<b>REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE</b>				
20.	<p><b>1.0 Cash Management</b> County Executive made cash withdrawals of Kshs. 114,658,203 for staff imprest without explanation. Cash payments are prone to abuse and misappropriation.</p>	The Committee recommends that the County Executive should comply with Paragraph 93 of the Public Finance Management Act 2012 and Regulation on imprest management.	CECM Finance	Continuous

21.	<b>2.0 Revenue Collection Systems- Nyeri Pay System</b> a) Lack of segregation of duties b) Failure to use Standard Naming Convention c) Access to Operational Environment by consultant d) Inactive Users in Nyeri Pay System	1. County Executive reviews the administrative rights of the users so as to provide for segregation of duties; 2. County Executive adopts a Standard Naming Convention for all users; 3. County Executive reviews the rights of the developer and ensure that the County Executive has super rights to the system for executive review; 4. County Executive reviews the user rights of the Nyeri Pay System to ensure that only authorized staff have access to the system; and 5. Auditor General reviews the matter in the subsequent audit cycle to ascertain compliance.	CECM Finance	Immediate
22.	<b>2.0 (V.) IT General Controls</b> No approved ICT policy, data security or disaster recovery plans were in place, and there is no record of how the migration to Nyeri pay was done, which may have led to data loss.	The committee recommends that the Auditor General undertakes an audit of the system to verify how migration from LAIFOMS to Nyeri Pay System was executed and report back to the Senate in the next audit cycle.	Auditor General.	Immediate
23.	<b>3.0 Insufficient Information Technology System Controls</b> County Executive lacks IT Strategy Committee and IT Steering Committee, indicating weaknesses in IT governance structure.	1. The County Executive establishes both the Information Technology Strategy Committee and an IT Steering Committee; and 2. The Auditor General verifies the operationalization of the ICT policy in the next audit cycle.	CECM Finance	60 days from the adoption of this report



24.	(VI.) <b>Lack of Disaster Management and Recovery Policies</b> in place including fire suppression systems	The County Executive should expedite formulation of a Disaster Management and Recovery policy and copies should be submitted to the Auditor General for verification within sixty (60) days of the adoption of this report.	The County CEO	60 days
25	(X) <b>Lack of store management policies</b> including random survey and annual board of survey of stores and asset and an inventory management strategy.	The management should expedite the formulation of Stores Management Policy and a copy should be submitted to the Auditor General for verification within sixty (60) days of the adoption of this report.	The County CEO	60 Days

### **Basis for Qualified Opinion**

#### **1. Unconfirmed County Own Generated Revenue**

The statement of receipts and payments reflects county own generated receipts of Kshs.656,628,153 for the year ended 30 June 2020, which is at variance with an amount of Kshs.664,859,880 indicated in the Annual Report of the Controller of Budget. The difference of Kshs.8,231,727 has not been reconciled. Further, revenue receipts and bank statements for Karatina Hospital were not provided for audit verification. Consequently, the accuracy and completeness of the county own generated receipts of Kshs.656,628,153 for the year ended 30 June 2020 could not be confirmed.

#### **Management Responses**

In the financial year 2019-2020, the total revenue reported in the audited financial statements amounted to Kshs 656,628,153; however, the revenue submitted to the Controller of Budget amounted to Kshs 664,859,880. The difference of Kshs 8,231,727 was due to revenue that was banked in the previous financial year 2018-2019 and receipted in the financial year 2019-2020. This was caused by customer's delay in presenting payments for official receipting immediately after banking.

#### **Committee Observation**

The Committee observed that the County executive had weak internal control systems arising from lack of procedures to guide operations. However, the Auditor informed the Committee the matter has since been resolved.

#### **Committee Recommendation**

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

## **2. Variances Between Financial Statements and Payment Details**

The statement of receipts and payments reflects total actual payments of Kshs.7,361,383,139 for the year ended 30 June 2020. However, the balances reflected in the financial statements differed with those reflected in the respective payment details and vote book on seven (7) items as shown below;

<b>Expenditure item</b>	<b>Amounts as per financial statement. (Ksh)</b>	<b>Amount as per payment details (Ksh)</b>	<b>Amount as per Vote Book (Ksh)</b>
Domestic Travel and Subsistence	93,818,672	48,636,232	206,865,537
Foreign Travel and Subsistence	7,412,425	4,124,302	49,585,574
Printing, Advertising, and Information Supplies and Services	26,654,101	21,760,868	29,841,215
Insurance Costs	217,843,072	217,843,072	242,154,043
Specialized Materials and Services	131,154,062	129,428,705	119,896,874
Other Operating Expenses	55,042,329	53,878,274	90,179,848
Other Grants and Transfers	713,014,997	707,908,717	5,106,280

In the circumstances, the accuracy and completeness of the payments in respect of the above expenditure items for the year ended 30 June, 2020 could not be confirmed.

### **Management Responses:**

The figures in the financial statement differed from the payment details because the payment details captured provisions for encumbrances, which had not yet been posted to the expenditure item. The imprest was charged to the general ledger at the time of surrender of the imprest. The figures in the financial statements and the vote book differed due to the inclusion of the County Assembly of Nyeri vote book in the analysis.

### **Committee Observation**

The Committee noted the failure of the County Executive to provide reconciliation of the financial statements, payment details and the vote books as stipulated under section 62 of the Public Audit Act.

The Committee however noted that the reconciliations were provided and verified by the Auditors after the audit process.



### **Committee Recommendation**

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

### **3. Variances Between the Trial Balance and Financial Statements Balances**

A review of the IFMIS trial balance revealed various balances which were at variance with the financial statements balances as follows;

<b>Item</b>	<b>Financial Statements (Kshs.)</b>	<b>Trial Balance (Kshs.)</b>	<b>Variance (Kshs.)</b>
<b>Rentals of Produced Assets</b>	6,025,723.35	6,033,723.35	8,000
<b>Office and General Supplies and Services</b>	25,343,902	25,358,702	14,800
<b>Routine Maintenance-other Assets</b>	194,046,573.55	194,066,573.55	20,000
<b>Other Capital Grants and Transfers</b>	491,276,953	492,449,053	1,172,100

The variances have not been explained or reconciled. Consequently, the accuracy and completeness of the reported balances in the financial statements could not be confirmed.

### **Management Responses**

The figures adopted by the Auditor during the Audit process differ with what was submitted. According to the amended and submitted financial statements on 31<sup>st</sup> March 2021, figures in the Financial Statements and the Vote Book tally.

### **Committee Observation**

The Committee noted the failure of the County Executive to provide reconciliation of the financial statements and trial balance as stipulated under section 62 of the Public Audit Act. The Committee however noted that the County Executive has since availed to the auditors the relevant records and documents showing the reconciled statements.

### **Committee Recommendation**

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

### **4. Variances between the Summary Statement of Appropriation-Combined and Budget Execution by Programmes and Sub-programmes**

The summary statement of appropriation - recurrent and development combined reflects budget and actual expenditure amounts that are at variance with the amounts reflected in the statement of budget execution by programmes and sub-programmes as indicated below:

Item	Summary	Budget Execution	Variance
	Statement of	by Programmes	
	Appropriation-	and Sub-	
	Combined	Programmes	
	(Kshs.)	(Kshs.)	(Kshs.)
Final Expenditure Budget	8,974,917,684	8,260,832,452	714,085,232
Actual Expenditure Amounts	7,361,383,139	6,721,596,989	639,786,150

The variances between the two statements have not been explained or reconciled.

### Management Response

There was a review of the financial statement on the use of goods and other grants and transfers under the receipts and payments, however the same was omitted under the Budget Execution, as shown in the table below.

Item	Original Financial statements	Revised Financial statements	Change
Uses of goods and service	1,022,383,461.35	1,022,443,262.45	59,801.10
Other grants and transfers	711,842,897.40	713,014,997.40	1,172,100.00
<b>Total Change</b>			<b>1,231,901.10</b>

The statement of appropriation combined budget execution includes Kshs. 714,085,232 which was the County Assembly of Nyeri budget. The actual expenditure in the execution included the County Assembly's Kshs. 638,554,249.00 plus the effect of change of Kshs. 1,231,901.10 totaling to Kshs. 639,786,150. The original and revised receipts were attached for the committee perusal.

### Committee Observation



The Committee noted the failure of the County Executive to provide reconciliation of the summary Statement of Appropriation and Budget Execution by Programmes and Sub-programmes as stipulated under section 62 of the Public Audit Act.

The Committee however noted that the County Executive has since availed to the auditors the relevant records and documents showing the reconciled statements.

#### **Committee Recommendation**

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

#### **5.Unsupported Expenditure - Domestic Travel and Subsistence Allowances**

The statement of receipts and payments reflects an expenditure of Kshs.1,022,443,262 under use of goods and services which, as disclosed in Note 12 to the financial statements, includes an amount of Kshs.93,818,672 in respect of domestic travel and Subsistence allowances. The latter balance includes payments amounting to Kshs.1,199,850 on various events held during the year which were not adequately supported as follows:

- (i) Imprest amounting to Kshs.607,800 was issued to facilitate a 4-day workshop for the County Assembly Education Committee at a certain hotel in Nairobi held between 11th to 14th December 2019. However, IFMIS payment details indicate that the workshop was held at a different hotel. Further, it has not been explained why the County Executive paid allowances to Members of the County Assembly as the County Assembly has its own budget for such activities.

#### **Management Response**

The venue was changed due to logistical issues and the participants were notified. The conference facilities in the first hotel were inadequate and so change of venue was inevitable. The Department planned for the activity and had included the workshop with the Hon. Members in its annual work plan and had as well budgeted for it.

#### **Committee Observations**

The Committee observed that the workshop was held in a different hotel from the one that had been procured.

The Committee also noted that the matter was properly mitigated.

#### **Committee Recommendation**

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

- (ii) An amount of Kshs.362,050 was issued to an officer to pay allowances for officers who were scheduled to attend a drama festival. However, review of the surrender voucher revealed that the list of payees attached to the payment voucher included other unrelated activities such as County Sports Day and distribution of furniture transport allowance for 3 days for unspecified persons for which the imprest was not authorized for.

#### **Management Responses**

The above imprest no. 3502803 amounting to Ksh 362,050 was a budget for three activities-

- (i) Budget for ECDE drama and music festival.
- (ii) Budget for county sports day events
- (iii) Budget for distribution of ECDE junior chairs and tables.

#### **Committee Observation**

The Committee observed that an imprest of Ksh.362,050 was used for activities unrelated to the prior purpose for which the imprest was requisitioned for.

#### **Committee Recommendation**

**The Committee recommends;-**

1. the Accounting Officer recovers the outstanding imprest with interest at the prevailing Central bank rates from the officers who failed to surrender the safari imprest within 7 days of returning to duty station, pursuant to Regulation 93(6) of the PFM Act (County Governments) Regulations, 2015; and
2. sanctions and surcharge of Accounting Officer who fails to recover outstanding imprests in line with Regulation 93(7) of the PFM (County Government) Regulations, 2015

- (iii) Further, imprest amounting to Kshs.230,000 was paid to an officer to facilitate 10 drivers who accompanied county officers on inspection and supervision of County Health Management Teams (CHMT) in the County. The field visit was reported to have taken place between 9th and 20th March, 2020. However, the surrender voucher was not supported with work tickets for vehicles used during the field visits. In view of the foregoing, the accuracy, occurrence and propriety of the payments totalling Kshs.1,199,850 incurred on domestic travel and subsistence could not be confirmed.

#### **Management Responses**

The activity was part of assessment and Covid-19 preparedness where the County Health Management Team Members in combination with members from Sub-County Health Management Team visited all the health facilities in the County. This was part of support supervision to ascertain that everything was well in the county's facilities. The team was divided in several teams.

#### **Committee Observation**

The Committee noted that the matter had since been addressed as the supporting documents relating to the imprests have been submitted for audit review.

#### **Committee Recommendation**

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

### **6. Specialized Materials and Services.**



### **6.1 Unconfirmed Purchase of Medical Supplies from KEMSA**

The expenditure on use of goods and services also includes an amount of Kshs.131,154,062 in respect of specialized materials and services. Included in the expenditure, is an amount of Kshs.14,447,050 paid to the Kenya Medical Supplies Agency (KEMSA) for supply and delivery of medical supplies including pharmaceuticals, non-pharmaceuticals, laboratory, and X-ray materials. However, the payment was not supported with delivery notes, inspection and acceptance reports and counter receipt vouchers. (S13).

Consequently, the accuracy, propriety and occurrence of the payments of Kshs.14,447,050 incurred on the medical supplies during the year could not be confirmed.

#### **Management Responses**

The supply of health commodities to County facilities vide L/PO No. 2182 dated 28 June 2020 were delivered and accepted at Nyeri County Referral Hospital and Karatina Level 4 Hospital as per the PPADA. The delivery notes, Counter Receipt Vouchers (S13), inspection and acceptance reports to proof the authenticity and validity of the said transaction, named as Health Audit Response No. 2019/20 (B) was submitted for the committee's perusal.

#### **Committee Observation**

The Committee noted that the matter has since been addressed as the County Executive has since availed the relevant records and documents supporting the incurred expenditure in the purchase of the medical supplies to the County Government.

#### **Committee Recommendation**

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

### **6.2 Unconfirmed Purchase of Medical Supplies from Missions for Essential Drugs**

The specialized materials and services expenditure of Kshs.131, 154,062 includes an amount of Kshs.33, 750,295.95 for purchase of drugs and non-pharmaceuticals items from Missions for Essential Drugs (MEDS). Although, the procurement was done through framework agreement, a written agreement between the County and the supplier was not provided for audit review. As a result, it was not possible to determine whether the prices offered were competitive compared with prevailing market prices. Further, supply of laboratory reagents valued at Kshs.4, 828,938.90 ordered by the County for the Nyeri County Referral Hospital were not recorded in the stock ledger cards.

Consequently, the accuracy, propriety and validity of the expenditure on supply of medical supplies during the year ended 30 June, 2020, could not be confirmed.

#### **Management Responses**

- i) Medical commodities like drugs, medical supplies and equipment require stringent procurement mechanisms that ensure quality and allow for economies of scale. As part of its regulatory role, the National Government accredited

KEMSA and MEDS as suppliers of medical supplies to Counties. An extract of Policy Paper dated 2013 (page 28) giving direction on where counties should procure Pharmaceuticals and Non-pharmaceuticals to enhance efficiency in medical supply was submitted for verification.

- ii) The supply of laboratory reagents to Nyeri County Referral Hospital valued at Kshs. 4,828,938.90 were delivered and entered in the store's ledgers. To confirm receipt and recording of the reagents in store; copies of S13, delivery notes, inspection & acceptance report and store folio numbers were provided together with S11 to confirm receipt and distribution.

### **Committee Observations**

The Committee observed that the county executive breached the Public Procurement and Assets Disposal Act, 2015 by relying on the Directive from the National Government State Department for Health.

### **Committee Recommendation**

**The committee recommends that the matter be marked as resolved.**

## **7. Transfers to Youth Polytechnics**

The statement of receipts and payments reflects other grants and transfers totalling

Kshs.713,014,997, which includes an amount of Kshs.49,838,453 transferred to youth polytechnics in the County. However, a review of the transfers revealed the following observations:

- i) During the financial year under review, the County received grants totalling to Kshs.55,143,298 from the Ministry of Education for development of youth polytechnics in the County, out of which the County transferred a total of Kshs.49,838,453 to youth polytechnics. The balance of Kshs.5,304,845 was not remitted to the institutions as intended.
- ii) A review of records revealed that transfers totalling Kshs.5,179,638 to thirteen (13) youth polytechnics were not supported with acknowledgement receipts from the benefiting institutions.
- iii) The grant of Kshs.55,143,298 from the Ministry of Education for development of youth polytechnics was disbursed to the County Government on condition that the County would match the contribution in the ratio of 1:1 as per the grant condition No. 6 (c). However, the County Government did not pay the equivalent amount to the youth polytechnics as required. No explanation was provided for the non-compliance with the conditions set for the grants.

Consequently, the accuracy, validity and completeness of the transfers to youth polytechnics of Kshs.49,838,453 for the year ended 30 June, 2020 could not be confirmed.

### **Management Response**

In issues 1 & ii, the said balance was remitted to the institutions as tabulated below.

- Rukira Vocational Training Center Ksh 1,031,745 disbursed on 26/01/2021



- Karatina Vocational Training Centre Ksh 3,200,000 disbursed on 28/08/2020
- Gathuthi vocational training Centre Ksh 1,500,000 disbursed on 20/08/2020

The total amounts to Ksh 5,731,745 that was disbursed being the balance at the closure of the financial year.

The County Government of Nyeri was unable to match the contribution as per the grant condition No. 6 (c) as the resource envelop has continued to shrink and allocation is done to needier sector such as provision of medical drugs and the increasing wage bills.

#### **Committee Observation**

The Committee noted that:

1. issues (i) and (ii) have since been addressed.
2. the county executive failed to match their contribution as per the grant conditions; and
3. The grant has since been converted as an equitable share of revenue from the National Government.

#### **Committee Recommendations**

**The Committee recommends that:-**

1. issues (i) and (ii) be marked as resolved; and
2. The county executive endeavors to meets its financial obligations to ensure that it utilizes conditional grants from the National Government.

### **8. Accounts Receivables – Outstanding Imprests**

The statement of assets and liabilities reflects a balance of Kshs.5,671,031 under accounts receivables-outstanding imprests as of 30 June, 2020. However, the IFMIS payment details indicated that imprests surrendered during the year amounted to Kshs.89,016,610 which differed from the amount of Kshs.108, 987,172 reflected in Note 26 to the financial statements as that imprest surrendered during the year. The resultant difference of Kshs.19,970,562 had not been reconciled or explained. Under the circumstances, the accuracy of the accounts receivables-outstanding imprests balance of Kshs. 5,671,031 as at 30 June, 2020 could not be confirmed.

#### **Management Responses**

The figure of Kshs. 19,960,734 was the outstanding imprest as at the end of 2018/2019 Financial Year. The amount was surrendered in the system. The new template required the County Treasury to capture the last financial year's imprest in Note 26. Evidence of surrendered imprest Register FY 18/19 was produced.

#### **Committee Observation**

The Committee noted the failure of the County Executive to provide reconciliation of the financial statements and IFMIS records as stipulated under section 9 (f) of the Public Audit Act.

### **Committee Recommendations**

**The Committee recommends that:**

- 1) **The County CEO undertakes administrative action against the officer(s) responsible for failure to undertake reconciliation of financial statements within the stipulated timelines in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report;**
- 2) **the Accounting Officer recovers the outstanding imprest with interest at the prevailing Central bank rates from the officers who failed to surrender the safari imprest within 7 days of returning to duty station, pursuant to Regulation 93(6) of the PFM Act (County Governments) Regulations, 2015;**
- 3) **sanctions and surcharge of Accounting Officer who fails to recover outstanding imprests in line with Regulation 93(7) of the PFM (County Government) Regulations, 2015; and**
- 4) **The County Executive to identify training needs of its staff serving in the Finance Department and initiate capacity building and training in conjunction with the National Treasury within 60 days of adoption of this report.**

## **9. Pending Bills**

### **9.1 Inaccurate Pending Bills Balances.**

Annex 4 to the financial statements on Analysis of Pending Accounts Payable reflects pending bills of Kshs.389,854,571 which differs from the nil balance reflected under Note 8.8(1) on Other Important Disclosures. The difference was not explained or reconciled.

Further, no explanation was provided for failure to pay the pending bills, during the financial year they relate to, thus affecting the budget for the subsequent year to which they have to be charged. Further, no explanation was provided for failure to pay the pending bills, during the financial year they relate to, thus affecting the budget for the subsequent year to which they have to be charged.

### **Management Responses**

There was an omission on note 8.8(1) on other disclosures, however a full annexure on the pending bills was provided in the financial statement with full details of the suppliers.

Pending bills arose as a result of non-disbursement of June 2020 Exchequer release.

Revenue source	Approved budget	Actual receipts	variance
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Equitable share	5,412,150,000.00	4,946,705,100.00	465,444,900.00
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### **Committee Observation**

The Committee noted that the management did not submit all the relevant documents and information to the Auditor General at the time of audit contrary to section 62 of the Public Audit Act, 2015.

### **Committee Recommendations**

**The Committee recommends that:**

- 1) the County CEO undertakes administrative actions against the officers who failed to provide the documents to the auditors in accordance with Section 156 of the Public Finance Management Act, 2012 and provides a status report to the Office of the Auditor General within 60 days of adoption of this report;
- 2) the County Executive should disclose all pending bills in the format prescribed by the Public Sector Accounting Standards Board as stipulated under Section 104(1)(h) of Public Finance Management Act, 2012;
- 3) the National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate so as to enable county entities settle their obligations on time;
- 4) the county executive puts in place measures to enhance own generated revenue in order to meet its revenue target and address revenue shortfalls that contribute to the challenge of pending bills;
- 5) Pending bills deemed ineligible should be forwarded to the Directorate of Criminal Investigation (DCI) for investigation proper legal action taken against those filing false claims;
- 6) County Government to take note of judgement in a Kitale High Court Constitutional Petition E003 of 2023 that declared formation of pending bills verification committees unconstitutional and engage Office of the OAG and strengthen the internal audit functions.; and
- 7) All valid pending bills that have been reviewed by the Office of the Auditor General be paid and a payment plan be submitted to the county assembly for approval and progress report on implementation sent to the Senate and the Office of the Controller of Budget.

### **9.2 Pending Staff Payables**

Annex 5 to the financial statements reflects pending staff payables amounting to Kshs.27,791,273 as at 30 June, 2020. The balance includes an amount of Kshs.5,579,188 in respect of unpaid staff travel and subsistence claims incurred while carrying out official duties, an indication that the staff financed the activities of the County Executive. Further, some claims have remained outstanding for long for over one (1) year without justification.

In addition, the analysis of pending staff payables did not include the original amount, amount paid to date and amount outstanding from the previous year as required in the reporting template prescribed by the Public Sector Accounting Standards Board (PSASB).

### **Management Response**

The pending bills occurred due to failure to release the last tranche (Month of June 2020) of exchequer from the national treasury. Further, the officers' claims for allowances appeared in the list of pending bills as the line vote for domestic and foreign travels were reduced to finance Covid-19 containment measures as directed by the Presidents Executive Order of 18<sup>th</sup> March 2020.

### **Committee Observation**

The Committee noted that the County Executive did not provide explanation for the outstanding imprest claims. The Committee also observed that the County Executive did not provide a status report on the pending bills as prescribed by the Public Sector Accounting Standards Board. This could lead to inadequate disclosures of the pending bills.

### **Committee Recommendations**

**The Committee therefore recommends that:-**

- 1) the National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate so as to enable county entities settle their obligations on time;**
- 2) the County Executive should disclose all pending bills in the format prescribed by the Public Sector Accounting Standards Board as stipulated under Section 104(1)(h) of Public Finance Management Act, 2012;**
- 3) the county executive puts in place measures to enhance own generated revenue in order to meet its revenue target and address revenue shortfalls that contribute to the challenge of pending bills.**
- 4) Pending bills deemed ineligible should be forwarded to the Directorate of Criminal Investigation (DCI) for investigation proper legal action taken against those filing false claims.**
- 5) County Government to take note of judgement in a Kitale High Court Constitutional Petition E003 of 2023 that declared formation of pending bills verification committees unconstitutional and engage Office of the OAG and strengthen the internal audit functions.; and**
- 6) All valid pending bills that have been reviewed by the Office of the Auditor General be paid and a payment plan be submitted to the county assembly for approval and progress report on implementation sent to the Senate and the Office of the Controller of Budget.**

### **9.3 Other Undisclosed Pending Bills**



A review of records of County Executive of Nyeri revealed the following undisclosed pending payables:

- i) The National Treasury through a letter reference No. IGF/COD/01/E (51) dated 23<sup>rd</sup> December 2020 to all County Governors indicated that Nyeri County owed the Kenya Power and Lighting Company (KPLC) an amount of Kshs.37,990,434 for power bills as at 30<sup>th</sup> June, 2020. However, the balance had not been disclosed in these financial statements as a pending bill.
- ii) Records maintained at the Ministry of Health indicates salaries paid in 2013/2014 to the health workers on behalf of County Executive of Nyeri amounting to Kshs.744,981,628 have not been refunded by the County to the Ministry of Health. The outstanding amount has also been omitted in the financial statements.
- iii) Further, unpaid fee notes amounting to Kshs.32,125,703 relating to legal matters were not disclosed and included in the financial statements for the year ended 30 June, 2020.
- iv) Pending bills of undetermined value inherited from the defunct local authorities in the County at the inception of devolution in 2013/2014 were also not disclosed in the financial statements.

No satisfactory explanation was provided for these omissions and as a result, the accuracy and completeness of the pending bills balance as at 30 June, 2020 could not be ascertained.

### **Management Response**

The Management submitted as follows:

- i. The county received the Treasury circular referenced above through the Council of Governors, but it did not pay the said amount since they were not authenticated or tabulated from which the bills are for which department or facility and was a lump sum figure. Nyeri County Government has always strived to pay its outstanding utility bills in time for its service providers.
- ii. The county treated the said amount as both income and expense in the financial statements as no extra funds were received for that purpose in the financial under review and there was no formal request received from the Ministry of Health to such effect before arriving on the decision of making a contra entry. Schedule Four funds should follow the functions
- iii. The fees could not have been declared as pending fees as the fee notes were pending verification in accordance with Advocates Remuneration Order. Further, some of the fees were interim fee notes signifying that the files had not been marked as closed. Lastly the verification could not be carried out as the advocates had not provided full documentation including judgments, rulings, decrees or certificate of taxation to signify the matters were closed.
- iv. The balances for assets and liabilities inherited from the defunct Local Authorities in Nyeri County has not been included since the Committee on Assets and Liabilities has not handed over the assets to the County Government. The County Government appointed assets and liabilities committee which came up with the assets and liabilities as per attached report Ref: NCG/T&C/CALC



dated 24th July 2019 addressed to the Chairman Inter Governmental Technical Relations Committee.

### **Committee Observations**

The Committee observed that:

- 1) the County Executive had not settled all its pending bills at the time of audit;
- 2) the County Executive did not provide a status report on all its pending bills as prescribed by the Public Sector Accounting Standards Board. This could lead to inadequate disclosures of the pending bills;
- 3) an amount of Kshs.744,981,628 being salaries for health workers dating back to financial year 2013/2014 was fully omitted from the pending bills; and
- 4) the County Executive did not have the values of all the assets and liabilities inherited from the defunct local authorities. This has affected the correct position of the assets and liabilities of county executive.

### **Committee Recommendations**

The Committee recommends that:-

1. the County Government should not pay the Ministry of Health any money for provision of medical services that were undertaken before the full transfer of the health function to Counties;
2. the National Treasury refunds the County Government any and all funds irregularly received ostensibly for provision of medical services that were undertaken before the full transfer of the health function to Counties;
3. the National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate so as to enable county entities settle their obligations on time;
4. the County Executive should disclose all pending bills in the format prescribed by the Public Sector Accounting Standards Board as stipulated under Section 104(1)(h) of Public Finance Management Act, 2012;
5. the county executive puts in place measures to enhance own generated revenue in order to meet its revenue target and address revenue shortfalls that contribute to the challenge of pending bills;
6. Pending bills deemed ineligible should be forwarded to the Directorate of Criminal Investigation (DCI) for investigation proper legal action taken against those filing false claims;
7. County Government to take note of judgement in a Kitale High Court Constitutional Petition E003 of 2023 that declared formation of pending bills verification committees unconstitutional and engage Office of the OAG and strengthen the internal audit functions.;
8. All valid pending bills that have been reviewed by the Office of the Auditor General be paid and a payment plan be submitted to the county assembly for approval and progress report on implementation sent to the Senate and the Office of the Controller of Budget.

## **10. Summary of Fixed Assets Register**



Annex 7- Summary of Fixed Assets Register indicated that additions during the financial year 2019/2020 amounted to Kshs.1,222,526,224, which when added to the balance brought forward of Kshs.1,655,087,602 results to a total of Kshs.2,877,613,826 as of 30 June, 2020. However, a review of the Assets Register revealed that all parcels of land of undetermined values owned by the County Executive were omitted in the financial statements. Further title deeds for the land were not provided for audit review, while all assets had not been tagged for ease of reference and identification. In addition, various assets inherited from the defunct local authorities have not been disclosed or valued.

In the circumstances, the accuracy, valuation and completeness of assets balance of Kshs.2,877,613,826 as at 30 June, 2020 could not be confirmed.

### **Management Response**

The balances for assets and liabilities inherited from the defunct Local Authorities in Nyeri County has not been included since the Committee on Assets and Liabilities has not handed over the assets to the County Government. The County Government appointed assets and liabilities committee which came up with the assets and liabilities as per attached report Ref: NCG/T&C/CALC dated 24<sup>th</sup> July 2019 addressed to the Chairman Inter Governmental Technical Relations Committee.

The parcels of lands held under trust were contained in the IGTRC report that was awaiting handing over. The figures in the financial statements are for the assets that were procured in the financial year under review. The County Government is in the process of revaluing and tagging all assets in the register.

### **Committee Observations**

The Committee observed that:

- 1) the County Executive did not have an updated Fixed Assets Register; and
- 2) the County Executive did not have the values of all the assets and liabilities inherited from the defunct local authorities. This has affected the correct position of the assets and liabilities of county executive.

### **Committee Recommendations**

The Committee recommends that the-

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



## **Other Matters**

### **1. Budgetary Control and Performance**

The summary statement of appropriation - recurrent and development combined for the year ended 30 June, 2020 reflects final receipts budget and actual on comparable basis totaling Kshs.8,979,825,473 and Kshs.8,016,798,619 respectively, resulting to an under- funding of Kshs.963,026,854 or 11% of the budget. Similarly, the County Executive spent Kshs.7,361,383,139 against an approved budget of Kshs.8,974,917,684 resulting to an under-expenditure of Kshs.1,613,534,545 or 18% of the budget. The underfunding and underperformance constrained execution of planned activities and delivery of services to the residents of Nyeri County.

#### **Management Response**

On Budget Performance, the management stated that in the financial year under review, the final budget estimate of the County Executive was Kshs. 8,260,832,452 comprising of Kshs. 5,246,941,658 (63.5%) for recurrent expenditure and Kshs. 3,013,890,794 (36.5%) for development expenditure. This is in accordance to section 107 (2)(c) of the PFM Act, 2012 requiring the County Treasury to ensure that over the medium term a minimum of thirty percent of the County Government's budget shall be allocated to the development expenditure.

However, it is clear that the County Executive was only able to spend 24% of the total expenditure on development projects against the National set target of at least 30%. It is worth noting that implementation of projects and programs started late due to the stalemate on the approval of Division of Revenue Act (DORA), 2019 between the Senate and the National Assembly which further delayed the enactment of County Allocation of Revenue Act to as late as November, 2019.

During the financial year under review, the unexpected outbreak of COVID-19 pandemic highly affected the way of doing things especially due to its resultant containment measure and Ministry of Health Protocols. Implementation of development activities suffered the most.

Further, the National Government delayed the release of funds to the County Government thus affecting the implementation of the planned projects and programmes. Notably, the National Treasury failed to disburse the allocation for June, 2020 leading to cancellation of already processed payments in the IFMIS amounting to high amounts of unpaid works. This meant that most development activities were complete but actual payments was not possible due to the above challenges leading to high pending bills and reflected as low absorption. In preparing the budget, the County Treasury fully complied with the PFM Act by allocating 36.5 percent to development budget way beyond the required baseline of 30%. On Under expenditure the management concurred with the Auditor observation that the County Executive was not able absorb the total allocated budget estimate. This was due to the following reasons:

- Delay in the approval of Division of Revenue Act (DORA), 2019 due to the stalemate on between the Senate and the National Assembly



which further delayed the enactment of County Allocation of Revenue Act to as late as November, 2019.

- General delay in release of exchequer to the County Government thus affecting the implementation and timely payment for works, goods and services amounting to low absorption.
- The unexpected outbreak of COVID-19 pandemic highly altered normalcy in the way of doing things especially due to its resultant containment measures and Ministry of Health Protocols. The measures which included social distancing made it almost impossible to undertake some of the planned activities.
- The National Treasury did not disburse to the County Government, the allocation meant for June, 2020, leading to cancellation of already processed payments in the IFMIS. This meant that most of the activities had already been executed as planned but actual payment was not possible.

Due to the above challenges the county accumulated pending bills amounting to Kshs. 417,000,000 million which if conditions were favorable as initially planned could have covered part of the remaining spending.

#### **Committee Observations**

The Committee observed that:

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

#### **Committee Recommendations**

The Committee recommends that;

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

## **2. Revenue Trend Analysis**

A trend analysis on revenue collections for the past four (4) years between 2016/2017 and 2019/2020 revealed persistent failure to meet budget targets and poor performance as indicated below:

	<b>Budget</b>	<b>Actual</b>		<b>% of Actual</b>	<b>%</b>
<b>Year</b>	<b>Amount</b>	<b>Collection</b>	<b>Under Collection</b>	<b>Against</b>	<b>Revenue</b>
	<b>(Kshs.)</b>	<b>(Kshs.)</b>	<b>(Kshs.)</b>	<b>Budget</b>	<b>Growth</b>

2016/2017	1,095,101,000	643,139,153	451,961,847	59%	-
2017/2018	1,000,000,000	760,186,651	239,813,349	76%	18%
2018/2019	1,000,000,000	837,394,937	162,605,063	84%	10%
2019/2020	1,000,000,000	656,628,153	343,371,847	34%	-21%

The shortfall and decline in revenue collection may be indications of revenue leakages and inefficient revenue collection system.

### Management Response

During the year under review the country experienced the onset of covid-19 pandemic where most businesses were at minimum operations while others were shut down. Nyeri County revenue collection was severely affected as some revenue streams were completely crippled down e.g. the transport sector. Bars were also closed and markets were at minimal operation. The ripple effect was low revenue collection in almost all revenue streams. The Wambugu ATC was also an isolation center and no revenue was collected.

It is also important to note that during the year under review Nyeri County was among the counties selected to pilot the UHC project where all user fees for patients were free; this negatively impacted on the revenue collected from the hospitals.

	BUDGET	ACTUALS	VARIANCE	REMARKS
ACCOUNT DESCRIPTION	Kshs	Kshs	Kshs	
Liquor Licence	53,878,795	39,050,644	14,828,151	Deadline had been set for 31st March 2020. This is after the onset of Covid-19 whereby all the bars were closed.
Hospital Services	250,000,000	105,229,097	144,770,903	Decrease due to introduction of UHC.
Public Health	17,131,050	9,816,741	7,314,309	
Business Permits	120,000,000	79,622,442	40,377,558	All these revenue streams were affected by Covid-19 since they are collected with the Business permits and the deadline is ordinarily 31st March.
Application Fee	17,000,000	10,377,773	6,622,227	
Fire-Fighting Services	17,500,000	10,521,935	6,978,065	
Refuse Collection Fee/Tipping charges/Garbage Dumping Fee/waste disposal charges	42,331,880	36,703,639	5,628,241	



	BUDGET	ACTUALS	VARIANCE	REMARKS
ACCOUNT DESCRIPTION	Kshs	Kshs	Kshs	
Sign Boards & Advertisement Fee	30,998,425	24,948,868	6,049,557	
Parking Fees	46,000,000	33,768,474	12,231,526	The drop was due to Covid-19 after restriction of movement of PSVs and the working from home containment measure that were introduced.
Enclosed Bus Park	79,806,070	70,075,755	9,730,315	
Parking Clamping/Penalties/Offences fees	7,016,000	4,116,270	2,899,730	
Land Rates/Other Property Charges	85,854,800	47,268,935	38,585,865	These streams are development related. During the period of the pandemic development across the country was affected.
Ground Rent - Current Year/Temporary Occupation License (TOL)	6,000,000	2,850,032	3,149,969	
Ground Rent - Other Years	3,500,000	2,118,775	1,381,225	
Approvals (Extension of users, Subdivision, transfer, Amalgamation, survey, e.t.c.)	9,565,800	6,501,873	3,063,927	
Buildings Plan Approval Fee	15,572,000	6,678,788	8,893,212	
Buildings Inspection Fee	3,818,570	2,172,720	1,645,850	
<b>TOTAL LOCAL SOURCES</b>	<b>805,973,390</b>	<b>491,822,760</b>	<b>314,150,630</b>	314,150,630 is 93% of 336,199,964.57 which is the deficit in revenue collection

The table below showed an illustration of 2 consecutive years in revenue collection the comparison clearly shows that the above drop was caused by the above reasons of Covid-19 and introduction of UHC. It is clear that even the gains that had been made in some revenue streams were surpassed by the decrease.

ACCOUNT DESCRIPTION	ACTUALS FY 2019/2020	ACTUALS FY 2018/2019	VARIANCE	
	Kshs	Kshs	Kshs	

Hospital Services	105,229,097	242,227,436	136,998,339	Decrease due to Introduction of UHC
Public Health	9,816,741	13,381,715	3,564,974	
Liquor Licence	39,050,644	46,188,654	7,138,010	Deadline had been set for 31st March 2020 after onset of Covid-19 Where all the bars were closed
Business Permits	79,622,442	93,027,580	13,405,138	
Land Rates	47,697,691	61,247,091	13,549,400	
Buildings Plan Approval Fee	6,678,788	16,898,597	10,219,809	All these revenue streams were affected by Covid-19 since they are collected with the Business permits and the deadline is normally 31st March
<b>TOTALS</b>	<b>288,095,403</b>	<b>472,971,073</b>	<b>184,875,671</b>	

### Committee Observations

The Committee observed that—

- 1) the County Executive overestimated its own source revenue targets; and
- 2) the County Executive had an inadequate mechanism for collecting own source revenue.

### Committee Recommendations

The Committee recommends that—

1. the County Executive should put in place measures to improve their own source revenue collection capacity in order to meet their targets;
2. the County Executive should adopt realistic revenue targets based on their mapped revenue streams; and
3. the County Executive should revise their budget to a realistic level based on past experience.

### 3. Late Exchequer Releases

Note 1 to the financial statements indicates total Exchequer releases of Kshs. 6,300,195,891, out of which an amount of Kshs. 1,198,352,442 or 19% was received by the County Government from The National Treasury during the months of June and July, 2020 as detailed below:

Date	Transaction Details	Amount (Kshs.)	Classification
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04-Jun-20	User Fees Foregone	13,701,379	Conditional Grant
04-Jun-20	Rehabilitation of VCT's	27,571,649	Conditional Grant
04-Jun-20	Level 5 Hospitals	114,609,017	Conditional Grant
04-Jun-20	Covid -19	124,390,000	Conditional Grant
18-Jun-20	Kenya Climate Smart Agri. Project (KCSAP)	74,236,237	Conditional Grant
22-Jun-20	Universal Health Care (UHC)	79,947,195	Conditional Grant
24-Jun-20	Equitable share	487,093,500	Equitable Share
30-Jun-20	DANIDA - Covid-19 Grant	5,600,000	Conditional Grant
02-Jul-20	Kenya urban Support Program (KUSP-UIG)	8,800,000	Conditional Grant
02-Jul-20	KDSP Level 1	30,000,000	Conditional Grant
02-Jul-20	Kenya urban Support Program (KUSP-UDG)	169,253,465	Conditional Grant
06-Jul-20	Covid -19 Staff Allowance	63,150,000	Conditional Grant
	<b>Total</b>	<b>1,198,352,442</b>	

As a result of the delayed receipt of funds, the County Executive did not have sufficient time to absorb its total budget for the year.

### **Management Response**

The National Treasury did not disburse to the County Government, the allocation meant for June 2020, leading to cancellation of already processed payments in the IFMIS. This meant that most of the activities had already been executed as planned but actual payment was not possible. Due to that challenge the county could not absorb the funds as per the budget.

### **Committee Observation**

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

### **Committee Recommendations**

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

#### **4. Unresolved Prior Year Matters**

Various prior year audit issues remained unresolved as at 30 June, 2020. Management has not provided reasons for the delay in resolving the prior year audit issues.

##### **Committee Observation**

The Committee observed that the County Executive did not take action on the issues raised in the Report of the Auditor General for the Financial year 2018/2019.

##### **Committee Recommendations**

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

#### **REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES.**

##### **Basis for Conclusion**

##### **1. Outstanding Imprests**

Records of the County Executive indicates that an outstanding imprest balance of Kshs.5,671,031 ought to have been surrendered on or before 30 June, 2020 but remained outstanding after the due dates. This is contrary to Regulations 93(5) of the Public Finance Management (County Government) Regulations, 2015 which requires a holder of a temporary imprest to account for the imprest within seven days after returning to duty station.

##### **Management responses**

The imprests were received in the County Treasury after the financial statements had been prepared. The imprests were not surrendered in the system for they would have altered the figures in the financial statements before Auditing was complete.

The manual surrender of imprests was done but the system surrender was not done to avoid interference with the figures already casted in the financial statements.

##### **Committee Observation**

The Committee noted there was breach of Regulation 93(5) of the Public Finance Management (County Government) Regulations, 2015 on imprest management.

##### **Committee Recommendation**

**The Committee recommends that the County CEO takes action(s) against the accounting officer(s) for failure to recover un-surrendered imprests with interests pursuant to Regulation 93(6) of the Public Finance Management (County**



Government) Regulations, 2015 and provides a status report to the Office of the Auditor General within 60 days of adoption of this report.

## 2. Arrears of Revenue

Revenue records revealed that the County had arrears of revenue amounting to Kshs.3,401,467,381 as at 30 June, 2020 comprising of land rates, house rent and stall rent of Kshs.3,216,247,525, Kshs.106,199,638 and Kshs.79,020,218, respectively.

The arrears of revenue had not been disclosed in the financial statements and no indication was provided of the effort being made by Management to recover the debts.

Consequently, the recoverability of the outstanding revenue is doubtful.

### Management Response

#### Land rate arrears

The rates outstanding is majorly due to the disputed valuation Roll which is not enforceable due to objections raised by the public on land rates applicable which are yet to be resolved by the Valuation Court. There are various court cases e.g. Nyeri High Court Petition No. 17 of 2015. The County government initiated the review of the valuation roll through the Department of Lands. Unfortunately, the process was not completed due to onset of Covid-19 immediately after appointment of the valuation court members vide gazette notice.

About the arrears on house rent amounting to Kshs.106,199,638.40, the management stated that the huge arrears are due to some nonexistent premises included in the database inherited from the defunct Local Authorities. This is due to the delay by the Transition Authority to verify the assets and liabilities of the Counties. However, the County Government initiated a data clean up exercise to identify non-existent properties that is ongoing. The county has been issuing demand notices to the clients. However, the balance of the rent arrears was due to the economic hardship and the effects of Covid -19 whereby the County Government would not have evicted the tenants some of who had lost their jobs due to lockdowns and other containment measures. E.g some temporary stalls that are included in the list had been ordered to completely shut down as summarized in the table below.

<u>Sub County</u>	<u>Amount</u>
Mathira	18,390,032.90
Nyeri town	35,309,211.00
Tetu	50,826,189.00
Kieni West	976,800.00
Kieni East	407,032.40
Mukurwe-ini	290,373.10

<b>Total</b>	<b>106,199,638.40</b>
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### **Committee Observation**

The Committee observed that the county executive developed its valuation roll. However, it could not be implemented as it was challenged in Court of Law. The Committee also observed that the County did not disclose all the revenue arrears in the financial statements.

### **Committee Recommendations**

**The Committee recommends that -**

1. the County executive should expedite updating of valuation roll in accordance with Section 3 of the Valuation for Rating Act CAP 266 so as to reflect current market values for optimal revenue collection and comply with the guidelines of the Public Sector Accounting Sector Boards of reporting in the FY 2023/2024. Additionally, County Executive should consider alternative dispute resolution as a way of fast-tracking the court case;
2. the County Executive adopts and implements the report of the Inter-Governmental Relations Technical Committee on valuation of assets and liabilities from defunct local authorities and take charge;
3. the County Executive should make efforts to collect the outstanding arrears from the defaulters;
4. the county executive should provide a report of all revenue arrears in the financial statements as prescribed by the Public Sector Accounting Standards Board; and
5. the Office of the Auditor-General continues to monitor the status of the county pending bills in the subsequent audit cycle.

### **3. Under-Banking of Hospital Revenue**

An analysis of revenue collection reports and pay-in-slips from Nyeri Provincial Referral Hospital, Mt. Kenya Hospital and Mukurwe-ini Hospital revealed under banking of revenue amounting to Kshs.937,406 during the year under review. This was contrary to Regulation 63(4) of the Public Finance Management (County Governments) Regulations, 2015 which requires that all public money collected by a receiver or collector of revenue by a County Government entity, be paid into the designated bank accounts of the County Government and should not be used by any public officer in any manner between the time of their receipts and payment into the bank except as provided by the law.



## **Management Responses**

The management stated that it was important for the committee to note that revenue collected on the last day of the month is banked on the first working day of the following month. Also, if the end of the month falls on a weekend, cash for the last 3 days of the month is banked on the first working day of the following month. This results in under-banking in some months and over-banking in others. This may create an impression that some cash is not banked on time or there is spending before banking which is not true.

To resolve this, the department of health introduced M-pesa Pay Bills to all level 4 and 5 hospitals in the County to avoid handling of cash and ensure timely banking of all revenue collected at the end of the day. The M-pesa Pay Bills are integrated into the designated bank account of the County Government where all revenue for Health Services are banked.

## **Committee Observation**

The Committee observed the use of own source revenue at source by the County Executive is contrary to Section 109 (2) of the Public Finance Management Act, 2012.

## **Committee Recommendation**

**The Committee recommends that the CECM Finance, in line with section 116 of the Public Finance Management Act, 2012 establish a Fund for management of the revenues collected from hospitals and provide a status report within 60 days of adoption of this report.**

## **4. Compensation of Employees**

### **4.1 Excessive Expenditure on Personnel Emoluments**

Examination of revenue and expenditure records indicated that compensation of employees expenditure for the year under review totalled Kshs.3,592,854,332 equivalent to 52% of the revenue of the County Executive totalling Kshs.6,956,824,044. The expenditure therefore exceeded the threshold of 35% prescribed under Regulation 25 (1) (b) of the Public Finance Management (County Governments) Regulations, 2015.

The high wage bill is an indication that most of the County's resources are spent on staff salaries at the expense of development projects and thus impacting negatively on service delivery to the residents of Nyeri.

## **Management Response**

### **A. Root Cause**

#### **Increased personal Emoluments.**

This was attributed to the fact that Nyeri County was formerly Provincial Headquarters and thus the County inherited most of the devolved officers from the National Government and most of them were in the higher grades. The County also inherited all staff from the defunct Local Authorities (i.e. Nyeri Municipal Council, Karatina Municipal Council, Othaya Town Council and Nyeri County Council. Though the

County inherited those staff not all of them had the skills to assist the County deliver its mandate compelling the County to fill those gaps whereas the inherited staff had to be retained.

Engagement of ECDE Caregivers to achieve the mandate of the County Government as per the Constitution on devolved units also increased the wage bill. The county had to undertake that mandate and hence increased the budget for salary emoluments.

### **Phase three of the salary review by SRC**

Salaries and Remuneration Commission did a review that was to be undertaken in three phases. During the period under review the 3<sup>rd</sup> phase was implemented affecting the wage bill since salary for staff was increased upwards. Further, the devolved functions necessitated recruitment of personnel to provide technical expertise which could not be found in the already existing workforce and hence the reason for continuous employment despite the ballooning wage bill.

However, the County Government is committed and will continue exploring all potential avenues geared towards managing the wage bill to the required ceiling. Recently, the County Government undertook a staff identification exercise to wind out any possible ghost workers. Therefore, all the paid employees are genuine workers.

### **Corrective Action**

#### **Wage Bill Management Strategies**

Ballooning wage bill has been a great impediment to realization of county development goals. The County Government had undertaken the following measures to curb the escalating wage bill;

#### **Development of County Staffing Plan**

The County Staffing plan was developed to serve as a guide in determining the ideal number of workers required in the County to reduce the wage bill. The plan, that was developed to run for the period 2018-2023, was intended to ensure that every Department has sufficient staff with the right skills and competences to achieve the County Government objectives as highlighted in the County Integrated Development Plan (CIDP) 2018-2022.

Through implementation of the Staffing Plan the County has tried to balance staffing through matching of staff with the skills through re-designation and integration of staff by the County Public Service Board as was recommended in the staffing plan.

#### **Voluntary Early Retirement**

In exercise of County Public Service Board authority under Section 84 (1) (b) of the County Government Act, 2012, the Board initiated a Voluntary Early Retirement Program to be implemented in the FY-2020-2021. All County Public Officers were eligible to apply. The County Government of Nyeri was trying to find a way of reducing the wage bill by giving an additional package to the final benefits to those willing to benefit through that programme. Voluntary Early Retirement was also a recommendation in the staffing plan.



### **Programme on essential counselling skills and psychosocial support**

The County Government through the Department of County Public Service and in liaison with the Ministry of Gender and Public Service has undertaken training on psychosocial support to the employees as a way of reducing stress and mental health issues to improve performance and effective service delivery. This will help the county to increase revenue and reduce the wage bill.

### **Translation of Terms of employment from contract to Permanent and pensionable**

The County Government effected change of Terms of employment from Contract to Permanent to reduce the burden of paying the 31% of basic salary to cater for staff gratuity and instead be contributing only 15% to cater for pension whereas the staff will contribute 7.5 gratuity for the pension. The County Government was to save 16% and thus reduce the wage bill.

Replacement of retired staff is being considered only in areas where we have rare skills or rather uncommon skills that cannot be filled internally. This will go along motivating staff and hence improve performance.

The County Government plans to increase Revenue Base which will improve the Revenue Collection and hence reduce the wage bill.

### **Committee Observation**

The Committee observed that the County Executive's wage bill during the FY 2019/20 stood at 52% of its total receipts which was above the threshold of 35%. The high wage bill is a threat to the objects of devolution as provided for under Article 174(f) of the Constitution.

### **Committee Recommendations**

**The Committee recommends that-**

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

## **4.2 Non-Compliance with Regional Diversity Requirement**

Examination of personnel records indicated that the County Executive had a total of 2,934 employees, out of which 2,723 or 92.8% of the workforce were from the dominant ethnic community in the County contrary to Section 7(2) of the National Cohesion and Integration Act, 2008. The law requires the County Government to ensure that at least

thirty percent (30%) of the vacant posts at entry level are filled by candidates who are not from the dominant ethnic community in the County.

Further, out of a total of two hundred and six (206) new staff recruited by the County Public Service Board (CPSB) during the year under review only 26 employees (12.6%) were from the minority communities outside the County, an indication of persistent breach of the law.

### **Management Responses**

The County Public Service Board, in consideration to section 66 of the County Government Act invites applications for the various vacant posts through advertisement in the national dailies and further circulates the adverts widely in order to reach as wide as possible a diverse population. In the advert, it is usually indicated that the County Public Service Board will consider diversity in the recruitment process. More often, it is notable that in all the adverts, only a small percentage of the applicants come from the non- dominant communities. However, in the selection of candidates, the board takes consideration of the limited applicants under this category and gives them consideration in order to make effort to comply with the provisions of the law.

### **Committee Observation**

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

### **Committee Recommendations**

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

## **4.3 Failure to Comply with One Third Basic Salary Rule**

A review of the County Executive's payroll revealed that in the months of February 2020 and March 2020, sixty-four (64) employees and thirty-three (33) employees respectively earned net salaries which were below a third of their basic pay. This was contrary to Section 19(3) of the Employment Act, 2007 which states that the total amount of deduction of the wages of an employee should not exceed two thirds of such wages.

### **Management Response**

#### **Rent deduction of monthly and arrears**

This resulted due to officers who were affected by rent deduction increase from Housing Department and payment of arrears for some staff who had forwarded their documents



for rent deduction, but the Ministry of Housing delayed in submitting the letter Authorizing increase in rent arrears.

#### **B. Corrective Action**

Ministry of Land and Housing be requested to be submitting letters immediately they increase the Housing Rent.

Pension for officers employed by county public service board on permanent and pensionable Terms.

County Public Service Board of Nyeri appointed staff on Permanent and Pensionable basis who were previously not contributing to the pension scheme since the County did not have a pension scheme previously. Some of the Staff appointed had already committed their salary and hence resulted to increase of the two third of basic salary affecting the one third rule since staff were to contribute 7.5 % of their basic salary as per that guideline while the employer was to contribute 15%.

#### **Interdicted and Suspended Officers**

All those officers under interdiction and suspension were affected by the 1/3 rule as the law indicates that they can only be paid half salary and allowances thus affecting the 2/3 of the officer's basic salary.

#### **Tax Relief Reduction from 30% to 25%**

Tax relief cut by the President due to Covid 19 allowed the staff to borrow more loans and hence affected the 1/3 rule after revision to 30%.

#### **Committee Observation**

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

#### **Committee recommendations**

**The Committee therefore recommends that -**

- 1. The County Executive should provide to the Auditor General within sixty (60) days after the adoption of this report a plan of the measures put in place to mitigate on the issue as well as comply with the requirements of law.**
- 2. The county should configure their IPPD sytem such that it is able to lock out commitments beyond the accepted thresholds.**
- 3. The Auditor General should continue monitoring the issue in subsequent financial years.**

#### **4.4 Appointment of Persons without Requisite Qualifications**

Examination of personnel records revealed that one officer appointed to fill a vacant position of Assistant Social Welfare Officer had qualification in Bachelor of Science in Information Science, contrary to the advertised qualification in Sociology, Social Work or Community Development. Further, a new employee recruited to fill the position of a

mortician, Job Group E could not be confirmed due to varying names in the appointment letter issued by the County Public Service Board and names contained in the National Identify Card. No reason has been provided for the anomalies.

#### **Management Response**

1. According to the advertisement for SOCIAL WELFARE OFFICER, JOB GROUP 'K', the applicant had to have A bachelor's degree in any of the following disciplines: Sociology, Social Work or Community Development; or equivalent qualification from a university recognized in Kenya. Qualifications in Psychology, and/or Guidance and Counselling will be an added advantage The Board considered the qualifications of the officer as equivalent qualifications to the given qualifications.
2. The said officer Janet Sifuna Sikhoya, ID 30981706 was appointed to fill the position of Mortician Job Group E. The academic papers bear the names Sifuna N Janet. The officer's birth certificate no 090751 bears the names of the parents as Ismael Sifuna Manyulu and Gladys Nabangala Sifuna and her name Janet Sikhoya. She is therefore the same person. A copy of her birth certificate was attached for review.

#### **Committee Observations**

The Committee noted that the matter has since been addressed.

#### **Committee Recommendation**

**The committee recommends that the matter be marked as resolved.**

### **5. Irregular Allowances to Alcoholic Drinks Control and Management Committee**

The statement of receipts and payments reflects an expenditure of Kshs. 1,022,443,262 under use of goods and services which, as disclosed in Note 12 to the financial statements, includes an amount of Kshs. 93,818,672 in respect of domestic travel and subsistence allowances. Included in the domestic travel and subsistence expenditure is an amount of Kshs. 2,429,600 paid to members of the County and Sub-County Committee, appointed by Management to regulate the consumption and sale of alcohol in the County.

Although the Committee was established following the enactment of Nyeri County Alcoholic Drinks Control and Management Act, 2014, there are no Regulations in place outlining how the Committee should operate. Further, each Committee Member was entitled to an amount of Kshs. 4,000 per meeting but the rate has not been approved by the County Assembly and Salaries and Remuneration Commission.

Consequently, the validity and propriety of the committee allowances incurred during the financial year of Kshs. 2,429,600 could not be confirmed.

#### **Management Response**

Payment of allowances for the Committee Members is contained in the SRC Circular No: SRC/ADM/CIR/1/13 (122) dated 16<sup>th</sup> April, 2014. For purposes of regulating the



operations of the Alcoholics Drinks Control Management Committees, the Nyeri County Alcoholic Drinks Control Regulations were prepared and submitted to the County Assembly for consideration and approval.

Notwithstanding the above, the Director of Alcoholic Drinks Control has always regulated the number of meetings held. The Sub-County Chairpersons are required to seek formal authority from the Director, Alcoholic Drinks Control Management, in order to hold any meeting at the Sub-County level. It should be noted that the activities spelt out in the calendar of activities dictate the number of meetings to be held e.g. Inspection, Public Participation forums, recommendation meetings and approval meetings which are guided by the number of applicants and subsequent appeals.

The regulations are yet to be approved by the County Assembly which once approved will guide in regulating the number of meetings to be held by the Sub County and County Committees. The management however engaged the relevant County Assembly committee to ensure the regulations are approved without further delay.

#### **Committee Observation**

The Committee noted that the lack of regulations on the management of the funds could expose it to misuse.

#### **Committee Recommendation**

**The Committee recommends that the County Executive liaises with the County Assembly to expedite enactment of the Nyeri County Alcoholic Drinks Control and Management Regulations and provide a status update to the OAG and the Senate within 60 days of adoption of this report.**

### **6. Other Operating Expenses**

#### **6.1. Regularity of Legal Fees-**

The expenditure of Kshs. 1,022,443,262 on use of goods and services also includes an amount of Kshs. 55,042,329 in respect of other operating expenses. Included in the latter amount are payments amounting to Kshs. 18,432,198 in respect of legal fees for lawyers who represented the County in various court cases. However, despite the County recruiting its own County Attorney, private lawyers were engaged to represent the County in court cases due to inadequate capacity of personnel in the Department.

Further, records indicate that there were 199 ongoing court cases including some which commenced before the creation of the devolved units in 2013/2014. In addition, fee notes amounting to Kshs. 32,125,703 issued by the private lawyers remained unpaid as at the time of audit in November, 2020. However, the unpaid legal fees were not included in the list of pending bills as of 30 June, 2020.

Consequently, the regularity and completeness of the legal fees for the year ended 30 June, 2020 could not be confirmed.

#### **Management Responses**

As of 2<sup>nd</sup> November 2020, the County had a total of 395 legal files which are kept at the County Attorney's registry. The legal Unit provided a list of unpaid fee notes as of 2<sup>nd</sup> November 2020 amounting to Ksh 32,125,702.82. The unpaid legal fees of Kshs32,125,702.82 could not be declared as pending bills as the cases were still on going in court and actual cost could not be verified.

For the period under review (July 2019- June 2020), the County Government had not appointed a County Attorney. The County Attorney was appointed with effect from 27<sup>th</sup> July 2020 and assumed office upon taking oath on 10<sup>th</sup> September 2020 in accordance with the Office of the County Attorney's Act. The county has further recruited six Legal Officers in a bid to capacitate the office adequately and has commenced the process of taking over the outstanding cases from external lawyers.

### **Committee Observation**

The Committee noted that the County Executive did not provide a contingency liability in respect of legal fees accrued but not due.

### **Committee Recommendation**

**The Committee recommends that-**

- 1. County Executive makes a provision in its budget for contingency liability in respect of legal fees; and**
  - 2. the County Executive utilizes the Office of the County Attorney to provide legal advice and court representation.**
- 

## **6.2 Payment to County Public Service Board Consultative Forum**

The expenditure of Kshs. 55,042,329 on other operating expenses includes an amount of Kshs. 300,000 paid as annual subscription to the County Public Service Board National Consultative Forum. The payment was made without an approved law or regulation formulated by the County Executive and approved by the County Assembly on management of subscription fees.

The validity of the expenditure therefore could not be confirmed.

### **Management Responses**

The County Public Service Boards National Consultative Forum was registered on 11<sup>th</sup> September 2014 under the Societies Act. The Registration Certificate No. is 45750. The objective of the forum, among others, is to articulate issues specific to the mandate of the County Public Service Boards countrywide. All the forty-seven (47) County Public Service Boards are members as per the Forums constitution.

The Forum, through its Constitution, has set amount to be paid for registration and the annual subscription as stipulated. This provides the basis for the payment of the Kshs 300,000, paid annually by every County Public Service Board.

The amount is usually provided in the budget under the vote of Membership and Annual subscription to various organizations.



### **Committee Observations**

The Committee observed that the payment to County Public Service Boards National Consultative Forum was not anchored in law therefore irregular and unlawful.

### **Committee Recommendations**

**The Committee recommends that;-**

- 1) the irregular payments to the County Public Service Board Consultative Forum be stopped and further recommends the surcharge of any County Secretary who continues to make the irregular contribution; and**
- 2) the EACC should oversee the recovery of all the public funds irregularly transferred to the County Public Service Board Consultative Forum**

### **7. Rent of Liaison Office at Council of Governors**

The expenditure of Kshs. 1,022,443,262 on use of goods and services also includes an amount of Kshs. 6,033,723 on rental of produced assets. Included in the expenditure is an amount of Kshs. 2,758,993 in respect of contribution to Council of Governors to defray expenses and rent for a Liaison Office at the Council of Governors offices in Westlands, Nairobi. However, the payment was made contrary to Section 37 of the Inter-Governmental Relations Act, 2012 which provides that operational expenses for the structures and institutions established by the Act is provided for in the annual estimates of the revenue and expenditure of the National Government.

As a result, the validity and value for money for the expenditure of Kshs. 2,758,993 could not be confirmed.

### **Management Response**

The Council of Governors, on behalf of Counties, entered into an agreement for lease of County liaison offices at Delta Centre, Westlands, Nairobi, on 6<sup>th</sup> January 2014. The Counties have been paying rental fees for the facility as per the lease agreement which was negotiated and entered into on behalf of all counties. The management confirmed that the lease for the Nyeri County Liaison office expired on 31<sup>st</sup> January 2020 and the county has since vacated the premises.

### **Committee Observation**

The Committee noted that payments made to the council were irregular and unlawful. The Committee also noted that the payment has since stopped since the lease for the County Liaison office expired on 31<sup>st</sup> January 2020.

### **Committee Recommendations**

**The Committee recommends that;-**

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

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

## **8. Other Grants and Transfers**

The statement of receipts and payments reflects other grants and transfers totaling Kshs. 713,014,997 for the year ended 30 June 2020. The expenditure includes transfers to Nyeri County Agriculture Mechanization Services and Wambugu Agricultural Training Centre (ATC) amounting to Kshs. 8,745,092 and Kshs. 2,367,972, respectively. However, the County did not have a policy on how the funds were to be spent and accounted for by the two institutions. Further, expenditure returns in respect of the transfers to the institutions were not provided for audit review.

As a result, the validity and propriety of the expenditure totaling to Kshs. 11,113,064 could not be confirmed.

### **Management Response**

The department had requested for a revolving fund for the departmental institutions through a cabinet paper to the Excom. The fund was meant for sustainable service delivery for instance the Wambugu Agricultural training center has commercial enterprises such as dairy that require continuous supply of inputs to ensure continuous flow of output. These enterprises do not fit well with the closure of a financial year, which normally delay disbursement of funds. This affects the institution in maintaining these enterprises. Timely acquisition of inputs has also been a challenge due to at times unavailability of funds at the county treasury thus affecting timely farm operations.

The Excom recommended the department to develop a bill that will create the revolving fund, which was submitted to the County Assembly of Nyeri for approval. The county assembly requested an advisory on the bill vide a letter to the county treasury, which advised them to either have the institutions as commercial entities or create a budgetary item for direct transfer for some budgetary items. The department opted for the latter option and opened bank accounts outside the IFMIS where the funds were transferred.

The 2019/20 expenditure returns for Wambugu Agricultural Training Centre (ATC) and Nyeri County Agriculture Mechanization Services were submitted for the committee's review.

### **Committee Observations**

The Committee noted that;

1. the County Executive failed to submit documents to the Auditor General at the time of audit contrary to section 62 of the Public Audit Act, 2015; and
2. there was no policy on how the funds were to be spent and accounted for.

### **Committee Recommendations**

- 1. The Committee recommends that- the accounting officer undertakes administrative actions against the officers who failed to provide the**



- documents to the auditors in accordance with section 156 of the Public Finance Management Act and provides a status report to the Office of the Auditor General within 60 days from the adoption of this report; and
2. the County Executive should develop a policy on the administration of the fund within 60 days of the adoption of this report and submit to the Auditor General for verification.

## **9. Construction of Buildings-**

### **9.1 Construction of Market Stalls at Kaheti**

The statement of receipts and payments reflects an expenditure of Kshs. 1,222,526,224 under acquisition of assets which, as disclosed in Note 17 to the financial statements, includes an amount of Kshs. 66,677,566 incurred on construction of buildings. The latter balance includes an amount of Kshs. 2,001,116 relating to construction of market stalls at Kaheti.

The contract was awarded to the lowest evaluated bidder and the works entailed construction of seventeen (17) market stalls. An inspection carried out on 24 November, 2020 revealed that the contractor completed only twelve (12) stalls instead of seventeen (17) tendered for and awarded by the County. No reason was provided for the reduced scope of works.

Consequently, the validity and value for money on the expenditure of Kshs. 2,001,116 incurred on the construction of market stalls could not be confirmed.

### **Management Response**

During the financial year 2019/2020 the Department of Trade initiated Construction of 17 market stalls at Kaheti Market. However after the excavation of the ground at the Site, the Traders Representative together with other Traders complained of the sizes of the stalls which they termed as too small to operate in. They requested the site handing over Committee to revise the valuation of the BQ, the committee did conquer with the traders that the sizes were too small to operate in. The clerk of works promised to have the bill of quantities revised to accommodate the traders concerns without affecting Cost of the project since there was no additional resource that could be appropriated at that juncture. The clerk of works also informed them that such a move would result in reduction of the number of stalls. The project therefore ensured value for money.

### **Committee Observation**

The Committee observed that the County Executive varied the contract for the construction of the stalls without following due process contrary to Section 139 of Public Procurement and Assets Disposal Act, 2015.

### **Committee Recommendations**

**The Committee recoemnds that the;-**

1. **Ethics and Anti-Corruption Commission to cause investigation of the Head of Procurement with a view to instituting the prosecution of the officer for**

violation of Section 139 of the Public Procurement and Asset Disposal Act, 2015 and submits a report to the Senate within 60 days of adoption of this report; and

2. The Kenya Institute of Supplies Management (KISM) takes action(s) against the Head of procurement in Nyeri County for professional misconduct pursuant to Section 23(1)(d)(i) of the Supplies Practitioner Act 2007 and provides an update to the Office of the Auditor General within 60 days of adoption of this report.

## **9.2 Construction of Market Shed and Stalls at Ruthagati**

The construction of building expenditure of Kshs. 66,677,566 also includes an amount of Kshs. 2,802,409 incurred on construction of a market shed and ten (10) stalls at Ruthagati open air market. However, an audit inspection carried out in November, 2020 confirmed that although the construction was complete, the structures were not being utilized and the constructed gate had been vandalized. No explanation was provided for the failure to utilize the structure as intended.

Consequently, the residents of Ruthagati have not received value for money on the expenditure of Kshs. 2,802,409.

### **Management Response**

The Construction of Ruthagati market was proposed by the members of the public and was included in the CIDP for the period 2018-2022. The same was also included in the ADP for Financial year 2018/2019. Therefore it is clear that consultation was made before the project was undertaken by the county Government.

By the time of the audit in November 2020 the department was in the process of allocating the market spaces as well as the market stalls, a process that involved the local community and the local leadership. The Department thereafter conducted open balloting for the award of the stalls to Ruthagati market where 79 traders were allocated market spaces while 10 traders were allocated market stall as a way of operationalizing the project to promote economic growth of the area.

The allotment could not have been done immediately on completion as there was a government directive on ministry of Health Covid-19 Protocols' that suspended all meetings, trainings public gatherings.

The Department repaired the gate as soon as the market was operationalized to secure the traders goods during the night.

### **Committee Observations**

The Committee noted that the

1. completed stalls were not in use; and
2. residents of Nyeri were not getting value for money from the project.

### **Committee Recommendation**



**The Committee recommends that the County Executive should ensure timely completion and handover of projects to the beneficiaries to ensure value for money is achieved.**

## **10. Delayed Implementation of Projects**

### **10.1 Upgrading and Rehabilitation of Thiha-Sagana Irrigation Scheme.**

The grants and other transfers expenditure of Kshs. 713,014,997.40 includes a sum of Kshs. 9,985,319 spent on upgrading and rehabilitation of Thiha-Sagana Irrigation Scheme funded under the Kenya Climate Smart Agriculture Programme (KCSAP). The tender was awarded to a contractor on 19 June 2020 at a contract sum of Kshs. 31,002,476 and the works set for completion in 6 months ending on 20 December 2020. An inspection carried out on 26 November 2020 revealed that substantial works had not been completed, about 3 weeks to expiry of the contract period. Minimal works were also on-going at the site and no explanation was provided for the delay and unsatisfactory performance.

#### **Management Response**

The tender for Upgrading and rehabilitation of Thiha-Sagana irrigation Scheme in Mukurweini Central Ward was advertised in the standard Media on 9<sup>th</sup> April 2020. The tenders were opened on 15/5/2020 and evaluated between 21<sup>st</sup> -23<sup>rd</sup> May 2020. Nine bidders responded to the bid and after evaluation Joycot General Contractors Ltd was awarded the tender through contract No. CGN/ALF/KCSAP/78/2019-2020 at a contract price of Kshs. 31,002,475.64 on 19/6/2020 for a period of six months.

The upgrading and Rehabilitation of Thiha-Sagana Irrigation Scheme as at 3<sup>rd</sup> December 2020 was at 72% as per interim certificate number 1 and 2. However, the contractor requested for a three (3) month extension vide letter dated 11<sup>th</sup> December 2020 requesting for extension due to unavoidable circumstances such as: heavy rains, shortage of casuals due to Covid-19 protocols and delay of supply of material due to effects of Covid-19.

The project implementation committee assessed the progress of project implementation and recommended an extension of 3 months period on the basis of the remaining works. The extension to 20<sup>th</sup> March 2021 was approved on 15<sup>th</sup> December 2020 as per the agreement attached for committee verification. The project was completed on 24<sup>th</sup> February 2021 as per the attached substantial completion certificate. The extension did not have any cost implications, since the total amount paid to contractors was KES 30,859,858.16 which did not exceed the initial contract values for the project KES 31,002,475.64 as summarized in the table below:

In addition, the inspection team was satisfied with the performance of the contractor.

Tender no.	Tender description	Contractor	Contract value	Payment certificates		
				No.	Date	Amount

CGN/ALF/KCSAP/78/2019-2020	Proposed upgrading and rehabilitation of Thiha-Sagana irrigation scheme in Mukurweini central ward	Joycot general contractors ltd	31,002,475.64	1	26/6/2020	9,985,319.50
				2	3/12/2020	13,729,106.86
				3	19/3/2021	7,145,431.80
				Total Paid		30,859,858.16

### Committee Observation

The Committee noted that the matter has since been addressed as the project has been completed.

### Committee Recommendation

**The committee recommends that the matter be marked as resolved.**

## 10.2 Desilting and Construction of Kiria Earth Dam

An additional amount of Kshs. 12,213,989 was also paid to a contractor under the Kenya Climate Smart Agriculture Programme (KCSAP) for desilting and construction of Kiria earth dam. The works entailed desilting, construction of storage tanks, installation of solar system and construction of distribution system for irrigation. The tender was awarded to the contractor on 18 May, 2020 at Kshs. 32,412,292 and the works were to start immediately and be completed in 6 months ending 30 November, 2020. However, audit verification of the project in November 25, indicated that the level of completion was about 30% and was behind schedule compared with 6 months or 100% of the contract period.

No satisfactory explanation was provided for the failure to complete the projects within the contract period which may lead to cost escalation.

### Management Response

Desilting and construction of Kiria earth dam, storage tank, solar system and distribution system for irrigation project in Gatarakwa Ward was advertised in the standard media on 7th February 2020. The tender was opened on 10/3/2020 and evaluated on 26 March 2020. Five bidders responded to the bid and after evaluation Trans World Construction company Ltd was awarded the tender through the contract No. CGN/ALF/KCSAP/67/2019-2020 at a contract price of Kshs 32,412,292.10 on 28/5/2020 for a period of six months ending 30th November 2020.



Desilting and Construction of Kiria Earth Dam, Storage Tank, Solar System and Distribution System for Irrigation Project as at 16<sup>th</sup> November 2020 was at 75% as per interim certificate number 1 & 2. However, the contractor requested for a one (1) month extension on vide a letter dated 23<sup>rd</sup> November 2020 due to unavoidable circumstances such as ; ‘the dam took longer than expected to drain water , heavy rains, and inadequate staff due to the Covid-19 protocols. The project implementation committee assessed the progress of project implementation and recommended an extension of 1-month period on the basis of the remaining works. The extension to 28<sup>th</sup> December 2020 was approved on 24<sup>th</sup> November 2020. The project was completed on 28<sup>th</sup> December 2020 as per the substantial completion certificate. The extensions did not have any cost implications since the total amount paid to contractors KES 32,947,050.60 did not exceed the initial contract values for the project KES 32,956,111.13.

Tender no.	Tender description	Contractor	Contract value	Payment certificates		
				No	Date	Amount
CGN/AL F/KCSAP /67/2019-2020	Desilting and construction of Kiria earth dam, storage tank, solar system and distribution system for irrigation project	Trans world construction company ltd	32,956,111.13	.		
				1	26/06/2020	12,213,989.00
				2	16/11/2020	12,450,814.80
				3	28/12/2020	8,282,246.80
				Total paid		32,947,050.6

#### Committee Observation

The Committee noted that the matter has since been addressed as the project has been completed.

#### Committee Recommendation

The committee recommends that the matter be marked as resolved.

### 11. Construction of Roads

The statement of receipts and payments reflects an expenditure of Kshs. 1,222,526,224 under acquisition of assets which, as disclosed in Note 17 of the financial statements, includes an amount of Kshs. 368,651,476 incurred on construction of various roads in the County. Examination of the expenditure records revealed the following anomalies:

#### 11.1 Construction of PCEA Kihate – Miiri Road

Included in the expenditure on construction of roads is an amount of Kshs. 3,780,635 paid to a firm for marraming of PCEA Kihate Road – Karatina and Miiri Road.

According to the Bills of Quantities, the tendered distance of the road was 2.4km. However, a field visit inspection indicated that the murrum was spread on a distance of 2.1km of the road, leaving about 300m translating to unaccounted over-payment to the contractor of Kshs. 472,579.

#### **Management Response**

Although the Bills of quantities gave a length of 2.4KM as the ideal length of the road, the reality on the ground revealed that some sections of the road due to topography and general slopes of the road were wider.

The pricing was arrived at by providing rates for the quantities provided which were multiplied with contractors' rates and the amounts for each item and then these were added together to provide the tender sum/contract sum. Thus, variance which as a result of varying road width was arrived at by checking the actual quantities multiplied by the relevant applicable rates to arrive at difference. This was what was done and was also in compliance with instructions to tenderers.

#### **Committee Observation**

The Committee noted that the matter has since been addressed as the project has been completed.

#### **Committee Recommendation**

**The committee recommends that the matter be marked as resolved.**

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### **11.2 Construction of Kamunyaka – Turi and Thungari Road**

Included also in the expenditure on construction of roads is an amount of Kshs. 3,698,944 paid to a firm for murrumming of 2km Kamunyaka-Turi and Thungari Roads. However, an audit inspection carried out revealed that the actual distance of the road covered was only 1.8km instead of 2km, resulting in unexplained over payment of Kshs. 369,894 to the contractor at the quoted rates in the Bill of Quantities.

#### **Management Responses**

Although the Bills of quantities gave a length of 2KM as the ideal length of the road, the reality on the ground revealed that some sections of the road due to topography and general slopes of the road were wider.

The pricing was arrived at by providing rates for the quantities provided which were multiplied with contractors' rates and the amounts for each item and then these were added together to provide the tender sum/contract sum. Thus, variance which as a result of varying road width was arrived at by checking the actual quantities multiplied by the relevant applicable rates to arrive at the difference. That was what was done and was also in compliance with instructions to tenderers No.3 specifically 3.2c, 3.3 and 3.4 in the bills of quantities.

#### **Committee Observation**



The Committee noted that the matter has since been addressed as the project has been completed.

#### **Committee Recommendation**

**The committee recommends that the matter be marked as resolved.**

### **11.3 Wasteful Expenditure on Signposts**

Records examined indicated that the County Executive required the project contractors to erect steel signposts for all projects with murals of the Governor and area Members of the County Assembly. The signposts were estimated to cost an average of Kshs. 80,000 which was included in the Bills of Quantities for the projects. Further, about 640 projects were awarded and implemented during the financial year under review thus translating to an approximated expenditure of Kshs. 51,200,000, which is uneconomical and wasteful use of public resources.

Consequently, the regularity and value for money for the expenditure incurred on the construction projects could not be confirmed.

#### **Management Responses**

The County used the said materials due to the following reasons:

- i. In black cotton soils, timber cannot be anchored on the ground since it rots very first especially for projects which take long and also the preservation of forests hence the use of steel. The bill board was also used as part of Civic education to the community so that they can own and protect the said projects.
- ii. The Portrait of the County Leaders was used to help the general public to differentiate between the projects carried out by National and County Government.

#### **Committee Observation**

The Committee noted that-

1. the requirement for the County Executive to erect the steel sign posts with portraits of leaders was wasteful expenditure; and
2. the procurement of the signposts was not cost effective in breach of Article 227(1) of the Constitution.

#### **Committee Recommendation**

**The County CEO undertakes administrative actions against the responsible accounting officers for misuse of public resources in accordance with section 156 of the Public Finance Management Act and provides a status report to the Office of the Auditor General within 60 days from the adoption of this report.**

### **12. Construction of Boundary Wall for the Proposed Solid Waste Transfer Station in Nyeri**

The expenditure of Kshs. 1,222,526,224 under acquisition of assets also includes an amount of Kshs. 477,693,229 incurred on construction and civil works. The expenditure includes an amount of Kshs. 16,946,547 spent on construction of a boundary wall for the proposed Nyeri solid waste transfer station. A site inspection carried out on the project revealed that it had not been utilized. Management indicated that the site has not been utilized due to several litigations by members of the public casting doubt on whether public participation was conducted before the project commenced.

Consequently, value for money amounting to Kshs. 16,946,547 spent on the boundary wall could not be confirmed.

### **Management Responses**

The land in question is located in Peri-Urban areas that include Witemere/Blue valley/Kangemi/Kingongo. The amount of the contract was Ksh. 16,946,546.95 awarded to Geoems Technologies Limited.

However, at the completion of the project the value of permanent work done including extra work was Ksh. 12,033,417.76 This resulted from a NEMA advisory where the project (perimeter wall) was scaled down to leave a recommended distance away from the nearby river. Works done for the 1<sup>st</sup> certificate amounted to Ksh. 9,927,799 and whose payment was completed. The 2<sup>nd</sup> certificate amounted to Ksh. 2,102,618. Due to the scale down, a total of Ksh. 4,913,129 was not used. This amount would have been used for internal works within the proposed site, including relocating electric line and construction of all-weather roads. An EIA Survey for the project was carried out and a report made.

Public participation meeting was consequently conducted in line with EIA data collection on 29<sup>th</sup> November 2019. Stakeholders meeting was also convened on 3<sup>rd</sup> of December, 2019 at Eland Hotel. Further Public Baraza was thereafter held on 23<sup>rd</sup> December, 2019 at Nyakinyua School.

The construction work was carried out; however, the site could not be put into use due to a petition filed at Environmental/ Land Court of Kenya, Nyeri as Petition 5 of 2020, on 14<sup>th</sup> day of April 2020 which was still active.

### **Committee Observation**

The Committee observed that the management failed to provide information to the Auditor during the audit exercise contrary to section 62 of the Public Audit Act, 2015.

### **Committee Recommendation**

**The Committee, therefore, recommends that the accounting officer undertakes administrative actions against the officers who failed to provide the documents to the auditors in accordance with section 156 of the Public Finance Management Act and provides a status report to the Office of the Auditor General within 60 days from the adoption of this report.**



### **13. Implementation of e-Procurement.**

During the financial year under review, the County Executive did not fully implement e-procurement in acquisition of goods and services. A review of the procurement process and enquiry from the procurement unit staff revealed that some of the processes including open tenders and quotations, advertisements, issuance of requisitions and purchase orders and goods received notes (GRN) were done on the e-procurement platform. However, other processes like tender opening, evaluation and awarding were done manually outside the system. Management attributed the non-compliance to challenges in accessing the IFMIS by some staff or partial implementation of IFMIS modules.

#### **Management Response**

The E-procurement process was partially in use by then as this was implemented in phases. The process of capacity building of all staff was on going through the Kenya Devolution Support Programme. All the staff have now been capacity built and the County had fully implemented the e-procurement system as per Executive Order No. 2 of 2018 on Procurement of Public goods and Services.

#### **Committee Observation**

The Committee noted the lack of capacity of county staff to optimally utilize the IFMIS modules.

#### **Committee Recommendation**

**The County Executive to identify training needs of its staff serving in the Finance Department and initiate capacity building and training in conjunction with the National Treasury within 60 days of adoption of this report.**

## **REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE.**

### **Basis for Conclusion**

#### **1. Cash Management**

During the year under review, the County Executive made cash withdrawals totalling Kshs. 114,658,203 which was paid as imprest to county staff to meet various expenditure needs. Management has not provided an explanation why the payments were made through cash instead of cheque or funds transfer to staff bank accounts for ease of accountability. Further, cash payments are highly prone to abuse and misappropriation than bank transfers or cheque system.

#### **Management Response**

The amount stated as Ksh 114,658,203 can be traced in the financial statement note 26 as imprests issued during the year under review and all imprests are transmitted to the officer's bank accounts through Real Time Gross Settlement (RTGS) to individual officer's bank accounts. The officer issued with the imprest ensures that all the

beneficiaries append their signatures and support fully with any other document required and hence the accountability and transparency in the money paid can be confirmed.

#### **Committee Observation**

The Committee noted the County Executive had weak internal management systems which could expose the entity to loss of public funds.

#### **Committee Recommendation**

**The Committee recommends that the County Executive should adopt best practices in the management of public funds. Further, the management should adhere to Public Finance Management Act 2012 and Regulation on imprest management.**

## **2. Revenue Collection Systems**

### **i) Lack of Segregation of Duties**

A review of users of Nyeri Pay system revealed that there were staff with excessive rights cutting across all modules of the system. Out of the users with excessive rights, 3 were administrators who could initiate a transaction, process and delete the transaction leaving no or minimal audit trail. As a result, a fraudulent transaction can be processed without being detected.

#### **Management Responses**

The management submitted that the system is still under development stage hence it's important for the revenue-in-charge to have all the rights to be able to monitor the system development and confirm any reported malfunction by the system users. The Internal audit is also incorporated, and they can view all the operations real time. In case of cancellation - there are different stages of approvals and support documents for justification of such.

Although some of the users have many roles including system administration, there is limitation as to what the users can do. The system does not allow for deletion of data; even by system administrators. Instead, in case there is data that is not required, the system provides for either cancellation or invalidating e.g. for receipts.

In a critical focal area such as receipting, receipts have both a receipt Number with the cashier's code within the receipt number and are serialized such that globally unique and incremental numbers (URNs) are maintained and therefore a skipped number can be identified as an issue requiring further investigation.

However, based on the audit advice, the county was reviewing the user roles so that a clear segregation structure is created, distributed and adhered to. Further the management removed the receipting role to prevent completion of any payment transaction.

#### **Committee Observation**



The Committee noted that the matter has since been addressed.

**Committee Recommendation**

**The committee recommends that the matter be marked as resolved.**

**ii. Failure to use Standard Naming Convention**

It was noted that creation of users in Nyeri Pay system did not use a standard naming convention for proper access. Further, some of the accounts could not be directly traceable to an individual. Consequently, there were several cases of duplicate accounts which increased the risk of repudiation as it was difficult to establish accountability.

**Management Responses**

Although the county keeps records of user activities and all usernames contain a part of all official users' names or part of some official names. The county will be introducing a naming convention such as <First Name. Last Name> for all users. This is as per the advice of the auditors.

**Committee Observation**

The Committee noted that the matter has since been addressed.

**Committee Recommendation**

**The committee recommends that the matter be marked as resolved.**

**iii. Access to Operational Environment by Consultant**

The audit enquiry revealed that the Nyeri pay software system developer had unlimited access to Nyeri Pay operation environment in developing, testing and operationalizing the software's updates and patches. Thus, there is risk of unauthorized access or changes to the operational environment.

**Management Response**

By then, the county was still engaging the consultant to make updates to the system. The consultant has also primarily been given a "Dummy Test" environment and once dummy test is completed a final live test was done on the live system. This arrangement was not permanent and was intended to run until a formal handover of the system was done.

However, the county will consider the audit advice to reorganize the implementation and audit processes.

**Committee Observation**

The Committee noted that the matter has since been addressed.

**Committee Recommendation**

**The committee recommends that the matter be marked as resolved.**

**iv. Inactive Users in Nyeri Pay System**

A review of users of the Nyeri Pay system revealed that there were thirty-seven (37) users who had never logged in the system. This is against the principle of least privilege that require a user to be assigned only what is needed to undertake his or her duties. The system therefore has a risk of unauthorized access arising from assignment of excessive privileges.

**Management response**

The county had initially intended to register all staff into the system to conclude a register so that only a simpler task of deployment and re-deployment of user roles would remain to be undertaken on a needs basis. This would be to ease the process during busy operation seasons. At the time of interrogation, the active users in the systems were those with the designated tasks.

**Committee Observations**

The Committee noted that the matter has since been addressed.

**Committee Recommendations**

**The committee recommends that the matter be marked as resolved.**

**v. IT General Controls**

A review of the County Executive's ICT environment revealed that there was no approved ICT Policy in place including Data Security and Disaster Recovery Plans. Further, no records were provided to show how the migration from LAIFOMS to Nyeri pay was done. Under the circumstances, the County may have lost data during the migration of the information to the new system.

**Management Responses**

Although there was no formal documentation for the migration, the county took initiative to check that the customer accounts and the closing statuses and balances in LAIFOMS as at the time of migration were reflected as the opening balances in Nyeri-Pay System. Moreover, as months went by, the county checked that the system correctly computed respective charges related to various migrated modules as would be computed in LAIFOMS.

**Committee Observation**

The Committee noted that the matter has since been addressed.

**Committee Recommendation**

**The committee recommends that the matter be marked as resolved.**

**3. Insufficient Information Technology System Controls**



A review of the control and governance processes applied by the County Executive in its Information Technology (IT) operations revealed the following weaknesses.

- i. Lack of Information Technology (IT) Strategy Committee and an IT Steering Committee, both of which are important aspects of the County Executive's governance structure.

#### **Management Responses**

ICT department was in the process of formulating an ICT Steering committee in the County. However, the absence had not left any void since the County was largely guided by policy and Standards set by ICT Authority which is mandated to oversight ICT in both levels of government.

The County was also in the Process of restructuring the ICT function which will inform the setup of different committees that will drive ICT.

#### **Committee Observation**

The Committee noted that the matter has since been addressed.

#### **Committee Recommendation**

**The committee recommends that the matter be marked as resolved.**

- ii. Failure to develop IT Security Policy to ensure data confidentiality, integrity and availability.

#### **Management Response**

The County Government of Nyeri had formulated an ICT policy that will ensure data confidentiality, integrity and availability. The policy was approved by cabinet on 21<sup>st</sup> August 2021.

#### **Committee Observation**

The Committee noted that the matter has since been addressed.

#### **Committee Recommendation**

**The committee recommends that the matter be marked as resolved.**

- iii. Absence of a policy to manage upgrades made to all financial and performance information systems, except those owned by The National Treasury. Therefore, unauthorized changes may be made to the systems resulting in loss of data and information, and lack of data integrity.

#### **Management Responses**

The County Government of Nyeri was at the time using a draft ICT policy. The policy was anchored in the provisions of the existing national legal frameworks, relevant international protocols and conventions which include but not limited to;

- Constitution of Kenya 2010, article 43, Article 53, The fourth Schedule Articles 185(2), 186(1) and 187(2), Article 189(2).

- The Kenya Vision 2030
- Government ICT Standards 2016.
- The Nyeri County Integrated Development plan (CIDP) 2018-2022
- The Nyeri County Annual Development Plan (ADP) 2018-2019
- National Policy on Information and Communication Technology (ICT); GoK, 2007.
- ICT Standards and Guidelines. Directorate of E-Government. Kenya (2011)
- Digital Economy Blueprint
- Computer misuse and Cyber Act 2018

The County government of Nyeri has an ICT Policy which is in line with the existing legal framework and provisions of international ICT policies and standards as mentioned above.

#### **Committee Observation**

The Committee noted that the matter has since been addressed.

#### **Committee Recommendation**

**The committee recommends that the matter be marked as resolved.**

iv. Inadequate user-knowledge by the staff operating the procurement software module;

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#### **Management Response**

All Procurement Staff are frequently trained on use of the IFMIS system both internally by the County Government and externally by the National Treasury.

This is also supported by an annual training calendar provided by the IFMIS team in the National Treasury.

#### **Committee Observation**

The Committee noted the lack of capacity of county staff to optimally utilize the IFMIS modules.

#### **Committee Recommendation**

**The Committee recommends continuous capacity development of staff and support from the National Treasury.**

- v. Lack of policies to control physical access to IT environments which could result in unauthorized interference in the IT assets.

#### **Management Responses:**

The County Government invested in upgrading the existing server room and among the areas of upgrade was access control, to access the Server room you have to have Biometric Access Granted to you by the Chief ICT officer in-charge. No one else has access to the Server room remotely or locally.



The County is also governed by the following laws;

- County Government of Nyeri ICT Policy effective 21st August 2021
- Data Centre Standard, ICTA-2.002:2019
- Electronic Records and Data Management Standard, ICTA-4.002:2019
- Information Security Standard, ICTA-3.002:2019

#### **Committee Observation**

The Committee noted that the matter has since been addressed.

#### **Committee Recommendation**

**The committee recommends that the matter be marked as resolved.**

- vi. There are no Disaster Management and Recovery Policies in place including fire suppression systems. As a result, the risk of the County Executive's IT assets not recovering from disasters are high.

#### **Management Responses**

The County Government of Nyeri has a fire alarm system that is smoke detection activated and there is an onsite fire extinguisher. The County Government of Nyeri intends to upgrade this to more advanced technologies in a phased approach due to budgetary constraints.

#### **Committee Observation**

The Committee noted that the County entity did not have a Disaster Management and Recovery Policy in place.

#### **Committee Recommendation**

**The Committee recommends that the management should expedite the development of a Disaster Management and Recovery policy and copies should be submitted to the Auditor General for verification within sixty (60) days of the adoption of this report.**

- vii. There is no business continuity plan, including IT continuity plan with an off-site back-up component.

#### **Management Responses**

The County Government has deployed a cloud mirror server to backup revenue data offsite. The County also had local servers in Sub-County, where physical backups are done and stored offsite for resilience in case of any disaster.

#### **Committee Observation**

The Committee noted that the matter has since been addressed.

#### **Committee Recommendation**

**The committee recommends that the matter be marked as resolved.**

- viii. There are no user management standards and procedures in the county. As a result, staff do not have standard procedures to follow to minimize risk of errors, fraud and the loss of data or its integrity.

#### **Management Response**

The issuance of user rights and roles is now governed by the ICT Policy 2021 which ensures all systems in the County Government have an audit trail. A system administrator is assigned to every system. System logs are also kept to prevent any data manipulation.

#### **Committee Observation**

The Committee noted that the matter has since been addressed.

#### **Committee Recommendation**

**The committee recommends that the matter be marked as resolved.**

- ix. Absence of user management standards and procedures for the County. As such, staff do not have standard procedures to follow to minimize risk of errors, fraud and the loss of data confidentiality and integrity.

#### **Management Responses**

The issuance of user rights and roles is now governed by the ICT Policy 2021 which ensures all systems in the County Government have an audit trail a system administrator is assigned to every system. System logs are also kept to prevent any data manipulation.

#### **Committee Observations**

The Committee noted that the matter has since been addressed.

#### **Committee Recommendations**

**The committee recommends that the matter be marked as resolved.**

X) Absence of store management policies including random survey and annual board of survey of stores and asset and an inventory management strategy.

#### **Management Responses**

In the year 2021 the County government of Nyeri implemented an automated asset management register under the KDSP programme that manages asset movement, depreciation and asset transfers. The county is in the process of formulating a policy that will guide in development of a stores management system that will allow automated surveys considering the different geographical locations where stores are located.

#### **Committee Observation**

The Committee noted that the County entity did not implement any stores management policies.

#### **Committee Recommendation**

**The Committee recommends that the management should expedite the development of stores management policies and strategies and copies should be**



submitted to the Auditor General for verification within sixty (60) days of the adoption of this report.

## CHAPTER TWELVE

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

The Governor of Siaya County Executive Hon. James Orengo, EGH, appeared before the Committee Thursday, 8<sup>th</sup> June 2023 to respond (under oath) to audit queries raised in the Report of the Auditor General on Financial Statements for Siaya County Executive for the Financial Year 2019/2020.

#### Qualified Opinion

EXECUTIVE SUMMARY OF THE UNRESOLVED ISSUES				
S/NO	AUDIT QUERY	COMMITTEE RECOMMENDATION	ACTORS	TIMELINE
1.	<b>1.0 Unsupported Adjustment - Budgeted Exchequer Releases</b> <ul style="list-style-type: none"> <li>The summary statement of appropriation - recurrent and development combined reflects a final budget of Kshs.8,106,977,580 under Exchequer releases.</li> <li>However, the budgeted amount had been arrived at after a negative adjustment of Kshs.341,576,215 which has not been explained.</li> <li>In the circumstances, accuracy and completeness of the</li> </ul>	<p>The Committee recommends that;</p> <p>1. The county executive reports to Senate the findings of the Taskforce on the Audit of Siaya County Governments Systems and Governance Reforms that has been set up in Siaya County and the measures proposed to ensure streamlining of existing financial and other internal control systems, IFMIS operations; and</p>	The County Chief Executive Officer	60 Days from the date of adoption of this report

	financial statements for the year ended 30 June, 2020 could not be confirmed.	2. the County CEO undertakes administrative action against responsible officer(s) for failing to undertake reconciliation of financial statements in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report.		
2.	<p><b>Fixed Assets</b></p> <p>The summary of fixed assets register at Annex 5 to the financial statements reflects a balance of Kshs.1, 195,616,531 being additions during the year, resulting to an unreconciled variance of Kshs.181, 547,678.</p> <p>The summary of fixed assets register at Annex 5 to the financial statements reflects a comparative balance of Kshs.5,241,149,603 which differs with the balance of Kshs.1,471,622,238 reflected in the audited financial statements for</p>	<p>The Committee recommends that the-</p> <p>a) County Executive should update and present their Fixed Assets Register in the format prescribed by the Public Sector Accounting Standards Board;</p> <p>b) County Executive should adopt and implement the report of the Inter-Governmental Technical Relations Committee (IGTRC) on assets and liabilities from defunct Local Authorities and</p>	<p>The County Chief Executive Officer The Auditor General.</p>	<p>60 days from the date of adoption of this report</p>



	the year ended 30 June, 2019	provide a status update to the Office of the Auditor General within 90 days of adoption of this Report; and Office of the Auditor General should progressively review and report on the matter in the subsequent Financial Years.		
3.	<p><b>5.0 Pending Bills</b></p> <p>Pending bills relating to construction of building of Kshs.17,486,043 and construction of civil works of Kshs.42,038,481 both totalling to Kshs.59,524,524 were not supported by certificates of works done.</p> <p>The creditor's ledger was not provided to ascertain the creditor's movement from Kshs.386, 787,728 as at 30 June, 2019 to Kshs.222, 333,808 as at 30 June, 2020.</p> <p>Pending bills amounting to Kshs.271, 951,370 were paid on behalf of the County of Siaya for health workers salaries by the Ministry of Health in 2013-2014. The amount was not included in the pending</p>	<p>The Committee recommends that:-</p> <ol style="list-style-type: none"> <li>1. the National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate so as to enable county entities settle their obligations on time;</li> <li>2. the County Executive should disclose all pending bills in the format prescribed by the Public Sector Accounting Standards Board as stipulated under Section 104(1)(h) of Public Finance Management Act, 2012;</li> <li>3. the county executive puts in place</li> </ol>	<ol style="list-style-type: none"> <li>3. The County Chief Executive Officer</li> <li>4. The Auditor General.</li> <li>5. The Kenya Revenue Authority</li> </ol>	60 days from the date of adoption of this report

	<p>bills balance of Kshs.222, 333,808 as at 30 June, 2020 understating the pending bills balance at close of the year under review</p>	<p>measures to enhance own generated revenue in order to meet its revenue target and address revenue shortfalls that contribute to the challenge of pending bills;</p> <p>4. Pending bills deemed ineligible should be forwarded to the Directorate of Criminal Investigation (DCI) for investigation proper legal action taken against those filing false claims;</p> <p>5. County Government to take note of judgement in a Kitale High Court Constitutional Petition E003 of 2023 that declared formation of pending bills verification committees unconstitutional and engage Office of the OAG and strengthen the internal audit functions.;</p> <p>6. All valid pending bills that have been reviewed by the Office of the Auditor General be paid and a payment plan be submitted to the county assembly for approval and progress report on implementation sent</p>		
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		<p>to the Senate and the Office of the Controller of Budget;</p> <p>7. the KRA should cease imposing penalties on counties for late statutory deductions remittances as it is caused by late exchequer releases from the National Treasury;</p> <p>8. The County CEO undertakes administrative action against responsible officer(s) for non-remittance of statutory deductions and Sacco dues in accordance with Section 156 of the Public Finance Management Act, 2012 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report.</p>		
4.	<p><b>1.0 Budgetary Control and Performance</b></p> <p>i. Total budget was Kshs.8,881,773,924, but actual receipts was Kshs.6,133,453,887 resulting to under-funding of Kshs.2,748,320,038 or 31% of the budget.</p> <p>ii. The County Executive spent</p>	<p>The Committee therefore recommends that:</p> <p>1. the National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate.</p> <p>2. the County executive puts in place measures</p>	The National Treasury	Continuous

	Kshs.6,117,545,831 against an approved budget of Kshs.8,881,773,924 resulting to an under-expenditure of Kshs. 2,764,228,093 or 31% of the budget.	to enhance its own generated revenue in order to meet its revenue target and address revenue shortfalls.		
5.	<b>2.0Late Exchequer Releases</b> Note 1 to the financial statements reflects total Exchequer releases of Kshs. 5,688,553,543, out of which an amount of Kshs. 1,129,430,250 or 20% was received by the County Government from the National Treasury during the month of June	The Committee therefore recommends that: 1. the National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate . 2. The County executive puts in place measures to enhance its own generated revenue in order to meet its revenue target and address revenue shortfalls.	The National Treasury	Continuous
6.	<b>1.0Irregular Expenditure on Council of Governors</b> Amount of Kshs.1, 250,000 incurred on Council of Governors during the year under review.	The Committee recommends that;- 1. the irregular payments to the Council of Governors (COG) be stopped and further recommends the surcharge of any Governor, in their capacity as Chief Executive Officer, who continues to	The County Chief Executive Officer  EACC	Immediate



		<p>make the irregular contribution; and</p> <p>2. The EACC should oversee the recovery of all the public funds irregularly transferred to the Council of Governors (COG) by the Governor. This is in line with the Resolution of the Senate.</p>		
7.	<p><b>2.0 Outstanding imprests</b></p> <p>Outstanding imprests of Kshs.37,907,238 as at 30 June, 2020, which includes imprest totaling Kshs. 7,035,768 issued in 2018/2019 financial year had not been surrendered as at 30 June, 2020</p>	<p>The Committee recommends that-</p> <p>1. the Ethics and Anti-Corruption Commission causes an investigation into the responsible officer(s) for breach of Regulations 93(6) and 93(7) of the Public Finance Management (County Government) Regulations, 2015 and provides a status report to the Office of the Auditor General within 60 days of adoption of this report.</p> <p>2. the Institute of Certified Public Accountants of Kenya (ICPAK) takes action(s) against the Head of Treasury for gross negligence in the</p>	<p>1. The EACC</p> <p>2. ICPAK</p>	<p>60 days from the date of adoption of this report</p>

		<p>conduct of professional duties which constitutes a professional misconduct pursuant to Section 8 (a) and 30 of the Accountants Act CAP 531 and reports to the Office of the Auditor General within 60 days of adoption of this report ;and</p> <p>3. the officers who failed to surrender the safari imprest within 7 days of returning to duty station in violation of Section 93(5) of the PFM Act (County Governments) Regulations, 2015 be surcharged with an interest at the prevailing Central bank rates.</p>		
8.	<p><b>3.0 Irregular Salary Payment to Employees</b> An officer who retired in December, 2019 was paid an amount of Kshs.94, 400 being salary up to January, 2020. Management did not provide explanations for the anomalies</p>	<p>The Committee recommends that the county continues engaging the Ministry of Agriculture, Livestock and Fisheries in a bid to recover the amount of Kshs.94,000.</p>	<p>The County Chief Executive Officer</p>	<p>Immediate</p>
9.	<p><b>4.0 Non- Compliance with Regional Diversity Requirement</b></p>	<p>The Committee recommends that-</p> <p>1. The county executive should work</p>	<p>The Senate The County Public Service Board</p>	<p>60 days from the date of</p>



	Examination of personnel records indicated that the County Executive had a total of 1,883 employees, out of which 86% of the workforce were from the dominant ethnic community in the County.	<p>progressively towards attaining the requirement of the provisions of Section 65(1) (e) of County Government Act on ethnic inclusivity.</p> <p>2. The County Executive and CPSB should provide to the Auditor General a five-year strategy of measures it will put in place to ensure compliance is achieved within sixty (60) days of the adoption of this report.</p>		adoption of this report
10.	<p><b>5.0 Failure to Comply with One Third Basic Salary Rule</b></p> <p>Review of the County Executive's payroll revealed that thirty-seven (37) employees earned net salaries which were below a third of their basic pay</p>	<p>The Committee therefore recommends that -</p> <p>(1) The County Executive should provide to the Auditor General within sixty (60) Days after the adoption of this report a plan of the measures put in Place to mitigate on the issue as well as comply with the requirements of Law;</p> <p>(2) The county should configure their IPPD system such that it is able to lock out commitments beyond the accepted thresholds;</p> <p>3)The Auditor General should continue monitoring the issue in subsequent financial years.</p>	The County CEO	60 days from the date of adoption of this report
11.	<p><b>6.0 Excessive Expenditure on Personnel Emoluments</b></p>	The Committee recommends that;	<p>The Governor</p> <p>The Auditor General</p>	Within 60 days from the date of

	Examination of revenue and expenditure records indicated that compensation of employee's expenditure for the year under review totalled Kshs.2, 326,451,400 equivalent to 38% of the revenue of the County Executive totaling Kshs.6, 133,453,887	1. That the County Executive to strictly adhere to the provision of paragraph 25(1)(b) of the PFM Act (county government) regulations, 2015 which stipulate that the county wage bill should not exceed 35 per cent of the county total revenue; and 2. That County Executive to provide to the Auditor General the measures put in place to contain the county higher wage bill within sixty (60) days from the adoption of this report.		adoption of this report
12.	<b>7.1Grounded Serviceable Tractors</b> Physical verification revealed that 22 tractors were supplied but only 8 tractors were operational leaving 14 serviceable tractors grounded and lying idle. Under the circumstance, value for money was not obtained from the 14 grounded tractors procured during the year ended 30 June, 2014	The Committee recommends that the county government takes immediate action to service and repair the grounded tractors and provide a status update to the Office of the Auditor General within 60 days from the adoption of this report.	The Governor  The Auditor General	Within 60 days from the adoption of this report.
13.	<b>7.4Rehabilitation of Miruka Water Pan</b> Physical verifications in November, 2020 revealed that the solar accessories were not installed. Further the site was bushy, and the toilets and bathrooms could not be accessed. In the circumstance, the	The Committee recommends that; (1) The county government takes immediate action to ensure opening up and utilization of complete projects and provide a status update within 60 days from the adoption of this report;	The Governor  The Auditor General	60 days from the date of adoption of this report



	propriety and value for money on the expenditure of Kshs.4,590,400 could not be confirmed.	(2)The Auditor General should audit the projects to ascertain the utilization of the said projects in line with this recommendation.		
14.	<b>7.5 Supply of Heifers to Farmers</b> <ul style="list-style-type: none"> <li>An expenditure of Kshs.2,448,000 for supply and delivery of 19 dairy cows in calf to Yimbo East, Sigomere, North Ugenya ward during the year under review.</li> <li>Physical verification in November, 2020 revealed that more than half of the animals delivered died but the death reports issued by the Veterinary Department were not provided to confirm the death of animals.</li> </ul>	The Committee recommends that the county CEO to take administrative action against the responsible officer(s) who failed to undertake due diligence in the conception of the heifer farming project in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report.	The Governor	60 days from the date of adoption of this report
15.	<b>7.6 Supply of Poultry to Farmers</b> <ul style="list-style-type: none"> <li>An amount of Kshs.4,780,500 incurred for the supply and delivery of 15,965 one-month old chicks to Yala Township, Alego Usonga, Bondo, Rarieda, Ukwala, Ugunja, Wagai, Asembo and Sidindi wards.</li> <li>Physical verification in November, 2020</li> </ul>	The Committee recommends that the county CEO to take administrative action against responsible officer(s) who failed to undertake due diligence in the conception of the Poultry farming project in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Office of the Auditor General within	The Governor	Within 60 days from the date of adoption of this report

	revealed that more than half of the chicks delivered died but the death reports issued by the Veterinary Department were not provided to confirm the death of the chicks	sixty (60) days from the adoption of this report.		
16.	<p><b>7.8 Purchase of Land for State Officers Residence</b></p> <p>Kshs.9, 500,000 for the purchase of parcels of land for state officer's residence. However, the following anomalies were noted:</p> <p>(i) the purchased parcels of land were not in the approved budget and procurement plan during the year of audit review.</p> <p>(ii) There was no public participation before the parcels of land were purchased as the procurement was funded by the savings made from road constructions.</p> <p>(iii) No title deeds for the parcels were produced for audit verifications.</p>	<p>The Committee recommends that the County CEO undertakes administrative action against the responsible officer(s) for expending money on a project not in the procurement plan in violation of the provisions of the Public Procurement and Asset Disposal Act, 2015 in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report.</p>	The County CEO	60 days from the date of adoption of this report



	(iv) Physical verification in November, 2020 revealed that the parcels have not been fenced.			
17.	<b>7.11 Unsupported Payments for Preparation of County Spatial Plan</b> The payment of Kshs.10,000,000 was made before approval of the final draft report by the County Assembly and no explanation has been provided for the anomaly.	The Committee recommends that the County CEO undertakes administrative action against the responsible officer(s) for making the payment of Kshs.10 million before approval of the final draft report by the County Assembly in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report.	The County CEO	60 days from the date of adoption of this report
18.	<b>7.12 Implementation of Nyalnawi Water Pan</b> <ul style="list-style-type: none"> <li>An amount of Kshs.8,406,250 for fencing the community water point for livestock trough and distilling works at Nyalnawi water pan.</li> <li>Physical verification in November, 2020 revealed that the project had been vandalized. The flush water toilets were clogged, the fence toilet doors were vandalized and the water pan had no</li> </ul>	The Committee recommends that; <ul style="list-style-type: none"> <li>(1) The county government takes immediate action to repair the vandalized water pan;</li> <li>(2) The Auditor General should audit the project and report to the Committee in the next audit cycle.</li> </ul>	The County CEO	

	gates to secure the project.			
19.	<b>7.13 Inventory not Taken on Charge-Assorted Sports Item</b> Kshs.5,605,438 for the supply of assorted sports items. However, the assorted sports items were not taken on charge in the store's ledger.	The Committee recommends that the county CEO takes administrative action against, responsible officer(s) who failed to take charge in the store's ledger in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report.	The County CEO	60 days from the date of adoption of this report

### Qualified Opinion

#### 1.0 Unsupported Adjustment - Budgeted Exchequer Releases

The summary statement of appropriation - recurrent and development combined reflects a final budget of Kshs.8,106,977,580 under Exchequer releases. However, the budgeted amount had been arrived at after a negative adjustment of Kshs.341,576,215 which has not been explained. In the circumstances, accuracy and completeness of the financial statements for the year ended 30 June, 2020 could not be confirmed.

#### Management Response

The Management stated that the negative adjustment of Kshs. 341,576,215 from 2019/2020 original budget to supplementary budget can be explained through the summary in the table below;

Item	2019/20 Original Budget (Kshs.)-A	2019/20 Supplementar y Budget (Kshs.)-B	Variance-(B-A)	Remarks
Equitable share-A	5,673,000,000	5,791,950,000	118,950,000	The variance is the additional equitable share allocation



Conditional Grants-B	715,544,467	750,544,467	35,000,000	The variance is the additional allocation to Water Tower programme-Grant
Own Source Revenue (OSR)-C	420,000,000	420,000,000		
BF from FY 2018/19-D	2,414,805,672	1,919,279,457	(495,526,215)	The negative variance is the deficit in balances brought forward from FY 2018/19
<b>Total=(A+B+C+D)</b>	<b>9,223,350,139</b>	<b>8,881,773,924</b>	<b>(341,576,215)</b>	

The deficit in BF from FY 2018/19 of **Kshs. 495,526,215** was attributed to the following factors;

1. Non receipt of **Kshs. 200,000,000** for lease of medical equipment.
2. Non realized Own Source Revenue (OSR) of **Kshs. 140,377,623**
3. Non-receipt of **Kshs. 155,148,592** for other conditional grants

Further, the County Executive attached supplementary budget extract as evidence to show the movement of balance brought forward from Kshs.2,414,805,672.00 to Kshs.1,919,279,457.00 to support the Kshs.495,526,215.00 negative variance in balance brought forward from FY 2018/2019.

#### **Committee Observations**

The Committee noted that;

1. The County Executive had financial statements with a negative adjustment of Kshs.341, 576,215 that was not explained; and
2. the variance was a result of professional negligence.

#### **Committee Recommendations**

The Committee recommends that;

1. the county executive report back the findings of the Taskforce on the Audit of Siaya County Governments Systems and Governance Reforms that has been set up in Siaya County and the measures proposed to ensure streamlining of existing financial and other internal control systems, IFMIS operations and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report; and

2. **the County CEO undertakes administrative action against the accounting officer, the Chief Officer Finance, the Head of County Treasury and any other officer(s) responsible for undertaking reconciliation of financial statements in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report.**

## **2.0 Fixed Assets**

As disclosed in Note 17 to the financial statements, the statement of receipts and payments reflects an expenditure of Kshs.1, 377,164,209 incurred on acquisition of assets during the year under review. However, the summary of fixed assets register at Annex 5 to the financial statements reflects a balance of Kshs.1, 195,616,531 being additions during the year, resulting to an unreconciled variance of Kshs.181, 547,678. Further, the summary of fixed assets register at Annex 5 to the financial statements reflects a comparative balance of Kshs.5,241,149,603 which differs with the balance of Kshs.1,471,622,238 reflected in the audited financial statements for the year ended 30 June, 2019. The resultant variance of Kshs.3, 769,527,365 has not been explained or reconciled. In addition, a parcel of land measuring 2.0 hectares worth Kshs.2, 000,000 was not recorded in the assets register.

Under the circumstance, the accuracy and completeness of the total fixed assets balance of Kshs.6, 436,766,134 as at 30 June, 2020 could not be confirmed.

### **Management Response**

The Management stated that the differences between financial statements (Note 17) and the summary of fixed asset register (Annex 5 in the financial statement) was due to expenditure classification in the Public Sector Accounting Standards Board reporting format (IPSAS Cash Basis). The format classified all capital expenditure as acquisition of assets but not all the capital expenditure qualifies as fixed assets.

IAS 16 prescribes that an item of property, plant and equipment should be recognized (capitalized) as fixed asset if it is probable that the future economic benefits associated with the asset will flow to the entity and the cost of the asset can be measured reliably. IAS 16 further states that the cost of an item of property, plant and equipment shall be recognized as fixed asset if, and only if:

- it is probable that future economic benefits associated with the item will flow to the entity; and
- The cost of the item can be measured reliably.

This recognition principle shall be applied to all costs at the time they are incurred, both **incurred initially** to acquire or construct an item of property, plant and equipment and **incurred subsequently after recognition** to add to, replace part of or service it. The acquisition of assets not updated in the fixed assets register do not qualify as fixed assets as explained below



- i. **Research studies, project preparation and design supervision (Kshs.135,288,099)** Research studies, project preparation and designs supervision were intangible assets as defined under IAS 38 which are non-monetary assets without physical substance and identifiable and therefore are not supposed to be updated in the Fixed Assets Register.
- ii. **Biological Asset (Kshs. 25,351,675)** were other assets that are in Note 17(Acquisition of assets) of the financial statement but were not updated in the assets register because they were recorded as explained in the IAS 41 and therefore were not listed as fixed assets as defined in IAS 16 and don't qualify to be updated in the Fixed Assets Register. Biological assets were issued to the community and therefore the County Government did not have custody over them.
- iii. **Acquisition of Other Inventory (Kshs10, 025,171).** These are consumables and therefore didn't qualify to be fixed Assets as defined in IAS 16. Although classified as acquisition of assets as prescribed under IPSAS format, they are current assets in nature and therefore could not be updated in the fixed assets register; and
- iv. **Refurbishment of buildings (Kshs.10, 882,731)** these are not additions of Fixed Assets during the year but improvements to the already existing buildings. They cannot be tagged as new additions for the year under review.

The Management also stated;

- (i) That the balance of Kshs. 5,214,149,603.00 was cumulative balance of acquisition of assets as at 30<sup>th</sup> June, 2019 but not expenditure on acquisition of assets for the period ended 30<sup>th</sup> June, 2019.
- (ii) The Kshs.1,471,622,238.00 was the total expenditure on acquisition of Assets for the period Ended 30<sup>th</sup> June, 2019 ( Refer to Note 17 of the Financial Statement FY 2018/2019)
- (iii) That the resultant variance as per your findings of Kshs.3, 769,527,365.00 was the cumulative balance brought forward for FY 2017/2018.

**Reconciliation of financial statement (Note 17) and Fixed Assets Register balances**

	<u>Amount</u> <u>(Kshs.)</u>	<u>Amount</u> <u>(Kshs.)</u>	<b>Reason for not updating in the Fixed Assets Register</b>
Acquisition of Assets total in the Financial statement		1,377,164,209.0 0	
<b>Acquisition of Assets not updated in Fixed Assets Register</b>			

Research Studies, Project Preparation, Design & Supervision	135,288,099		These are intangible assets as defined under IAS 38 assets without physical substance and identifiable and therefore are not in the Fixed Assets Register (Current Assets)
Purchase of certified seeds and breeding stock	25,351,675.00		These are not fixed assets as defined by IAS 16 therefore don't qualify to be updated in the fixed assets register (Current Assets)
Acquisition of Other Inventory	10,025,172.00		These are consumable and don't qualify to be Fixed Assets as defined in IAS 16 (Current Assets)
Refurbishment of buildings	10,882,731.00		These are not additions of Fixed Assets during the year but improving the already existing buildings. Updating done in fixed assets register for the existing buildings.
<b>Totals Assets not updated in Fixed Assets register</b>	<b><u>181,547,668.00</u></b>	<b><u>(181,547,668.00)</u></b>	
<b>Fixed Assets Register Additions</b>		<b><u>1,196,616,531.00</u></b>	

Management stated that the lands purchased in the period under review were captured in the supporting schedules and fixed asset register.

#### Committee Observations

The Committee observed that;

1. the County Executive lacked an updated Fixed Asset Register; and
2. 2.0-hectare piece of land has not been recorded in the fixed assets register of the County Executive



### **Committee Recommendations**

The Committee recommends that the-

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

### **3.0 Unexplained Variance - Compensation of Employees**

Compensation of Employees The statement of receipts and payments reflects an expenditure of Kshs.2,326,451,400 under compensation of employees which differs from the balance of Kshs.2,362,946,400 reflected in the supporting schedules. The resultant variance of Kshs.36, 495,000 has not been explained or reconciled. In the circumstance, validity, accuracy and completeness of the compensation of employees cost of Kshs.2, 326,451,400 for the year ended 30 June, 2020 could not be confirmed.

#### **Management Response**

Management submitted that the County's supporting schedules for Compensation of Employees of Kshs. 2,326,451,400.00 excluded Kshs.36,495,000 received on 6th July 2020 in respect to doctor's allowance during Covid-19 and therefore could not be reported as expenditure under compensation of employee during the year under review. Management confirmed that the payment was subsequently done in the financial 2020-2021.

### **Committee Observations**

The Committee noted that the matter has since been addressed.

### **Committee Recommendations**

The Committee recommends that the matter be marked as resolved.

### **4.0 Undisclosed Transfers to Other Government Units**

The statement of receipts and payments reflects transfers to other Government entities of Kshs.858, 267,464 while the supporting schedules for the expenditure reflected an amount of Kshs.1, 082,246,513 resulting to a variance of Kshs.223, 979,049 which had not been explained or reconciled. Under the circumstance, the accuracy and completeness of the transfers to other Government units of Kshs.858, 267,464 for the year ended 30 June, 2020 could not be confirmed.

#### **Management Response**

Management stated that;

- i. The supporting schedule of Kshs.1,082,246,513 comprised of Kshs.223,979,042 being transfers of Grants received from Donors and the National Government and Kshs.858,267,464 being transfers to the County Assembly
- ii. The transfers of grants of Kshs. 223,979,049.00 (from donor and National government) did not qualify to be categorized as Government Entity hence the non-disclosure in our financial statements as transfers to other Government entities

### **Committee Observations**

The Committee noted that the matter has since been addressed.

### **Committee Recommendations**

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

### **5.0 Pending Bills**

Annex 2 to the financial statements on Analysis of Pending Accounts Payables reflects pending bills of Kshs.222,333,808 which decreased by Kshs.164,453,920 from Kshs.386,787,728 as at 30 June, 2019. However, the following anomalies were observed:

- (i) Pending bills relating to construction of building of Kshs.17,486,043 and construction of civil works of Kshs.42,038,481 both totalling to Kshs.59,524,524 were not supported by certificates of works done.
- (ii) The creditor's ledger was not provided to ascertain the creditor's movement from Kshs.386,787,728 as at 30 June, 2019 to Kshs.222,333,808 as at 30 June, 2020.
- (iii) Pending bills amounting to Kshs.271,951,370 were paid on behalf of the County of Siaya for health workers salaries by the Ministry of Health in 2013-2014. The amount was not included in the pending bills balance of Kshs.222,333,808 as at 30 June, 2020 understating the pending bills balance at close of the year under review.

In the circumstance, the accuracy and completeness of the Kshs.222,333,808 as at 30 June, 2020 could not be confirmed.

### **Management Response**

Management submitted that;

- i. Certificates of work done in relation to pending bills on construction of buildings of Kshs. 17,486,043 and civil works of Kshs. 42,038,481.00 are attached for verification;
- ii. The County master/consolidated creditors ledger was attached for verification;
- iii. The pending bills amounting Kshs. 271,951,370 were not included in our financial statement since they were not supported by any document to confirm its existence for it to be part of the pending bills for the year ended 30th June 2020. In addition, the County was yet to receive demand note/invoice from the Ministry of Health. Further, in the financial year 2019-2020 the Office of the Auditor General (OAG) circularized that any individual/institution that is owed by County Governments (s) to submit documents for verification. Ministry of



Health did not bring up this pending bill. The County viewed the pending bill of Kshs.271, 951,370 as ineligible.

### **Committee Observations**

The Committee observed that;

1. the Siaya County Executive pending bills at the time of appearance before the Committee stood at approximately Kshs.400 million;
2. Siaya County Executive had established a pending bills verification Committee;
3. the Siaya County Executive pending bills were majorly statutory deductions and Sacco dues;
4. the Siaya County Executive has a balance of Kshs.52 million owed to LAPFUND which was penalties and interest accrued;
5. the Kenya Revenue Authority (KRA) imposed penalties on counties for late statutory deductions remittances caused by late exchequer releases.
6. the County Executive did not provide a status report of all its pending bills as prescribed by the Public Sector Accounting Standards Board. This could lead to inadequate disclosures of the pending bills.

### **Committee Recommendations**

The Committee recommends that;-

1. the National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate so as to enable county entities settle their obligations on time;
2. the County Executive should disclose all pending bills in the format prescribed by the Public Sector Accounting Standards Board as stipulated under Section 104(1)(h) of Public Finance Management Act, 2012;
3. the county executive puts in place measures to enhance own generated revenue in order to meet its revenue target and address revenue shortfalls that contribute to the challenge of pending bills;
4. Pending bills deemed ineligible should be forwarded to the Directorate of Criminal Investigation (DCI) for investigation proper legal action taken against those filing false claims;
5. County Government to take note of judgement in a Kitale High Court Constitutional Petition E003 of 2023 that declared formation of pending bills verification committees unconstitutional and engage Office of the OAG and strengthen the internal audit functions.;
6. All valid pending bills that have been reviewed by the Office of the Auditor General be paid and a payment plan be submitted to the county assembly for approval and progress report on implementation sent to the Senate and the Office of the Controller of Budget;
7. the KRA should cease imposing penalties on counties for late statutory deductions remittances as it is caused by late exchequer releases from the National Treasury; and

8. the County CEO to undertake administrative action against responsible officer(s) who failed to remit the statutory deductions and Sacco dues in accordance with Section 156 of the Public Finance Management Act, 2012 and provide a status update to the Office of the Auditor General within 60 days of adoption of this Report.

#### **Other Matter**

#### **1.0 Budgetary Control and Performance**

The summary statement of appropriation - recurrent and development combined for the year ended 30 June, 2020 reflects final receipts budget and actual on comparable basis totalling Kshs.8,881,773,924 and Kshs.6,133,453,887 respectively, resulting to an underfunding of Kshs.2,748,320,038 or 31% of the budget. Similarly, the County Executive spent Kshs.6, 117,545,831 against an approved budget of Kshs.8, 881,773,924 resulting to an under-expenditure of Kshs.2, 764,228,093 or 31% of the budget. The underfunding and underperformance constrained execution of planned activities and delivery of services to the residents of Siaya County.

#### **Management Response**

The under-funding and under-expenditure is attributed to under collection of own source revenue, under receipt of donor funds and late release of exchequer by the National Treasury.

#### **Committee Observation**

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

#### **Committee Recommendations**

**The Committee recommends that:**

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

#### **2.0 Late Exchequer Releases**

Note 1 to the financial statements reflects total Exchequer releases of Kshs. 5,688,553,543, out of which an amount of Kshs. 1,129,430,250 or 20% was received by the County Government from the National Treasury during the month of June as detailed below:

Date Funds Received in the Bank Account	Amount (Kshs.)
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15- Jun- 20	608,154,750
24- Jun- 20	521,275,500
<b>Total</b>	<b>1,129,430,250</b>

As a result of the delayed receipts of funds, the County Executive did not have sufficient time to absorb its total budget for the year.

#### **Management Response**

Management stated that the National Treasury did not release exchequer on time hence affecting the budget performance.

#### **Committee Observation**

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

#### **Committee Recommendations**

**The Committee recommends that:**

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

### **REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

#### **1.0 Irregular Expenditure on Council of Governors**

The statement of receipts and payments reflects an expenditure of Kshs.1, 554,295,908 under use of goods and services which, as disclosed in Note 12 to the financial statements, includes an amount of Kshs.254, 206,997 relating to operating expenses. The latter balance includes an amount of Kshs.1, 250,000 incurred on Council of Governors during the year under review. However, Section 37 of the Inter-Governmental Relations Act, 2012 states that all operational expenses of the Council of Governors should be met by the National Government. In the circumstances, the propriety and legality of the expenditure of Kshs.1, 250,000 on the Council of Governors could not be confirmed.

#### **Management Response**

Management stated that the Expenditure of Kshs.1, 250,000 was as result of a resolution of the Council of Governors letter dated 29<sup>th</sup> August 2019. Siaya County being a member of the Council of Governors was obliged to support the initiative.

### **Committee Observation**

The Committee noted that payments made to the Council were irregular and unlawful.

### **Committee Recommendation**

**The Committee recommends that:-**

1. the irregular payments to the Council of Governors (COG) be stopped and further recommends the surcharge of any Governor, in their capacity as Chief Executive Officer, who continues to make the irregular contribution; and
2. The EACC should oversee the recovery of all the public funds irregularly transferred to the Council of Governors (COG) by the Governor. This is in line with the Resolution of the Senate.

### **2.0 Outstanding Imprests**

As disclosed in Note 24 to the financial statements, the statement of financial assets and liabilities reflects a balance of Kshs.37, 907,238 as at 30 June, 2020 in respect of accounts receivables-outstanding imprests. However, imprest totaling Kshs.7, 035,768 issued in 2018/2019 financial year had not been surrendered as at 30 June, 2020. This is contrary to Section 93(5) of the Public Finance Management (County Governments) Regulations, 2015 which requires a holder of a temporary imprest to surrender the imprest within 7 working days after returning to duty station. Further, Section 6 of the Regulations requires that in the event the imprest holder fails to account for and surrender the imprest on the due dates, the Accounting Officer shall recover the amount fully from the salary of the defaulting officer with an interest at the prevailing CBK rates. In addition, some officers were issued with more than one imprest against Section 93(8) of the Public Finance Management (County Governments) Regulations, 2015 which requires the Accounting Officer to ensure that no second imprest is issued to any officer before the first imprest is surrendered or recovered in full from his or her salary. In the circumstance, the Management was in breach of the law and recoverability of outstanding imprest of Kshs.7, 035,768 as at 30 June, 2020 is doubtful.

### **Management Response**

Management stated that;

1. The imprest of Ksh37, 907,238.00 which included Kshs. 7,035,768.00 issued in 2018/2019 had since been accounted for/surrendered.
2. In order to ensure that no officer is issued with more than one imprest, the County Treasury has centralized management of imprest i.e. authorization, issuance, and surrender of imprest.

### **Committee Observations**

The Committee noted that;

1. The County Executive had failed to submit relevant documents on time to the Auditor General during the audit exercise contrary to Section 62 of the Public Audit Act, 2015;



2. Kshs.7,035,768.00 issued in 2018/2019 was accounted for/surrendered, as per the attached summary annex 6, but no evidence was adduced to show how the amounts were accounted for;
3. the executive had several outstanding imprests not surrendered within 7 days of returning to duty station in violation of Section 93(5) of the PFM Act (County Governments) Regulations, 2015 and stated that the responsible officers should be surcharged with an interest at the prevailing Central bank rates.

### **Committee Recommendations**

**The Committee recommends that;**

- 1) the officers who failed to surrender the imprest within 7 days of returning to duty station in violation of Section 93(5) of the PFM Act (County Governments) Regulations, 2015 be surcharged with an interest at the prevailing Central bank rates;
- 2) the EACC to expedite their investigation on imprest mismanagement in Siaya County and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report.

### **3.0 Irregular Salary Payment to Employees**

Review of the personnel emoluments, payroll and personal files revealed that an officer was transferred from Siaya County to Bungoma County on 11 May, 2012 but the officer continued to draw salary from Siaya County Government up to October, 2019 totaling to Kshs.4, 545,641 which had not been recovered. Further, an officer who retired in December, 2019 was paid an amount of Kshs.94, 400 being salary up to January, 2020. Management did not provide explanations for the anomalies. Consequently, the propriety of the total expenditure of Kshs.4, 640,041 could not be confirmed as a proper charge to public funds for the year ended 30 June, 2020.

### **Management Response**

Management stated that;

- i) An officer whose details is stated below was transferred from Siaya to Bungoma on **11<sup>th</sup> May, 2012.**

**Name: Betty Namuku Makonjio**

**Pf No. 2009075874**

The staff continued to draw salary up to **October, 2019** upon which the salary was stopped immediately. Upon discovery of the irregular payment of salary to the staff totaling **Ksh.4, 545,641.75**, steps were taken to recover the amount from Bungoma County. Please find attached copies of letters, cheque and receipt as evidence of recovery of the money by Siaya County.

**(ii).Name: Elijah Umidha**

**P/F No: 1982042046**

The officer is a Person Living with Disability (PLWD), No. 20130715/2260 and was due for retirement in the year 2023. He was a devolved staff from the National Government and his pension handled at that level. Through a letter dated **23th September, 2019**, the officer wrote to the Principal Secretary, Ministry of Agriculture, Livestock and Fisheries, requesting for early retirement on medical grounds. The Ministry acknowledged the letter through their letter dated **16th December, 2019**. The officer was granted early retirement and was to be paid up to and including **November, 2019**.

However, the County Government of Siaya received the letter on **16th January, 2020** after payment of **December , 2019** salary and processing of **January, 2020** salary.

#### **Steps taken to recover the overpayments**

A letter was written to the Ministry of Agriculture notifying them of the two months overpayment and with an instruction to recovery the amount in question from the officer's pension.

The County Executive are yet to receive any response from the Ministry on whether they effected the recovery

The overpayment in the months of December, 2019 and January, 2020 was brought to the attention of the Ministry, vide a letter dated **19th February, 2020**, for purposes of recovery from the officer's pension benefits.

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#### **Committee Observations**

The Committee noted that;

1. that the officer who retired in December, 2019 and was paid an amount of Kshs.94, 400 being salary up to January 2020 the funds are yet to be recovered.
2. The officer was devolved from the National Government and had requested for early retirement through the Principal Secretary, Ministry of Agriculture, Livestock and Fisheries through a letter dated **23th September, 2019**.
3. there was correspondence between the county and the Ministry of Agriculture to help recover the amount of Kshs.94,000.

#### **Committee Recommendations**

**The Committee recommends that the county continues engaging the Ministry of Agriculture, Livestock and Fisheries in a bid to recover the amount of Kshs.94,000**

#### **4.0 Non-Compliance with Regional Diversity Requirement**

Examination of personnel records indicated that the County Executive had a total of 1,883 employees, out of which 86% of the workforce were from the dominant ethnic community in the County contrary to Section 7(2) of the National Cohesion and Integration Act, 2008. The law requires the County Government to ensure that at least thirty percent (30%) of the vacant posts at entry level are filled by candidates who are



not from the dominant ethnic community in the County. Consequently, the Management was in breach of the law.

### **Management Response**

A report on Ethnic and Diversity audit of the County Public Service by the National Cohesion and Integration Commission and Published in 2015 established that the Siaya County Public Service inherited 1,666 staff from both defunct local authority and the National Government comprising of 78.9% Luo ethnic majority against 21.1% from the non-dominant Ethnic communities. Therefore, the Ethnic composition of County employees from the onset of Devolution contravened section 65(1) of the County Government Act, which demands that at least 30% of the vacancies should be accorded to non-dominant ethnic communities. Inheritance of staff by the County public service has therefore contributed to non-compliance.

The County Public Service Board has taken deliberate and bold steps including affirmative action in new recruitments progressively address the problem of non-compliance. Despite the bold steps the following challenges continue to erode compliance efforts being undertaken by the board.

Every election cycle there is perceived fear for post-election violence and most employees from the non-dominant ethnic communities opt either to resign or request for an inter county transfer to their home counties,

- i. The board has been strict on such requests for transfer and that has stalled the mass exodus of employees.
- ii. Only about an average of 5% of applicants' from the non-dominant communities applies for the available job vacancies in the county public service. About 95% of all applicants are from the Luo community.
- iii. Most job offer declinations are from the minority ethnic communities since the jobs are mostly at entry level and the remuneration packages not so attractive to non-locals

Despite the above cited challenges, the Board will continue to be innovative in order to progressively comply with the law.

### **Committee Observation**

The Committee observed that;

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

### **Committee Recommendations**

The Committee recommends that-

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

2. **The County Executive and CPSB should provide to the Auditor General a five-year strategy of measures it will put in place to ensure compliance is achieved within sixty (60) days of the adoption of this report.**

### **5.0 Failure to Comply with One Third Basic Salary Rule**

Review of the County Executive's payroll revealed that thirty-seven (37) employees earned net salaries which were below a third of their basic pay. This was contrary to Section 19(3) of the Employment Act, 2007 which states that the total amount of deduction of the wages of an employee should not exceed two third of such wages. The Management was therefore in breach of the law.

#### **Management Response**

The Management submitted that that the affected employees were those who had disciplinary cases. Some of them were serving on suspension and were therefore entitled to earn house allowance only. Others were serving on interdiction and were entitled to half basic salary and house allowance only. The disciplinary measures were taken against the said employees when they had committed their salaries on loans. Please find copies of pay slips of sampled officers whose disciplinary process were dispensed with. Also note that; copies of pay slips during the period the officers were undergoing disciplinary procedures and after the period. From the sample pay slips, the salaries are within the Third Rule.

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#### **Committee Observation**

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

#### **Committee recommendations**

**The Committee therefore recommends that -**

- (1) The County Executive should provide to the Auditor General within sixty (60) Days after the adoption of this report a plan of the measures put in Place to mitigate on the issue as well as comply with the requirements of Law;**
- (2) The county should configure their IPPD system such that it is able to lock out commitments beyond the accepted thresholds;**
- (3) The Auditor General should continue monitoring the issue in subsequent financial years.**

### **6.0 Excessive Expenditure on Personnel Emoluments**

Examination of revenue and expenditure records indicated that compensation of employee's expenditure for the year under review totaled Kshs.2, 326,451,400 equivalent to 38% of the revenue of the County Executive totaling Kshs.6, 133,453,887. The expenditure therefore exceeded the threshold of 35% prescribed under Regulation 25 (1) (b) of the Public Finance Management (County Governments) Regulations, 2015. The high wage bill is an indication that most of the County's resources are spent on staff salaries at the expense of development projects and thus impacting negatively on service delivery to the residents of Siaya County.



### **Management Response**

Management stated that the employee compensation is 38% but the County Government of Siaya had made an improvement by reducing the percentage from 42% in FY 2017/2018 to 38% in FY 2019/2020.

However, County Government of Siaya had put measures to maintain employee compensation below 35% by;

- i. The County Government of Siaya through the cabinet resolved to freeze employment to replace the exited staff from service.
- ii. There has been reorganization of staff in the departments, directorate and sections to take the responsibilities of the staff who have exited the service

### **Committee Observation**

The Committee observed that the County Executive's wage bill during the FY 2019/2020 stood at 38% of the its total receipts. This affected the budgetary allocations available for development projects.

### **Committee Recommendation**

**The Committee recommends-**

- 1) That the County Executive to strictly adhere to the provision of paragraph 25(1)(b) of the PFM Act (county government) regulations, 2015 which stipulate that the county wage bill should not exceed 35 per cent of the county total revenue; The Committee recommends that;
- 2) The County Executive should engage the State Department of Public Service to fast-track the issuance of personal numbers to enable them onboard all employees on the Integrated Personnel and Payroll Database (IPPD) System and the Auditor General to monitor the matter in subsequent audit cycle; and
- 3) That County Executive to provide to the Auditor General the measures put in place to contain the county higher wage bill within sixty (60) days from the adoption of this report.

## **7.0 Acquisition of Assets**

As disclosed in Note 17 to the financial statements, the statement of receipts and payments reflects an expenditure of Kshs.1, 377,164,209 under acquisition of assets. Review of the expenditure revealed the following observations:

### **7.1 Grounded Serviceable Tractors**

Included in the expenditure of Kshs.1, 377,164,209 under acquisition of assets is an amount of Kshs.29, 088,974 in respect of purchase of specialized plant, equipment and machineries. The latter balance includes an amount of Kshs.15, 383,574 for purchase of tractors in the year 2014. However, physical verification revealed that 22 tractors were supplied but only 8 tractors were operational leaving 14 serviceable tractors grounded and lying idle. Under the circumstance, value for money was not obtained from the 14 grounded tractors procured during the year ended 30 June, 2014.

### **Management Response**

The Department acknowledged that only 8 tractors were in operation out of a fleet size of 22 at the time of audit. The Department carried out mechanical inspections of 22 tractors at the beginning of the financial year 2020/2021 with a view to repair all the tractors in readiness for the ploughing season.

The department had initiated the necessary legislative framework to enable sustainable funding for the project. The legislative framework would lead to the operationalization of the revolving fund for the tractors. In this regard the department has developed the Siaya County Agriculture Input Grants and Subsidies Bill

This is a legislative framework to guide the identification of beneficiaries, as well as informing the criteria for operationalization of Subsidies. This has been presented to the County Executive Committee and approved. It is awaiting enactment by the Siaya County Assembly. The Department is also finalizing the Siaya County Agriculture Mechanization Policy which will guide the County in sustainable Agricultural mechanization.

The Management of the department has always strived to adhere to laid down regulations

### **Committee Observation**

The Committee observed that only 8 tractors were in operation out of a fleet size of 22 at the time of audit.

### **Committee Recommendation**

**The Committee recommends that the county government takes immediate action to service and repair the grounded tractors and provide a status update to the OAG within 60 days from the adoption of this report.**

## **7.2 Renovation of Agricultural Training Centre (ATC) Siaya**

The expenditure of Kshs.1, 377,164,209 under acquisition of assets includes an amount of Kshs.10, 882,731 incurred on refurbishment of building which further includes Kshs.2, 161,460 for renovation works at the Agricultural Training Centre (ATC) Siaya. However, physical verification in November, 2020 revealed that the pre-cast concrete paving slab around the building had fallen off while the painting works was poorly done. The renovations were not therefore carried out to the required standards. In the circumstance, the propriety and value for money on the expenditure of Kshs.2, 161,460 could not be confirmed.

### **Management Response**

Management stated that the paving slabs were intact and there was no pre-cast concrete slab around the building.

On the painting works, as per the site visits with auditors, the area in question is the hostel. The cause of paint peeling off is due to dampness caused by plumbing works, in



addition the contractor has not been fully paid and retention money for this particular project has not been cleared hence the contractor has been instructed to attend to the defects. The contractor corrected the defects as per the instructions and ATC is currently in use as a college of Agriculture under Jaramogi Oginga Odinga University of Science and Technology.

#### **Committee Observation**

The Committee noted that the matter has since been addressed.

#### **Committee Recommendation**

**The committee recommends that the matter be marked as resolved.**

### **7.3 Fencing and Construction of Two Door Pit Latrines and Bathrooms at the Nyaudenge Beach**

The expenditure of Kshs.10, 882,731 on refurbishment of buildings also includes an amount of Kshs.891, 924 for fencing and construction of two door pit latrines and bathrooms at the Nyaudenge Beach during the year under. However, physical verification in November, 2020 revealed that the main gate was broken, and the supporting columns of the main gates were leaning on the sides. In the circumstance, the propriety and value for money on the expenditure of Kshs.891, 924 could not be confirmed.

#### **Management Response**

Management stated that the main gate that was broken had been repaired and supporting columns that were leaning on the sides had been made good.

#### **Committee Observation**

The Committee noted that the matter has since been addressed.

#### **Committee Recommendation**

**The committee recommends that the matter be marked as resolved.**

### **7.4 Rehabilitation of Miruka Water Pan**

The expenditure of Kshs.1, 377,164,209 under acquisition of assets includes an amount of Kshs.358, 648,199 for construction and civil works which further includes an amount of Kshs.8, 959,022 incurred on rehabilitation of Miruka Water Pan in North Sakwa Ward. The latter balance included amounts of Kshs.933, 600, Kshs.2, 632,600 and Kshs.1,024,200 allocated for installation of solar water pump, site clearance-earthworks and washrooms, respectively. Physical verifications in November, 2020 revealed that the solar accessories were not installed. Further the site was bushy, and the toilets and

bathrooms could not be accessed. In the circumstance, the propriety and value for money on the expenditure of Kshs.4, 590,400 could not be confirmed.

### **Management Response**

The audit was done 8 months after the contractor had handed over the site to the Project Management Committee (PMC). The contractor did the work as per the BOQ specifications. The works office inspected and issued a certificate of completion (certificate of completion). The PMC were satisfied with the work of the contractor as being complete and authorized the contractor be paid his dues (inspection and Acceptance). Inspection and Acceptance further proves that site clearance, earth works, solar water pump and its accessories were installed, tested and the works accepted by PMC as having been achieved 100%. Despite the 100% achievement, it is important to note that bush clearance at the site will remain a continuous activity every rainy season throughout the project period.

The minutes of the site meeting held on 25/2/20 approved the handing over of the project from the contractor to the PMC (Site Meeting minutes). The locks and keys were also handed over during the exercise. The site meeting of 25/2/20 further resolved that the PMC takes over the security matters of the project.

We wish further to state that the solar accessories were installed as per the specification detailed in the Bill of Quantities (BQs) and certified by the Project Manager as shown in to engineer's certificate. There were also photos taken after the installation of the solar accessories as shown in the attachment. The PMC later uninstalled the accessories for safe custody as they organized for the site security. A new committee was also elected to ensure proper usage of the facility.

### **Committee Observation**

The Committee noted that the site was abandoned by the contractor and therefore there was no value for money.

### **Committee Recommendations**

**The Committee recommends that;**

- (1) The county government takes immediate action to ensure opening up and utilization of complete projects and provide a status update within 60 days from the adoption of this report;**
- (2) The Auditor General should audit the projects to ascertain the utilization of the said projects in line with this recommendation.**

## **7.5 Supply of Heifers to Farmers**

Included in the expenditure of Kshs.1, 377,164,209 under acquisition of assets is an amount of Kshs.25, 351,675 incurred on purchase of certified seeds, breeding stock and live animals which further includes an amount of Kshs.2, 448,000 for supply and delivery of 19 dairy cows in calf to Yimbo East, Sigomere, and North Ugenya ward during the year under review. However, physical verification in November, 2020



revealed that more than half of the animals delivered died but the death reports issued by the Veterinary Department were not provided to confirm the death of the animals.

In the circumstances, the propriety and value for money on the expenditure of Kshs.2, 448,000 could not be confirmed.

#### **Management Response**

Management stated that the animals died and the veterinary officer could not perform the post-mortem since the farmers did not give a report in real-time for the vet offices and livestock officers to carry out post-mortem and they went ahead to dispose of the carcass. The officers only get to know about the death during routine follow-ups. However, management stated that currently, the county government had adopted to improve the locally available cattle by performing fixed-time artificial insemination. This enables farmers to take ownership of the calf born from their cows, secondly, the cow's breed gets adapted to the local climate condition thus improving productivity and reducing the mortality rate of animals. The department is currently carrying out a pilot demonstration on fixed-time artificial insemination in the East Yimbo ward.

In addition, the county is carrying out training and follow-up on dairy management

#### **Committee Observation**

The Committee noted that there was no due diligence before the county undertook the project of heifer farming.

#### **Committee Recommendation**

**The Committee recommends that the county CEO to take administrative action against responsible officer(s) who failed to undertake due diligence in the conception of the heifer farming project in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report.**

#### **7.6 Supply of Poultry to Farmers**

The expenditure of Kshs.25,351,675 incurred on purchase of certified seeds, breeding stock and live animals further includes an amount of Kshs.4,780,500 for supply and delivery of 15,965 one-month old chicks to Yala township, Alego Usonga, Bondo, Rarieda, Ukwala, Ugunja, Wagai, Asembo and Sidindi wards during the year under review. However, physical verification in November, 2020 revealed that more than half of the chicks delivered died but the death reports issued by the Veterinary Department were not provided to confirm the death of the chicks. In the circumstances, the propriety and value for money on the expenditure of Kshs.4, 780,500 could not be confirmed.

#### **Management Response**

Management stated that in the year under review, the birds died without post-mortem being carried out, however, the county had made strides in ensuring that proper training is carried out to improve the survival of the birds through timely vaccination and other

good husbandry practices, secondly training in observing vaccine cold chain, feeding management, and feeds production before the birds are distributed to the beneficiary. The training is being done in collaboration with The Agricultural Sector Development Support Program (ASDSP) and Kenya climate smart Siaya (KSCAP). The department has also intensified the follow-up on farmers to ensure the survival rate of birds is improved and the objectivity achieved

In addition, the county is in the process of reintroducing an agricultural and subsidies bill to the county assembly, through the cabinet. This help in grants management.

#### **Committee Observation**

The Committee noted that there was no due diligence before the county undertook the project of poultry farming.

#### **Committee Recommendation**

**The Committee recommends that the county to take administrative action against responsible officer(s) who failed to undertake due diligence in the conception of the poultry in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report.**

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### **7.7 Renovation Works at Moi University Odera Akang'o Campus College**

The expenditure of Kshs.1, 377,164,209 under acquisition of assets includes an amount of Kshs.271, 038,787 incurred on construction of buildings which further includes an amount of Kshs.15, 881,796 for renovation works at the Moi University Odera Akang'o campus in Yala Township during the year under review. However, physical verification and review of the records in November, 2020 revealed the following anomalies:

- i) a local Service Order (LSO) had a sum of Kshs.32, 602,554 for the renovations works while the contract agreement indicated that the works were to cost a sum of Kshs.36, 653,220 thus a variance of Kshs.4, 050,666 which was not explained.
- ii) The contractor's performance bond of Kshs.1, 832,661 from an insurance company dated 26 February, 2018 had expired on 25 October, 2018 and no evidence of its renewal was provided for our audit review.
- iii) On 7 January, 2020, the contractor requested for time extension for ninety (90) days up to 7 April, 2020 for the completion of the works. The time extension was granted on 5 February, 2020. However, the Tender Committee Evaluation minutes were not provided for our audit review to confirm that the request was approved.
- iv) Works totaling Kshs.5, 352,886 were paid for but not supported with documentary evidence as to how the funds were utilized. Further, the Tender Committee Evaluation minutes were not provided to confirm authorization for the use of contingency sum of Kshs.3, 500,000 for the works.



- v) A sum of Kshs. 2,070,020 was utilized for the renovation of the Director's office. However, physical verification of the project on 11 November, 2020 revealed that the Director's office had not been renovated.
  - vi) No monthly reports from the Head of the Procurement section to the Accounting Officer for the project were provided for our audit review.
- Consequently, the value for money and the propriety of Kshs.11, 473,572 out of a total of Kshs.15, 881,769 spent for the year ended 30 June, 2020 could not be confirmed.

### **Management Response**

Management submitted that;

- i) The works consisted of renovation works awarded to one contractor at Kshs.36,653,220.40 being the lowest evaluated bidder and specialist's works (Generator Installation and commissioning) awarded to another contractor at Kshs. 2,397,148.00. Also being the lowest evaluated bidder on a separate contract. The available budget as at the time of award was Kshs 35,000,000. The LSO was drawn for the available budgetary provision with Kshs 32,602,554 for the
- ii) Renovation works and the balance drawn in favor of specialist works contractor (Davis and Shirtliff).
- iii) The performance bond was renewed and is valid till 9/10/2020. The evaluation Committee met on the 22/01/2020 and approved the extension of time as required by the Law.
- iv) Attached the approved breakdown of contingency and electrical works and evaluation report of the same.
- v) The director's office had NOT been done and funds meant for it have NOT been expended. Please see the discussions on Minutes attached.
- vi) Attached the monthly report for the period. Please note that the Monthly reports from the head of procurement have been in place and copies sent to the Accounting Officer.
- vii) The works had been completed and completion certificate Issued as attached.

### **Committee Observation**

The Committee noted that to date, the director's office has not been done and money meant for this was directed to erecting a fence. However, this was not regularized for competitive procurement.

### **Committee Recommendation**

**The Committee recommends that the County Executive should adhere to the Public Procurement and Asset Disposal Act, 2015 in project implementation and variation.**

## **7.8 Purchase of Land for State Officers Residence**

Included in the expenditure of Kshs.1, 377,164,209 under acquisition of assets is an amount of Kshs.21, 200,000 incurred on acquisition of land. The latter balance includes an amount of Kshs.9, 500,000 for the purchase of parcels of land for state officer's residence. However, the following anomalies were noted:

- i) The purchased parcels of land were not in the approved budget and procurement plan during the year of audit review.
- ii) There was no public participation before the parcels of land were purchased as the procurement was funded by the savings made from road constructions.
- iii) No title deeds for the parcels were produced for audit verifications.
- iv) Physical verification in November, 2020 revealed that the parcels have not been fenced.

In the circumstances, the propriety and value for money on the expenditure of Kshs.9, 500,000 could not be confirmed.

### **Management Response**

Management stated that there was a budget and a procurement plan for the construction of the state officers' residence in the department of roads. The process was initiated by dept of roads via IFMIS (IFMIS requisition no 784). Online IFMIS requisition ascertains that there was a budget and a procurement plan which was pulled to generate the above IFMIS requisition no). Public participation was done during budget making process both by the executive and county Assembly. As at the time of audit, the titles were not ready. The title deeds had been attached.

Fencing of the parcel was not in the budget of Financial Year 2019/2020 and has been proposed in the supplementary budget of Financial Year 2021/2022 under the department of Roads and Public works.

### **Committee Observations**

The Committee noted that;

- 1. the purchased parcels of land were not in the approved budget and procurement plan during the year of audit review.
- 2. There was no public participation before the parcels of land were purchased as the procurement was funded by the savings made from road constructions.

### **Committee Recommendation**

**The Committee recommends that the County CEO undertakes administrative action against the responsible officer(s) for expending money on a project not in the procurement plan in violation of the provisions of the Public Procurement and Asset Disposal Act, 2015 in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report.**

### **7.9 Supply and Delivery of Student Lecture Chairs**



The expenditure of Kshs.1, 377,164,209 under acquisition of assets includes an amount of Kshs.10, 025,172 relating to acquisition of other inventory which includes Kshs.5, 532,968 for the supply and delivery of 700 student lecture chairs to Agricultural Training Centre (ATC) in Siaya Town. Physical verification confirmed that, although the student lecture chairs were delivered, notification of the award of the contract was issued on 14 February, 2020, the same date the Inspection and Acceptance Report was also issued. However, delivery of the items was done on 05 March, 2020 after the Inspection and Acceptance Report had been issued.

#### **Management response**

The inspection date pointed out in No. 5 as 14/2/2020 is the date of notification of award. The date for inspection and acceptance was 5/5/2020 as spelt out on the inspection and acceptance form.

Management stated that inspection and acceptance certificate was designed to indicate the reference number of the notification of award and the date of award which is 14 Th February 2020. The date of inspection and acceptance, and actual delivery of the Chairs was 5th May 2020.

#### **Committee Observation**

The Committee noted that the matter has since been addressed.

#### **Committee Recommendation**

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

#### **7.10 Construction of ECD Blocks and Two Door Pit Latrines to Primary Schools**

The expenditure of Kshs.1, 377,164,209 under acquisition of assets includes an amount of Kshs. 271,038,787 relating to construction of buildings. The latter balance includes an amount of Kshs.18, 452,061 for construction of a total of eight (8) Early Childhood Development (ECD) classes, and two door pit latrines per every school in various primary schools during the year under review. However, physical verification on November, 2020 established that six (6) classes out of eight had cracks on the floors, walls, and ramps were poorly done. Further, it was also noted that the construction of two classes, and two door pit latrines per school at Migono and Kodongo primary schools had stalled after payment of Kshs.4, 923,291. In the circumstances, the propriety and value for money on the expenditure of Kshs.18, 452,061 could not be confirmed.

#### **Management Response**

- i) Ndira Vocational Training Centre: Contractor Wachiam, construction of two Classrooms, payment kshs. 1,301,485.20, the defects have been corrected and is in use.
- ii) Rakombe ECD in Rarieda Sub County: Contractor Beneli Engineering Services, Construction of ECD Classrooms and two pit latrine, payment Kshs. 3,310,490.

Beneli Engineering Services has been instructed to make good the defects on the Ramps.

- iii) Tanga ECD in Rarieda Sub County: Contractor – Nemad Enterprises Limited, Construction of ECD classrooms, and 2 door pit latrine paid Kshs. 1,464,038. The Defects have been corrected and the floor tiled.
- iv) Migono Primary ECD: Contractor – Winam Contractors Limited, Construction of ECD classrooms and 2 – door pit latrine, paid kshs. 2,449,483. It is true that the Project has stalled. This was caused by inadequate funding. The County is committed to put more money in budget for the next Financial Year so that the project could be completed
- v) Sudhe Primary ECD: Contractor – Monaki Better Deals Limited, payment of kshs. 1,208,483 for the construction of ECD 3 classrooms and 2- door pit latrine. The defects have been corrected and is in use.
- vi) Radundi Primary ECD: Contractor: - Frajoe Limited, construction of ECD classrooms and 2 door pit latrine, payment of kshs 1,626,041 the defects have been corrected and is in use.
- vii) Kotoo Primary ECD: Beneli Engineering Services, construction of classrooms and 2 door pit latrine, paid kshs 3,000,000. The project has been completed and is in use.
- viii) Kodongo Primary ECD: Contractor – Nas International Holding Limited, construction of Kodongo ECD classrooms and 2 door pit latrine, payment of Kshs.2,423,807.82. The project has been completed and is in use.

#### **Committee Observation**

The Committee noted that the matter has since been addressed.

#### **Committee Recommendation**

**The committee recommends that the matter be marked as resolved.**

#### **7.11 Unsupported Payments for Preparation of County Spatial Plan**

Included in the expenditure of Kshs.1,377,164,209 under acquisition of assets is also an amount of Kshs.135,288,099 incurred on research, studies, project preparations, design and supervision. The latter balance includes an amount of Kshs.10,000,000 paid for preparation of the County spatial plan during the year under review. The contract price of the plan was Kshs.105,328,000 with 15% or Kshs.15,799,200 payable on approval of the final draft report by the County Assembly as provided under clause 1 of the amended contract signed on 25 May, 2019. However, the payment of Kshs.10,000,000 was made before approval of the final draft report by the County Assembly and no explanation has been provided for the anomaly. Consequently, the propriety of the expenditure of Kshs.10,000,000 for the year ended 30 June, 2020 could not be confirmed.

#### **Management Response**



Management stated that the Kshs.10, 000,000.00 was made upon contractor's request after submission of final spatial plan report, clarified that the Ksh.10, 000,000.00 did not expose the County Government to any risk of loss of funds.

### **Committee Observations**

The Committee noted that;

1. the final spatial plan report has since been approved by the county assembly.
2. there was a contravention of the law since the payment of Kshs.10,000,000 was made before approval of the final draft report by the County Assembly.

### **Committee Recommendations**

**The Committee recommends that the County CEO undertakes administrative action against the responsible officer(s) for making the payment of Kshs.10 million before approval of the final draft report by the County Assembly in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report.**

### **7.12 Implementation of Nyalnawi Water Pan**

The expenditure of Kshs.1, 377,164,209 under acquisition of assets also includes an amount of Kshs.358, 648,199 relating to construction and civil works, which further includes of an amount of Kshs.8, 406,250 for fencing of community water point livestock trough and distilling works at Nyalnawi water pan. However, physical verification in November, 2020 revealed that the project had been vandalized. The flush water toilets were clogged, the fence and toilets doors were vandalized and the water pan had no gates to secure the projects. In the circumstances, the propriety and value for money on the expenditure of Kshs.8, 406,250 spent on the project could not be confirmed.

### **Management Response**

The water pan was vandalized by a rogue group of community members. This was reported to Siaya Police Station under OB31/17/07/2019 and the case is still active.

On its part, the Department realized that there was a weakness on the Water Pan Management Committee and has carried out a number of activities aimed at strengthening the Committee, as well as improving the acceptability of the community-based project;

1. The department has held meeting with the local leadership which included political leadership, chiefs and Assistant chief together with the community on how to strengthen community policing and security of the water pan infrastructure.
2. Training the Water Pan Management Committee on organizational development. The management committee is composed of the various leaders of the Agriculture

Value Chain groups in the community. This includes horticulture, fishing, poultry and livestock.

This was aimed to improve the organizational capacity of Management committee.

3. The Department has also conducted training for the farmers on income generation for sustainability of the project with the continued training and follow-up visits by the department, the situation will continue improving in order to achieve the benefits envisaged.

The Department observed during the meetings with the community and local leadership that the water pan was being used by two different communities namely Usenge and Urim which were in two different wards of Siaya Township and Central Alego Wards, However due to limitation of funds the livestock trough and community water points were constructed on one side and this was the source of conflict. The department in consultation with the two members of County Assembly has agreed to construct additional facilities on the other ward to solve the conflict.

### **Committee Observations**

The Committee observed that the water pan had been vandalized and is yet to be repaired.

### **Committee Recommendations**

**The Committee recommends that;**

- 1) **The county government takes immediate action to repair the vandalized water pan;**
- 2) **The Auditor General should audit the project and report to the Committee in the next audit cycle.**

### **7.13 Inventory not Taken on Charge- Assorted Sports Item**

Assorted Sports Items Included in the expenditure of Kshs.1,377,164,209 under acquisition of assets is an amount of Kshs.10,025,172 relating to acquisition of other inventory which further includes an amount of Kshs.5,605,438 for the supply of assorted sports items. However, the assorted sports items were not taken on charge in the store's ledger. This is contrary to Section 162(1) of the Public Procurement and Asset Disposal Act, 2015 which states that an Accounting Officer of a procuring entity should ensure that all inventory, stores and assets purchased are received, but should not be used until taken on charge as a basis for ensuring that all procured items are properly accounted for and put in proper use as intended by the procuring entity. The Management was therefore in breach of the law.

### **Management Response**

Management confirmed that the items were duly received and taken on charge in our stores and a copy of S13 and S3 cards was attached for verification.

### **Committee Observation**



The Committee noted that the county did not provide evidence for purchase of the sports item and a schedule listing the beneficiaries of the sports item.

#### **Committee Recommendation**

The Committee recommends that the county CEO takes administrative action against the responsible officer(s) who failed to take charge in the store's ledger in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report.

### **CHAPTER THIRTEEN**

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

The Governor of Vihiga County Executive Hon. (Dr.) Wilber Ottichilo appeared before the Committee on Wednesday 15<sup>th</sup> February, 2023 to respond (under oath) to audit queries raised in the Report of the Auditor General on Financial Statements for Vihiga County Executive for the Financial Year 2019/2020.

#### **Adverse Opinion**

<b>EXECUTIVE SUMMARY OF THE UNRESOLVED QUERIES</b>				
<b>S/NO</b>	<b>AUDIT QUERY</b>	<b>COMMITTEE RECOMMENDATION</b>	<b>ACTORS</b>	<b>TIMELINE</b>
1.	<b>3.Unsupported Community Empowerment Fund</b> The propriety of the transfer to the community empowerment fund balance of Kshs.1,700,000 could not be confirmed.	The Committee recommends the matter be considered by the Senate County Public Investment and Special Funds Committee.	County Public Investments and Special Funds Committee	Immediately upon adoption of this report
2.	<b>1.Pending Bills</b> Pending bills amounting to Kshs.219,703,685 were not adequately	The Committee recommends that;- 1. the National Treasury should ensure timely release of funds to	The Chief Executive Officer  The Auditor General	Continuous

	<p>supported with delivery notes, invoices and procurement records.</p> <p>Failure to settle bills during the year in which they relate to distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.</p>	<p>county governments in line with the cash disbursement schedules approved by the Senate so as to enable county entities settle their obligations on time;</p> <p>2. the County Executive should disclose all pending bills in the format prescribed by the Public Sector Accounting Standards Board as stipulated under Section 104(1)(h) of Public Finance Management Act, 2012;</p> <p>3. the county executive puts in place measures to enhance own generated revenue in order to meet its revenue target and address revenue shortfalls that contribute to the challenge of pending bills;</p> <p>4. Pending bills deemed ineligible should be forwarded to the Directorate of Criminal Investigation (DCI) for investigation proper legal action taken against those filing false claims;</p> <p>5. County Government to take note of judgement in a Kitale High Court</p>	<p>The National Treasury</p> <p>The DCI</p>	



		<p>Constitutional Petition E003 of 2023 that declared formation of pending bills verification committees unconstitutional and engage Office of the OAG and strengthen the internal audit functions.;</p> <p>6. All valid pending bills that have been reviewed by the Office of the Auditor General be paid and a payment plan be submitted to the county assembly for approval and progress report on implementation sent to the Senate and the Office of the Controller of Budget.</p>		
3.	<p><b>2. Budgetary Control and Performance</b></p> <p>The underfunding and underperformance affected the planned activities and may have impacted negatively on service delivery to the people of Vihiga County.</p>	<p>The Committee recommends that-</p> <p>1. The National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate;</p> <p>2. The County Executive should put in place measures to improve their local revenue collection capacity in order to meet their revenue collections target.</p>	<p>1.The County Chief Executive Officer</p> <p>2.The National Treasury</p>	60 days from the date of adoption of this report

4.	<b>3.Unresolved Prior Year Matters</b> Management has not resolved the issues or given any explanation for failure to adhere to the provisions of the Public Sector Accounting Standards Board templates and The National Treasury's Circular.	The Committee recommends that the County Executive complies with section 53 of the Public Audit Act, 2015 by taking action on the issues raised by the Auditor General and submits a report to the Office of the Auditor General within sixty (60) days of the adoption of this report.	The County Chief Executive Officer	60 days from the date of adoption of this report
<b>REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES</b>				
5.	<b>2. Irregular Acquisition of Land</b> No ownership documents were provided for audit verification to account for the amount expended. Consequently, the County did not get value for money and ownership of the land could not be confirmed	The Committee recommends that the County Executive should fast-track acquisition of the title deed for the land and submit a copy to the Auditor General for verification within sixty (60) days from the adoption of this report. Further, the Committee recommends that the County Executive provides to the Auditor General a plan of the measures they will put in place to ensure that the waste management project is completed and put to use.	1.The County Chief Executive Officer	60 Days from the date of adoption of this report
6.	<b>3. Supply of Assorted Hospital Items</b> Delivery and inspection of procured items were made on 17	The County CEO undertakes administrative action against the responsible officer(s) who failed to provide the documents to the auditors in accordance with	1.The County Chief Executive Officer	Within 60 days from the date of adoption of this report



	<p>June, 2019 and 11 October, 2019 respectively, four hundred and eighty (480) days after the LPO had been issued. This was contrary to the terms specified in the invitation for tender that specified that the tenders shall remain valid for 90 days.</p>	<p>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</p>		
7.	<p><b>4.1 Unsupported Project Expenditure</b> The Community Driven Development Committees (CDDCs) project had not accounted for Kshs.11,246,111 out of the total amount of Kshs.212,034, 566 received by the project.</p>	<p>The Committee recommends that:</p> <ol style="list-style-type: none"> <li>1. the County Executive should adhere to the Public Finance Management Act, 2012 and the Public Procurement and Asset Disposal Act in project implementation.</li> <li>2. the Senate should be reviewing all memorandums pertaining donor funding to County governments before they are approved in the County Government Allocations of Revenue Bill in accordance with the Senate mandate stipulated in Article 96 of the Constitution.</li> </ol>	<p>1.The County Chief Executive Officer</p>	<p>60 days from the date of adoption of this report</p>
8.	<p><b>4.2 Agricultural Sector Development Support Programme</b></p>	<p>The Committee recommends that:</p> <ol style="list-style-type: none"> <li>1. the County Executive should adhere to the Public Finance</li> </ol>	<p>1.The County Chief Executive Officer</p>	<p>60 days from the date of adoption of this report</p>

	<p>Section C of the Memorandum of Understanding for the Agriculture Sector Development Support Project (ASDSP) stipulates that the programme will provide reports to development partners, external auditors and stakeholders in accordance with agreed formats and reporting periods. The programme reports have not been submitted to the Auditor-General's Office for the year under review.</p>	<p>Management Act, 2012 and the Public Procurement and Asset Disposal Act in project implementation.</p> <p>2. the Senate should review all donor-based memorandums pertaining donor funding to County governments before they are approved in the County Government Allocations of Revenue Bill in accordance with the Senate mandate stipulated in Article 96 of the Constitution.</p>		
9.	<p><b>7. Compliance with the National Cohesion and Integration Act, 2008 - Ethnic Staff Composition</b></p> <p>During the year under review, an analysis of the payroll revealed that the County Executive had a total work force of one thousand seven hundred and seventy-four (1,774) employees as at 30 June, 2020 out of which,</p>	<p>The Committee recommends that- the county entity should work progressively towards attaining the requirement of the provisions of Section 7(1) and (2) of the National Cohesion and Integration Act, 2008</p> <p>the County Executive and CPSB should give a work plan on how they will ensure compliance is achieved, to the Auditor General within sixty (60) days from the adoption of this report.</p>	<p>1.The County Chief Executive Officer</p>	<p>60 days from the date of adoption of this report</p>



one thousand six hundred and fifteen (1,615) were from the dominant local community representing 91% of total work force contrary to Section 7(1) and (2) of the National Cohesion and Integration Act, 2008			
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**REPORT ON INTERNAL CONTROLS EFFECTIVENESS, RISK MANAGEMENT AND GOVERNANCE**

10.	<p><b>1. Poor Management of Fixed Assets Register</b></p> <p>The fixed assets register had not been updated and the additions during the year under review were not reflected in the register. In addition, the fixed assets register does not include assets taken over by the County from the defunct local authorities.</p>	<p>The Committee recommends that the-</p> <p>a) County Executive should update and present their Fixed Assets Register in the format prescribed by the Public Sector Accounting Standards Board;</p> <p>b) County Executive should adopt and implement the report of the Inter-Governmental Technical Relations Committee (IGTRC) on assets and liabilities from defunct Local Authorities and provide a status update to the Office of the Auditor General within 90 days of adoption of this Report; and</p>	<p>1. The County Chief Executive Officer</p> <p>2. The Auditor General</p>	60 days from the date of adoption of this report
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		c) Office of the Auditor General should progressively review and report on the matter in the subsequent Financial Years.		
11.	<b>2.Failure to Assign Personnel Numbers</b> A total of 60 employees serving on contract terms and on permanent terms who had not been assigned personnel numbers. Further they not paid their salary through IPPD payroll but instead are paid through manual payroll.	The Committee recommends that the County Executive should liaise with State Department of Public Service to expedite the Human Resource Audit exercise so as to pave way for issuance of personnel numbers to staff.  The Committee further recommends that the accounting officer submits a status report on the matter to the OAG within sixty (60) days from the adoption of this report.	1.The County Chief Executive Officer  2. The Office of the Auditor General	sixty (60) days from the date of adoption of this report.
12.	<b>3. Failure to Automate the Revenue Collection</b> The County Executive had not automated all its revenue collection sources of internally generated revenue. Consequently, detecting revenue collection frauds and achieving real-time payments and	The Committee recommends that the County Executive should automate revenue collection across all revenue streams to reduce leakages. The Committee further recommends that the Auditor General keeps the matter in view in the subsequent audit cycle.	The County Chief Executive Officer	Sixty (60) days from the adoption of this report.



	reporting within the county government cannot be realized.			
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## **Adverse Opinion**

### **1. Cash and Cash Equivalent**

As disclosed in Note 21A to the financial statements, the statement of financial position reflects bank accounts balances amounting to Kshs.675,875,158. The balance includes Vihiga County KUSP (UDG) CBK account of Kshs.179,489,676 while the respective bank confirmation certificate reflected nil balance. In addition, the County Devolution Support Programme CBK Account reflected Kshs.30,000,000 as per bank reconciliation while the bank confirmation certificate reflected nil balance. Management has not reconciled or explained the total difference of Kshs.209,489,676 between the bank balances and the bank records.

Further, the balance includes an account in a commercial bank with a balance of Kshs.707,164 which differs with the cash book balance of Kshs.28,387,897, resulting to unexplained difference of Kshs.27,680,733.

In addition, review of the bank listing indicated that the County Executive operated ninety-six (96) bank accounts that had not been disclosed in the financial statements as at 30 June, 2020. However, Management did not provide the bank accounts register detailing the account name, purpose and signatories.

In the circumstance, the accuracy, validity and completeness of cash and cash equivalent balance of Kshs.675,875,158 could not be confirmed.

### **Management Response**

The management responded as follows:

Vihiga County KUSP (UDG) CBK Account No.1000388037 – Kshs.179,489,676 and Vihiga County Kenya Devolution Support Programme (KDSP) CBK Account No.1000440511 – Kshs.30,000,000.

The CARA, 2019 allocated Kshs.250,950,700 and Kshs.30,000,000 to Vihiga County under the Kenya Urban Support Programme – KUSP (UDG) and the Kenya Devolution Support Programme (KDSP) Grants respectively. Due to the effects of Covid-19 pandemic, the World Bank through the National Treasury was unable to disburse the funds to the County on time.

Early July 2020, after the closure of the Financial Year 2019/2020, the World Bank through the National Treasury released Kshs.209,489,676 (that is, Kshs.179,489,676 for KUSP (UDG) Grant on 02.07.2020 and Kshs.30,000,000 for KDSP Grant on 02.07.2020) to Vihiga County as part of the allocation for the financial year in question. The two receipts were captured in the respective Cash Books in the year under review and as reconciling items in the respective Bank Reconciliation Statements as guided by

the National Treasury Circular referenced AG.3/88/VOL.7(II) dated 13/05/2020 on the closure of the Financial Year 2019/2020 procedures and the Exchequer Release disbursement schedule.

As a standard practice, government institutions in preparation for the annual audit, do request their bankers to confirm bank balances as at 30th June of every year. Vihiga County Executive did the same and the Central Bank of Kenya released a Certificate of Bank Balances as at 30<sup>th</sup> June, 2020 reflecting nil balances in the Vihiga County KUSP (UDG) and Vihiga County KDSP Accounts since the above grants had not been received in the County's CRF Account and subsequently into the two Special Purpose Accounts in question.

However, the funds were properly captured in the County's books as guided by the National Treasury and thus the cash and cash equivalent balance of kshs.675,875,158 was fairly stated.

**Unexplained difference of Kshs.27,680,733 on Vihiga County Salary Control Account No.01141471295000 held at the Co-operative Bank of Kenya – Mbale Branch**

The initial adjusted cash book balance of kshs.28,387,897 did not capture June 2019 staff net salaries of Kshs.27,516,048.40 paid in the month of July 2019 whose transactions had been omitted on the bank statement by the Co-operative Bank of Kenya. The Management wrote to the bank concerning this omission and the bank rectified the error. The figure of Ksh. 164,684.60 was an error of original entry in the cash book which has since been corrected. The cashbook closing balance was adjusted accordingly to reflect the correct figure of Kshs.707,164 as reported in the financial statements.

**Non-Disclosure of the Ninety-Six (96) Bank Accounts**

Further, the County Executive has incorporated the bank balances for all accounts that have an effect on Cash and Cash Equivalent as reported in the financial statements. However, the ninety-six (96) accounts listed in the query comprise of Health facilities, Trade Enterprise/Empowerment Fund, Ward Bursary Fund and Vocational Training Centre Accounts.

Vihiga County Education/Bursary Fund and Trade Enterprise/Empowerment Funds are independent entities, reporting and being audited by the Office of the Auditor General independently. The transfers to these funds are expensed fully at the county executive at the time of transfer and reported under transfers to other County Government entities. Incorporating bank balances for the Funds will amount to double reporting in the Books.

Accounts maintained by Health Facilities and the Vocational Training Centres are meant for transfer of Danida, Compensation for User Fees Foregone, and the Rehabilitation of Village Polytechnic Grants as per the provisions of the Financing Agreements with the respective National Government Ministries.

These transfers are expensed fully at the time of transfer therefore incorporating the bank balances will amount to double reporting.



The County Executive provided a register of all bank Accounts showing account name, purpose and signatories to the auditor at the management letter response level.

### **Committee Observation**

The Committee noted that the matter has since been addressed.

### **Committee Recommendation**

**The committee recommends that the matter be marked as resolved.**

## **2. Unsupported Expenditure**

As disclosed in Note 12 to the financial statements, the statement of receipts and payments reflect a balance of Kshs.820,054,976 in respect of use of goods and services which includes other operating expenses balance of Kshs.116,416,448. However, examination of records on the expenditure revealed that a total of Kshs.3,838,675 was paid as legal fee to three law firms. However, case files from the legal department and the fee note from the legal firm were not also provided for audit review. The nature of the cases could not therefore be ascertained.

Consequently, the propriety of the expenditure on other operating expenses amounting to Kshs.3,838,675 could not be confirmed.

### **Management Response**

The management responded to the Auditor's query on the above matter as follows:

Nature of the Cases, Case Files and Fee Notes

The three law firms in question were:

- i) M/S Khayega Chivai & Co. Advocates who defended the County Government against a civil case No.62 of 2018 filed at Kakamega High Court filed by a contractor-Tuff Contractors Ltd. The firm raised a fee note of Kshs.2,553,215.45 for the work done. The firm was paid Kshs.2,552,215.45.
- ii) M/s Onsando Getanda & Co. Advocates provided legal services to a petitioner Mr. Edgar Kadenyi who had filed a petition against the County Government of Vihiga: Petition No.13 of 2017 at the Kakamega Law Courts for award of damages resulting from damage done to his gate as a result of opening and widening of Shamakhokho- Shivembe Road by the County Government. The court ruled in his favour and awarded him damages of Kshs.626,460 which the County Paid based on the Court Order.
- iii) M/S J.O Juma & Co. Advocates who defended the County Government against a civil case Kisumu CMCC No.222 of 2016 filed at Kisumu High Court filed by a contractor-Firewall Africa Co. Ltd. The firm raised a fee note of Kshs.660,000 for part of the work in progress which the County paid.

The case files, fee notes and court order to the above cases were availed to the Auditors at the management letter response level and were still available for further audit review.

#### **Committee Observation**

The Committee noted that the matter has since been addressed.

#### **Committee Recommendation**

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

### **3. Unsupported Community Empowerment Fund**

As disclosed in Note 14 to the financial statements, the statement of receipts and payments reflect transfer to other Government units balance of Kshs.764,184,826 which includes Community Empowerment Fund of Kshs.1,700,000. However, the supporting documents for the Fund balance were not provided for audit verification. Consequently, the propriety of the transfer to the community empowerment fund balance of Kshs.1,700,000 could not be confirmed.

#### **Management Response**

The County Executive transferred Kshs.1,700,000 to the Community Empowerment Fund through various departments, i.e., Finance and Economic Planning Kshs.1,000,000, Agriculture, Livestock, Fisheries and Co-operatives Kshs.350,000, Transport and infrastructure Kshs.350,000.

The bank statement for the Community Empowerment Fund and the transfer vouchers to support the fund balance were availed to the auditors at the management letter response level and were still available for further audit review.

#### **Committee Observation**

The Committee noted that the matter falls under the mandate of the County Public Investment and Special Funds Committee.

#### **Committee Recommendation**

**The Committee recommends the matter be considered by the Senate County Public Investment and Special Funds Committee.**

### **4. Unreconciled Balances**

The statement of receipts and payments reflects various balances which differ significantly with the underlying supporting schedule as tabulated below: -

<b>Item of Expenditure</b>	<b>Financial Statements Balances</b>	<b>Balances in the Supporting Records/Ledger</b>	<b>Variance</b>
	Ksh.	Ksh.	Ksh.
Training Expenses	27,466,988	27,693,848	(226,860)



Utilities, Supplies and Services	58,828,319	58,987,498	(159,179)
Hospitality, Supplies and Services	118,178,191	119,478,102	(1,299,911)
Office and General Supplies and Services	18,879,433	20,572,103	(1,692,670)
Other Grants and Transfers	414,189,696	446,507,156	(32,317,460)
Other Infrastructure and Civil Works	174,381,355	184,877,418	(10,496,063)
Total	811,923,982	858,116,125	(46,192,143)

Management has not given reconciliations or explanations for any of the differences between the financial statements and the underlying records leading to an understatement of the reported expenditure by Kshs.46,192,143.

Consequently, the propriety and accuracy of the expenditure for the year ended 30 June, 2020 could not be confirmed.

### Management Response

The management responded as follows;

#### i) Training Expenses

The County Government of Vihiga is mapped in IFMIS as vote 4860 and has thirteen (13) departmental votes that run from vote 4861 to 4873. These vote heads as mapped in IFMIS are for twelve departments under County Executive and one for the County Assembly.

The auditors extracted the consolidated IFMIS ledger on training expenses which included the County Assembly expenditure of Kshs.226,860 which led to the said variance. This expenditure is reported separately in the County Assembly Financial statements.

The supporting schedule on training expenses as provided to the auditors reflected a total expenditure of Kshs.27,466,988 as reflected in the financial statement and not Kshs.27,693,848.

#### ii) Utilities Supplies and services

The County Government of Vihiga is mapped in IFMIS as vote 4860 and has thirteen (13) departmental votes that run from vote 4861 to 4873. These vote heads as mapped in IFMIS are for twelve departments under County Executive and one for the County Assembly.

The auditors extracted the consolidated IFMIS ledger on utilities, supplies and services which included the County Assembly expenditure of Kshs.159,179 which led to the said variance. This expenditure is reported separately in the County Assembly Financial statements.

The supporting schedule on utilities, supplies and services as provided to the auditors reflected a total expenditure of Kshs.58,828,319 as reflected in the financial statement and not Kshs.58,987,498.

iii) Hospitality, Supplies and services

The County Government of Vihiga is mapped in IFMIS as vote 4860 and has thirteen (13) departmental votes that run from vote 4861 to 4873. These vote heads as mapped in IFMIS are for twelve departments under County Executive and one for the County Assembly.

The auditors extracted the consolidated IFMIS ledger on hospitality, supplies and services which included the County Assembly expenditure of Kshs.1,299,911 which led to the said variance.

This expenditure is reported separately in the County Assembly Financial statements. The supporting schedule on hospitality, supplies and services as provided to the auditors reflected a total expenditure of Kshs.118,178,191 as reflected in the financial statement and not Kshs.119,478,102.

iv) Office and general supplies and services

The County Government of Vihiga is mapped in IFMIS as vote 4860 and has thirteen (13) departmental votes that run from vote 4861 to 4873. These vote heads as mapped in IFMIS are for twelve departments under County Executive and one for the County Assembly.

The auditors extracted the consolidated IFMIS ledger on office and general supplies and services which included the County Assembly expenditure of Kshs.1,692,670 which led to the said variance. This expenditure is reported separately in the County Assembly Financial statements.

The supporting schedule on office and general supplies and services as provided to the auditors reflected a total expenditure of Kshs.18,879,433 as reflected in the financial statement and not Kshs.20,572,103.

v) Other grants and transfers

The variance of Kshs.32,317,460 in the figure of Other Grants and Transfers was as a result of including transfers to other government units totalling Kshs.31,840,436 and a payment to Roddys Eco Cover of Kshs.477,024 captured twice in the schedule supporting expenditure on Other Grants and Transfers of Kshs.446,507,156. Note that these transfers had already been included in the expenditure item; Transfers to Other Government Units totaling Kshs.764,184,826 as per the financial statements. To avoid double reporting, the error was corrected by excluding the transfers from the first supporting schedule to get the final schedule of kshs.414,189,696.

vi) Other infrastructure and civil works

The correct schedule for other infrastructure and civil works is Kshs.174,381,355. At the time of preparation of first draft Financial Statement, KUSP project had not submitted its payment vouchers for capturing in IFMIS. Thus, a provision of kshs.36,034,253 was made.

However, when the actual payment vouchers were submitted, they totaled Kshs.25,538,190 resulting to a difference of kshs.10,496,063.

### **Committee Observation**

The Committee noted that the matter has since been addressed.



### **Committee Recommendation**

**The committee recommends that the matter be marked as resolved.**

### **5. Unsupported Expenditure - Acquisition of Assets**

As disclosed in Note 17 to the financial statements, the statement of receipts and payments reflect acquisition of assets balance of Kshs.1,219,698,299 which includes expenditure on works, renovation and construction on four (4) health facilities and Sub Counties amounting to Kshs.20,666,872 and whose procurement documents were not provided for audit verification.

Consequently, the propriety of the expenditure amounting to Kshs.20,666,872 could not be confirmed.

### **Management Response**

The management submitted that the correct expenditure in question was Kshs.20,666,422 and not Kshs.20,666,872 as indicated by the Auditor. This was incurred on the following projects:

- (i) Renovation of Mbale Rural Health Centre by Kisasa Construction & General Supplies Ltd.
- (ii) Branding works in all health facilities in Sabatia and Hamisi Sub Counties by Guhaad Company Limited.
- (iii) Construction of Viyalo Health Centre in Chavakali ward by Sava Construction Limited.
- (iv) Renovation of Vihiga County Referral Hospital by Tuff Contractors Limited.

These were part payments for historical pending bills which were audited, verified and approved as eligible for payment by the office of the Auditor General as at 30<sup>th</sup> June 2018. At the time of the special audit, the auditors were given the contractor files having all the procurement documents. The auditors further went to the specific sites to verify the existence of the projects.

At the time of the annual audit, the auditors were also given these files for a second re-audit. Thus, the propriety of the expenditure amounting to Kshs.20,666,422 can be confirmed.

### **Committee Observation**

The Committee noted that the matter has since been addressed as the County Executive has availed the relevant procurement documents supporting the expenditure.

### **Committee Recommendation**

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

### **6. Unauthorized Expenditure**

As disclosed in Note 11 to the financial statements, the statement of receipts and payments reflect compensation of employees' balance of Kshs.2,064,161,611 which includes basic wages of temporary employees amounting to Kshs.322,920,095 against the budgeted amount of Kshs.30,739,346, leading to over expenditure of Kshs.292,180,749, The amount was not appropriated by the County Assembly contrary to Section 42(1)(b) of the Public Finance Management (County Governments)

Regulations, 2015, which stipulates that the Accounting Officer should ensure that public funds entrusted to their care are properly safeguarded and are applied for purpose for only which they were intended and appropriated by the County Assembly. Consequently, the propriety and value for money on the expenditure amounting to Kshs.322,920,095 could not be ascertained and the Management is in breach of the law.

### **Management Response**

The County Executive reported an amount of Kshs.2,064,161,611 as compensation of employees during the financial year 2019/2020. This figure comprised of Basic pay to permanent employees Kshs.883,312,404, Basic Pay to temporary employees Kshs.322,920,095 and Personal Allowances paid as part of salary Kshs.857,929,112 as tabulated in note 11 of the Financial Statements. IPPD forms about 84.4% of this expenditure. However, during the financial year, the County Executive also maintained manual payrolls for those employees who are yet to be assigned IPPD payroll numbers.

This manual payroll accounted for the Kshs.322,920,095 which translates to 15.6% of the compensation to employee's expenditure.

When budgeting for personnel emoluments, allocations on salary are spread out on all personnel emolument sub votes under the major category vote head 2110000 (Compensation of Employees).

The budgeted amount of Kshs.30,739,346 was as per the personnel emolument sub vote 2110200-2110299 (Basic Wages – Temporary Employees). The difference of Kshs.292,180,749 was budgeted for under personnel emolument sub votes 2110100-2110199 (Basic Salaries – Permanent Employees) and 2110300-2110399 (Personal Allowances paid as part of Salary).

Further, the statement of appropriation combined as reported in the financial statements shows that the overall budget for compensation to employees was Kshs.2,088,897,119 against the actual expenditure of Kshs.2,064,161,611 which translates to an overall utilisation rate of 99%. Hence the County Executive did not incur any over expenditure on personnel emoluments. The entire expenditure of Kshs.2,064,161,611 spent on personnel emoluments was rightly appropriated by the County Assembly of Vihiga. Given the above facts, the management acted within the law in incurring this expenditure.

### **Committee Observation**

The Committee noted that the matter has since been addressed.

### **Committee Recommendation**

**The committee recommends that the matter be marked as resolved.**

### **Other Matter**

#### **1. Pending Bills**

According to Annex 1 – Summary to the financial statements, the County Executive recorded pending accounts payables totalling Kshs.1,207,356,052 as at 30 June, 2020.



A review of the records indicates that the amount includes pending bills amounting to Kshs.219,703,685 which were not adequately supported with delivery notes, invoices and procurement records. Further, available information indicates that the Ministry of Health (MOH) paid health workers salaries amounting to Kshs.209,312,955 on behalf of the County Executive in 2013/2014 financial year. An amount Kshs.93,376,411 was recovered leaving a balance of Kshs.115,936,545. The outstanding amount had not been disclosed as pending bills for the year under review. Management has not explained why the bills were not settled during the year they occurred and the County Executive risks incurring additional losses in form of interest and penalties arising from continued delay in the settlement.

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

### **Management Response**

The management responded to the Auditor's observations as follows:

#### **Unsupported pending bills figure of Kshs.219,703,685**

The County Executive provided full details of the pending bills figure of Kshs.219,703,685 to the auditors at the management letter responses level. The same was still available for further audit verification.

#### **Wage bill liability of Kshs.209,312,955 to the Ministry of Health – National Government**

The County Executive was not aware of the above liability. The County Executive did not have records showing owing the Ministry of Health Kshs.115,936,545, which is a balance outstanding on the above liability. The National Treasury instructed the Office of the Auditor General to carry out a special audit of pending bills in Counties in the year 2018. All suppliers and contractors were notified through print media to submit their claim documents for verification. The Ministry of Health never submitted any document to the auditors claiming any payment from Vihiga County.

Further, the National Treasury and Controller of Budget directed the Counties to form Pending Bills Resolution Committees to relook into the pending bills that were classified as ineligible by the Office of the Auditor General and those that were omitted in the earlier special audit. The county did constitute a committee on ineligible pending bills through a gazette notice number 11018 dated 16<sup>th</sup> October 2019, whose mandate was to look into issues of ineligible pending bills in the report of Auditor General and any other omissions. The committee chairman through a public notice in the Standard newspaper of 3<sup>rd</sup> December, 2019 invited all parties aggrieved by the audit report on historical pending bills to make submissions. The MOH did not give any submission to this committee nor did it table any document.

The Intergovernmental Relations Technical Committee of the Inter-governmental Budget and Economic Council (IBEC) through gazette notice 2701 of 24<sup>th</sup> March, 2017 made a resolution to form a County Assets and Liabilities Committee (CALC). Later



on, IGRTC again made another resolution to form the Intergovernmental County Committee on Assets and Liabilities of the Devolved Ministries (IGCC). These committees were mandated to identify, verify and validate the assets and liabilities of the defunct Local Authorities and those of the devolved ministries.

Vihiga county formed the above-mentioned two committees which completed their reports and submitted them to IGRTC for approval.

#### **Possible Causes of Pending Bills**

The major causes of pending bills and why they were not settled in the year in which they occurred include but not limited to the following:

- i) Delay or failure by the National Treasury to release funds on time.
- ii) Delays in budget and supplementary estimates approval occasioning delay in budget implementation.
- iii) Failure to re-budget for the ongoing projects or pending bills in the subsequent financial year and instead emphasis put on new projects.
- iv) Underperformance in own source revenue leaving a deficit on the budget to pay for already implemented projects.
- v) Implementation of un-budgeted for projects and activities.

#### **Committee Observations**

The Committee observed that-

- i. the management had not settled pending bills at the time of the audit;
- ii. the management had not provided a status report on the pending bills; and
- iii. there was poor record keeping of pending bills that could lead to ineligible bills and litigations.

#### **Committee Recommendations**

The Committee recommends that;-

1. the National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate so as to enable county entities settle their obligations on time;
2. the County Executive should disclose all pending bills in the format prescribed by the Public Sector Accounting Standards Board as stipulated under Section 104(1)(h) of Public Finance Management Act, 2012;
3. the county executive puts in place measures to enhance own generated revenue in order to meet its revenue target and address revenue shortfalls that contribute to the challenge of pending bills;
4. Pending bills deemed ineligible should be forwarded to the Directorate of Criminal Investigation (DCI) for investigation proper legal action taken against those filing false claims;
5. County Government to take note of judgement in a Kitale High Court Constitutional Petition E003 of 2023 that declared formation of pending bills



verification committees unconstitutional and engage Office of the OAG and strengthen the internal audit functions.;

6. All valid pending bills that have been reviewed by the Office of the Auditor General be paid and a payment plan be submitted to the county assembly for approval and progress report on implementation sent to the Senate and the Office of the Controller of Budget;

## **2. Budgetary Control and Performance**

The statement of comparative budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.6,955,030,778 and Kshs.5,641,108,094 respectively, resulting to an under-funding of Kshs.1,313,922,684 or 19% of the budget. Similarly, the County Executive expended Kshs.5,386,947,459 against an approved budget of Kshs.6,955,030,778 resulting to an under-expenditure of Kshs.1,568,083,319 or 22.5% of the budget. Further analysis of receipts and expenditure items revealed that the County Executive received an amount of Kshs.907,247,250 in the month of June, 2020 and therefore did not have enough time to fully utilize the amount before the end of the financial year. The underfunding and underperformance affected the planned activities and may have impacted negatively on service delivery to the people of Vihiga County.

Consequently, the citizens of Vihiga County were denied planned development opportunity and economic empowerment and delayed funds implementation of programmes for the work plan the County had promised.

### **Management Response**

#### **Budget Under-funding of Kshs.1,313,922,684 or 19% of the Budget**

The County expected to receive Kshs.4,652,550 as sharable revenue raised nationally. As at the closure of the FY 2019/2020, the National Treasury had released a total of Kshs.4,252,430,700 leading to under-funding of Kshs.400,119,300 being Equitable Share allocation for the Month of June, 2020. The County expected to receive Kshs.1,371,541,887 from domestic and foreign grants.

At the closure of the financial year, the County had received Kshs.596,914,710 leading to underfunding of Kshs.774,627,177 on receipts from Domestic and Foreign Grants. The County expected to receive Kshs.315,114,263 from Other Government Entities. At the closure of the financial year, the County had only received Kshs.221,474,719 leading to underfunding of Kshs.93,639,544. The County Executive had budgeted for own source revenue of Kshs.193,735,799 and only managed to collect Kshs.148,199,136 due to the effects of Covid – 19 pandemic. All the underfunding above combined resulted in the total under funding for the year of Kshs.1,313,922,684 which was 19% of the budget.

#### **Under-expenditure of Kshs.1,568,083,319 or 22.5% of the Budget**

The County Executive had a budget of Kshs.6,955,030,778 while the actual expenditure was Kshs.5,386,947,459. This translated to 77% budget utilization. The underutilization of 22.5% was as a result of underfunding from the National Treasury, Domestic and

Foreign donors as explained above. Late exchequer release of by the National Treasury also contributed to the under expenditure. The County received a share of its equitable revenue of Kshs.907,247,250 at the end June 2020 and therefore management could not spend the funds as required since the financial year under review had ended.

#### **Committee Observation**

The Committee noted that the delays in receiving exchequer releases from the National Treasury coupled with under-collection of own source revenue hampered the entity's budget execution.

#### **Committee Recommendations**

**The Committee recommends that-**

- 1. the National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate; and**
- 2. the County Executive should put in place measures to improve their local revenue collection capacity in order to meet their revenue collections target.**

#### **3. Unresolved Prior Year Matters**

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

#### **Management Response**

Most of the issues raised in the prior year audit report were resolved except Construction of the Governor and Deputy Governor residences. In addressing the matter, the management had written to SRC seeking guidance on the same and the commission only acknowledged the receipt. The County Executive was still waiting for their guidance.

#### **Committee Observation**

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

#### **Committee Recommendation**

**The Committee recommends that the County Executive should implement the Senate recommendations in the report on the Auditor General's report for the Financial Year 2018/19 adopted by the Senate.**

### **REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**



### **1. Non-Compliance with the Public Procurement and Asset Disposal Act, 2015**

As disclosed in Note 12 to the financial statements, the statement of receipts and payments reflects a balance of Kshs.820,054,976 under use of goods and services which includes specialized materials and services amounting to Kshs.128,439,226 out of which Kshs.5,000,000 was paid to a firm for the supply of fertilizer through the Department of Agriculture, Livestock and Fisheries. However, there was no evidence that the firm was competitively identified as required by section 91(1) of the Public Procurement and Asset Disposal Act, 2015.

Consequently, the Management was in breach of the law.

#### **Management Response**

The expenditure in question was part payment to Jamarat Apartments Ltd (Jamarat Cereals and Supplies Ltd) being a historical pending bill for supply and delivery of planting and top-dressing fertilizer in the Department of Agriculture, Livestock, Fisheries and Co-operative Development.

This historical pending bill was audited, verified and approved as eligible for payment by the Office of the Auditor General and captured in their Special Audit Report dated 30<sup>th</sup> June, 2018.

From the procurement documents available on file (which were provided to the auditors who carried out the special audit on pending bills and those who carried out the annual audit under review), it was evident that the procurement of the fertilizer was subjected to an open tender through a standard newspaper advert of Friday November 14<sup>th</sup>, 2014 since the contract sum was Kshs.24,183,630. The procurement file was availed to the two sets of auditors and was available for further audit verification.

#### **Committee Observation**

The Committee noted the failure of the County entity to submit relevant documents on time to the Auditor General during the audit exercise contrary to Section 62 of the Public Audit Act, 2015.

#### **Committee Recommendation**

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

### **2. Irregular Acquisition of Land**

As disclosed in Note 17 to the financial statements, the statement of receipts and payments reflects a balance of Kshs.1,219,698,299 under acquisition of assets which includes acquisition of a parcel of land at a price of Kshs.9,168,720. During the year under review, an amount of Kshs.2,500,000 was paid while Kshs.6,000,000 had been paid during the previous financial year through the Department of Environment, Water and Natural Resources. The land was 2.76 hectares as per the agreement at a price of Kshs.12,655,000. However, examination of supporting records indicated that the

advertisement was done on 15 April, 2014 for expressions of interest to offer sale of land yet the seller offered his interest on 24 January, 2018 four years later. Only one person was selected and no documentations showing how the person was identified were provided for audit review. Further, the tender opening, evaluation and award minutes were not provided for audit review and no ownership documents were provided for audit verification to account for the amount expended.

Consequently, the County did not get value for money and ownership of the land could not be confirmed.

### **Management Response**

The management clarified that the amount of Ksh 9,168,720 was the aggregate amount for acquisition of land in the year under review as was reported in the financial statements and not as indicated by the Auditor as a price of a parcel of land in question.

### **Advertisement was done in 2014, interest expressed in 2018, Four years later.**

The advertisement was for the purchase of land that was to be used to construct a waste management plant to improve on environmental conservation.

The first advertisement was done in 2014 to which there was no bidder. In line with the Manifesto of the new government on environmental conservation, the County Executive had to Re-advertise the same in 2018.

### **One vendor selected and lack of documentation showing how he was selected**

This was an open tender considering the amount involved. There were four bidders who expressed interest in selling their land. Apart from the successful bidder, Mr. Sama Oguk, Mr. Mark Muhambe Ehete, Mr. Peter Musalagani Mudave and Mr. Edward Madilane Mukila as reflected on the tender register, tender opening minutes and tender evaluation report. All these procurement records were on file and were provided to the auditors at the management letter response level for verification.

### **No ownership documents were provided for the audit verification**

At the time of audit, the management had not fully paid for the Land and therefore could not avail the ownership title to the auditors. Nevertheless, the successful vendor had surrendered the original title which was provided to the auditors. The County still owed the vendor Kshs.600,000. This had been processed for payment awaiting exchequer releases for the month of February 2023.

### **Committee Observations**

The Committee noted that the county could not have realized value for money from the purchase of land for the following reasons:

1. the land had not been put to use thus denying the county residents services they could derive from the land; and
2. the county executive had not acquired the ownership documents for the land thus exposing them to risk of loss.



### **Committee Recommendations**

The Committee recommends that the County Executive should fast-track acquisition of the title deed for the land and submit a copy to the Auditor General for verification within sixty (60) days from the adoption of this report. Further, the Committee recommends that the County Executive provides to the Auditor General a plan of the measures they will put in place to ensure that the project is completed and put to use.

### **3. Supply of Assorted Hospital Items**

On 18 June, 2018, the Department of Health Services entered into a contract with a firm for the supply of hospital beddings/ linen and patients' uniforms for a contract price of Kshs.4,126,000.

Delivery and inspection of procured items were made on 17 June, 2019 and 11 October, 2019 respectively, four hundred and eighty (480) days after the LPO had been issued. This was contrary to the terms specified in the invitation for tender that specified that the tenders shall remain valid for 90 days.

Consequently, the Management was in breach of the law and the citizens of Vihiga County may not have obtained value for money on the expenditure.

### **Management Response**

The management issued a Local Purchase Order No.3142167 to Grageo Company Limited for the supply and delivery of Hospital Linen and Uniforms on 18<sup>th</sup> June, 2018. The supplier had not supplied nor delivered the goods.

Guided by Section 136(1) of the Public Finance Management Act 2012, management issued a notice of cancellation of the local purchase order to the supplier towards the end of the financial year.

The supplier responded through a letter dated 29<sup>th</sup> June, 2018 pointed out to the management the challenges she was facing in supplying the items due to changes in import regulations which required importation of homogeneous goods in one single container for ease of taxation. She pleaded that her case was unique as the delay was caused by circumstances beyond her control.

At the same time, the goods had been secured by the importer and even branded with the county logo, and that she had nowhere to dispose them if the county could not accept delivery once the import restrictions were lifted.

The management through a letter dated 30<sup>th</sup> June, 2018 to the supplier extended the contract delivery period in line with section 139(2)(a) of public procurement and asset disposal act, 2015. The management was within the timeframes stated in the procurement law at the time the local purchase order was issued. The cancellation and extension based on the reasons given by the supplier was also within the law, and thus the local purchase order issued was not invalid.

The items were delivered and taken on charge as was correctly observed by the Auditor. Given the above facts and the prevailing circumstances then, the management acted

within the law and the citizens of Vihiga County got value for their money on the expenditure.

#### **Committee Observation**

The Committee observed that the County Executive did not provide to the Auditor General the recommendation of the Evaluation Committee for variation of the contract as provided in Section 139 (2) (a) of the PPADA 2015.

#### **Committee Recommendation**

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

#### **4. Unsupported Donor Funds Released as per CARA**

As disclosed in Note 1C to the financial statements, the statement of receipts and payments reflects donor funds released as per CARA amounting to Kshs.596,914,710. Examination of records revealed the following unsatisfactory matters: -

##### **4.1 Unsupported Project Expenditure**

The balance constitutes expenditure amounting to Kshs.212,034,566 under the National Agricultural and Rural Inclusive Growth Project (NARIGP) which includes an amount of Kshs.144,183,303, being project's expenditure under Category 1: Sub-project Grants and Training under part A of the Project. The amount is indicated to have been disbursed to Community Driven Development Committees (CDDCs) who have the responsibility to procure farm products and equipment for various farmers groups.

However, examination of sampled CDDC's documents revealed that most of the CDDCs were yet to understand the Public Procurement and Assets Disposal Act, 2015 and the Public Procurement and Assets Disposal Regulations, 2016 as there is no segregation of duties and tender opening, evaluation and awarding is done by the same people and did not maintain primary records such as cash books despite the county having spent Kshs.11,689,432 on training of farmers.

Physical verifications carried on sampling basis revealed that a number of groups that benefited by receiving approximately Kshs.500,000 worth of farm inputs had nothing to show on the ground and the irrigation equipment such as water tanks, pumps and pipes were yet to be utilized. The ownership of land documents on which the crops are planted was not provided for audit review while the project had not accounted for Kshs.11,246,111 out of the total amount of Kshs.212,034, 566 received by the project. Consequently, the ownership and value for money and the propriety of Kshs.11,246,111 could not be confirmed.

#### **Management Response**

***Public Finance Management Act, 2012, Public Procurement and Assets Disposal Act, 2015 and regulations thereof***



The management submitted that most of the CDDCs were yet to understand the Public Finance Management Act, 2012, Public Procurement and Assets Disposal Act, 2015 and regulations thereof. No segregation of duties as tender opening, evaluation and award was done by the same people.

National Agriculture and Rural Inclusive Growth Project is a World Bank funded project. The operations of this project are mainly guided by the Intergovernmental Participation Agreement, the Project Implementation Manual, the Project Appraisal Document and the World Bank Procurement and Accounting Manual and not the Public Finance Management Act, 2012 and the Public Procurement and Assets Disposal Act, 2015 and regulations thereof.

The above project documents provide for who should take part in tender opening, evaluation and award. The documents give the procurement sub-committee of the Community Driven Development Committee (CDDC) mandate to do all those functions. The procurement sub-committee is made up of three members and two co-opted members mandated by the provisions of the above documents to carry out the procurement function of the project. That is why there is no segregation of duties under this project.

***Primary records such as cash books were not maintained despite the project having spent Kshs.11,689,432 on training of farmers***

NARIGP targets the rural community and vulnerable people in the society. The project has invested heavily in training 400 CDDCs in 20 NARIGP wards within the county. Due to the fact that the target people are laymen in matters of finance and procurement, it takes time for the trainings to impact positively. Note also that the total amount spent on training of Kshs.11,689,432 was not only meant for record keeping but part was spent on training farmers on management of four value chains, that's growing of African Leafy Vegetables, Banana Farming, Dairy Keeping and chicken Farming.

The groups are being hand held by the fiduciary teams. Some have picked up quickly and had kept well documented cashbooks while others were slow in adopting the training concepts. The process of coaching and mentoring is now complete and the groups are now able to independently carry out their activities according to the project guidelines.

***Groups that benefited with African Leafy Vegetables (ALV) proposals receiving approximately Kshs.500,000 of farm inputs had nothing to show on the ground***

Procurement for most groups funded under cluster 3 had not been done by the time the auditors were on site and their money was still intact in the CDDCs accounts. However, the CDDCs later procured their goods and materials for the cluster 3 Common Interest Groups (CIGs).

***Irrigation equipment e.g., Water tanks, pumps and pipes were yet to be utilized***

At the time of the audit, irrigation equipment was not being utilized due to availability of rainfall. The equipment was mainly put to use during dry seasons to ensure continuity of the value chains.



***Ownership of land on which the crops are planted was not clear***

The land on which the crops are planted is contributed by the community. The Common Interest Groups (CIGs) agree with the owner of the land through a signed MOU over the use of such land.

The accountable documents for Kshs.11,246,111 were provided to the auditors at the management letter response level.

**Committee Observation**

The Committee observed that in implementing the project, the Vihiga County Executive did not comply with the Public Finance Management Act, 2012 and the Public Procurement and Asset Disposal Act.

**Committee Recommendations**

**The Committee recommends that:**

- 1. the County Executive should adhere to the Public Finance Management Act, 2012 and the Public Procurement and Asset Disposal Act in project implementation.**
- 2. the Senate should be reviewing all memorandums pertaining to County governments before they are approved in the County Government Additional Allocations Bill in accordance with Senate mandate stipulated in Article 96 of the Constitution.**

**4.2 Agricultural Sector Development Support Programme**

Further, the balance constitutes an amount of Kshs.15,520,219 received under Agriculture Sector Development Support Project (ASDSP) out of a budgeted total amount of Kshs.29,520,219.

However, Section C of the Memorandum of Understanding stipulates that the Programme will provide reports to development partners, external auditors and stakeholders in accordance with agreed formats and reporting periods. The Programme reports have not been submitted to the Auditor-General's Office for the year under review.

Consequently, the project management is in breach of the memorandum.

**Management Response**

Section C of the ASDSP II Programme MOU details the obligations of the County Government in respect to this Programme. Section C 4 provides that the County Programme Coordinator shall prepare Programme financial reports twice a year (January and July) and submit them to the National Treasury and subsequently share with the National Programme Secretariat (NPS).

It provides further that the County Programme Coordinator shall submit monthly programme financial reports/SOEs to the National Treasury through the County Treasury and subsequently share with the National Programme Secretariat.

The National Programme Secretariat consolidates the ASDSP II programme financial reports for all the counties and forwards the same to the Auditor General. The National Government Ministry of Agriculture, Livestock and Fisheries jointly with OAG carries



out external audit of the programme and procures a private auditor to perform biannual rolling audits of the programme in line with section B 5 of the ASDSP II MOU.

Section C of the MOU did not confer any direct responsibility to the County Government to submit the Programme reports to the Office of the Auditor General. The Programme reports are submitted to the National Treasury and subsequently to the National Programme Secretariat. The auditors were supplied with expenditure reports and vouchers while undertaking the annual audit in question and hence, the project management was not in breach of the Memorandum.

#### **Committee Observation**

The Committee observed that in implementing the project, the Vihiga County Executive did not comply with the Public Finance Management Act, 2012 and the Public Procurement and Asset Disposal Act.

#### **Committee Recommendations**

**The Committee recommends that:**

- 1. the County Executive should adhere to the Public Finance Management Act, 2012 and the Public Procurement and Asset Disposal Act in project implementation.**
- 2. the Senate should be reviewing all memorandums pertaining to County governments before they are approved in the County Government Additional Allocations Bill in accordance with Senate mandate stipulated in Article 96 of the Constitution.**

#### **5. Rehabilitation of Gaga Water Project**

As disclosed in Note 17 to the financial statements, the statement of receipts and payments reflect an amount of Kshs.1,219,698,299 under acquisition of assets which includes purchase of specialized plant, equipment and machinery valued at Kshs.12,860,937. The Department of Water through the County Executive contracted an engineering firm for completion and construction of overhead tanks at Gaga Water Project at a contract sum of Kshs.8,741,208. The contract was to take three month starting 25 March, 2020 ending 25 June, 2020. During the year under review, the contractor was paid Kshs.6,794,339 as part payment. Examination of support documents and project verification revealed that the project was not operational 5 months after the completion date and the contractor was not on site. There was no report from the site engineer on reason for the project stalling.

Consequently, the citizens of Vihiga County did not get value for money on the project.

#### **Management Response**

The management submitted that the project was operational but due to construction works on Gisambai-Hamisi-Shamakhokho Road to bitumen standard, pipes taking water to the main tank were damaged but have since been repaired. The project was serving its intended purpose and hence value for money to the Citizens of Vihiga County.

**Committee Observation**

The Committee noted that the matter has since been addressed.

**Committee Recommendation**

**The committee recommends that the matter be marked as resolved.**

**6. Covid-19 Expenditure**

The Department of Health Services contracted a firm to supply Grand beds, blankets and sheets at contract sum of Kshs.5,400,000. The goods were confirmed received vide counter receipt voucher. However, the contractor was not prequalified in the category of non-pharmaceuticals and the professional opinion was not signed contrary to Section 4(f) of Public Finance Management (County Governments) Regulations, 2015 which states that the object and purpose of these regulations is to ensure accountability, transparency and effective, economic and efficient collection and utilization of public resources.

Consequently, the Management is in breach of the law.

**Management Response**

The management responded as follows:

i) Contractor not prequalified

The procurement in question was above the maximum threshold of Kshs.3,000,000 applied when using the request for quotations method of procurement which is subjected to the list of prequalified suppliers. This procurement was done through open tender method and hence open to all eligible suppliers both prequalified and those not prequalified as it is in this case and in line with Section 71 of the PPADA, 2015.

ii) Professional Opinion Not signed

The professional opinion was signed and was provided to the auditors at the management letter response level and was still available for further audit verification. The management therefore was not in breach of the law.

**Committee Observation**

The Committee noted that the matter has since been addressed.

**Committee Recommendation**

**The committee recommends that the matter be marked as resolved.**

**7. Compliance with the National Cohesion and Integration Act, 2008 - Ethnic Staff Composition**

During the year under review, an analysis of the payroll revealed that the County Executive had a total work force of one thousand seven hundred and seventy-four (1,774) employees as at 30 June, 2020 out of which, one thousand six hundred and fifteen (1,615) were from the dominant local community representing 91% of total work force contrary to Section 7(1) and (2) of the National Cohesion and Integration Act,



2008 which states that, “all public offices shall seek to represent the diversity of the people of Kenya in employment of staff and that no public institution shall have more than one third of its staff establishment from the same ethnic community”.

Further, it was noted that the County Executive had no staff establishment in place and recruitment of staff in different positions is not informed or based on any standard document(s). This is contrary to section A.13 (i) of Human Resource Policies and procedure manual for the public service which has been adopted by the County Government to ensure effective human resource management. Although the policy provides that each Ministry /State Department shall constitute a Ministerial Advisory Committee and a Ministerial Performance Management Committee, no explanation was provided on how the County Executive manage overall human resource planning.

### **Management Response**

The management responded as follows:

- i) 91% of staff being from the Local Community

Majority of the employees were employed before Section 65(1) of the County Governments Act 2012 came into operation and they were later on inherited from the defunct Local Authorities and Devolved Ministries by the County Government.

The staff turnover and the attrition rates have been relatively low since inception of devolution. However, the County Public Service Board was now considering Section 65(1) of the County Government Act 2012 in current recruitments.

- ii) Staff establishment

In May 2014, the Ministry of Devolution and National Planning under the National Government commissioned collaborative design and implementation of the Capacity Assessment and Rationalization of Public Service (CARPS) Programme. The program’s main objective was to provide well organized structures to inform requisite numbers of employees for effective and quality service delivery at the Counties.

Vihiga County CARPS report outlined Vihiga County Staff Establishment with 14 key units, among them ten departments.

This was contained in the respective executive orders No. 1 of 2017, 2019 and 2022. These orders contain a clause which states that recruitment and fulfilment of staff roles will be done according to available resources and taking into consideration other requisite regulation. The County Public Service was guided by the aforementioned CARPS report, Vihiga County JDAC Report, the revised Organization Structure and subsequent Executive Orders issued by H.E from time to time.

### **Committee Observation**

The Committee observed that there was no ethnic diversity among the County Executive employees contrary to Section 7(1) and (2) of the National Cohesion and Integration Act, 2008.

### **Committee Recommendations**

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



## 8. Irregular Issuance and Management of Imprests

### Unsupported Imprests

As disclosed in Note 22 to the financial statements, the statement of assets and liabilities reflects an accounts receivable balance of Kshs.43,478,318 which includes an imprest balance of Kshs.15,046,780. However, examination of the schedule provided in support of the imprests revealed that three officers were issued with additional imprest totaling Ksh. 5,966,780 before they surrendered the initial one contrary to Regulation 93 of the Public Finance Management (County Governments) Regulations, 2015.

Further, an analysis of the recurrent cash book and subsequent posting to IPPD payroll by- product revealed that the imprest recovery from the three (3) officers amounting to Kshs.8,979,100 had been stopped before full recovery. However, the supporting surrender vouchers were also not provided for audit.

Consequently, the County is in breach of the law.

### Management Response

PAYEE	DEPART MENT	AMOUNT	PURPOSE
Mark Alulu	Health	966,500.00	Facilitate recruitment of Covid-19 UHC Staff
Mark Alulu	CPSB	1,880,600.00	Facilitate recruitment of ECDE Teachers
David Odero	Agriculture - NARIGP	842,800.00	Annual review of NARIGP project seminar
David Odero	Agriculture - NARIGP	150,000.00	Cleared by refund.
David Odero	Agriculture - NARIGP	567,700.00	Training of the CPCU on NARIGP grievance redress mechanism and web-based GRM
Brigid Cheloti	Agriculture - NARIGP	937,700.00	Training of NARIGP SCTT and SP on TIMPS
Brigid Cheloti	Agriculture - NARIGP	622,400.00	Training of NARIGP SCTT and SP on developed modules/value chains
<b>TOTAL</b>		<b>5,967,700.00</b>	
<b>Auditor's Total</b>		<b>5,966,780.00</b>	
<b>Variance</b>		<b>920.00</b>	

The Management submitted the following;

The variance of Kshs.920 was as a result of the auditor capturing imprest issued to Mark Alulu of Kshs.1,880,600 and David Odero of Kshs.842,800 as Kshs.1,880,680 and Kshs.841,800 respectively.

**Mark Alulu Siro**



Mark Alulu is a member of the County Public Service Board and the imprest relates to two activities of the Board which were undertaken in the Department of Health Services and County Public Service Board respectively. The imprest of Kshs.1,880,600 was meant to facilitate recruitment process of ECDE teachers while the kshs.966,500 was to facilitate the process of recruiting Universal Health Care workers to support covid - 19 response. The later activity was very urgent and Mark Alulu was the only Commissioner with a Personal File Number at the County Public Service Board by that time.

#### **Brigid Cheloti and David Otero**

The imprest for Brigid Cheloti and David Otero falls under the NARIGP project that is being implemented in Vihiga County with funding from the World Bank. The project is managed and coordinated at the County level by the County Project Coordinating Unit (CPCU). The CPCU comprises of eight members. The project is structured into components with each component having a component lead. The component leads are mandated to ensure that activities under their components are running efficiently and on time. Due to the limited number of CPCU members, the lead components are sometimes forced to take more than one imprest to facilitate activities that run concurrently.

Brigid Cheloti who is the component one lead (Supporting Community Driven Development) took the imprest to facilitate activities of component one that were running concurrently. David Otero who is the component four lead (Environmental and Social Safeguards) similarly took imprest under his docket for activities that were running concurrently. Both imprest were fully surrendered.

#### **Imprest payroll stoppage**

<b>PAYEE</b>	<b>DEPARTMENT</b>	<b>AMOUNT</b>
Praxidia Voreza	Health - THS-UHC Grant	3,007,656.00
Renson Teka Oluchiri	Health - THS-UHC Grant	3,962,046.00
Florah Khaleha Mwashhi	PSA-Normal	2,009,498.00
<b>TOTAL</b>		<b>8,979,200.00</b>

Supporting vouchers for the above imprest were provided to the auditors at the management letter response level.

#### **Committee Observation**

The Committee noted that there was breach of Regulation 93 of the Public Finance Management (County Governments) Regulations, 2015.

#### **Committee Recommendation**

The Committee therefore recommends;—

- 1) That the accounting officer surcharges and recover in full monies paid to the officers as imprest in breach of regulation 93(3) of the Public Finance management (County Governments) Regulations, 2015 with an interest at the prevailing Central bank rates; and

- 2) **sanctions and surcharge of Accounting Officer who fails to recover outstanding imprests in line with Regulation 93(7) of the PFM (County Government) Regulations, 2015.**

## **REPORT ON INTERNAL CONTROLS EFFECTIVENESS, RISK MANAGEMENT AND GOVERNANCE**

### **Conclusion**

#### **Basis for Conclusion**

##### **1. Poor Management of Fixed Assets Register**

According to Annex 5 and Disclosure 6 to the financial statements, a balance of Kshs.701,882,099 is reflected as the closing value of assets. However, the fixed assets register reflects a balance of Kshs.700,509,767 resulting to an unexplained difference of Kshs.1,372,332 between the two set of records. Further, the fixed assets register had not been updated and the additions during the year under review were not reflected in the register. In addition, the fixed assets register does not include assets taken over by the County from the defunct local authorities.

Consequently, I'm unable to confirm the existence of effective and efficient controls in safeguarding public resources against the risk of theft, misuse or abuse.

### **Management Response**

The management submitted as follows:

#### **The variance of Kshs.1,372,332 between Annex 5 and Disclosure 6 to the financial Statements**

The County acquired fixed asset register software towards the end of the financial year under review and was in the process of updating the register to tally with the reported closing balance disclosed in the financial statements at the time of audit. The management completed updating the system register and now the balance of Fixed Assets as disclosed in the Financial Statement equaled the balance in the installed system reference being made to the latest sets of the two annexures in the first draft financial statements submitted to the Auditor General for the FY2021/2022.

#### **Assets from Defunct Local Authority were not captured on the Fixed Assets Register**

The assets of the defunct local Authorities have never been handed over to the County Government. This had made it difficult for the County to recognize assets from the defunct local authorities in their books.

The Intergovernmental Relations Technical Committee of the Inter-governmental Budget and Economic Council (IBEC) through gazette notice 2701 of 24<sup>th</sup> March, 2017 made a resolution to form a County Assets and Liabilities Committee (CALC). This committee was mandated to identify, verify and validate the assets and liabilities of the defunct Local Authorities. The Vihiga CALC committee completed its report and submitted it to IGRTC for approval. The management was still waiting for the approval from IGRTC. The County will disclose these assets in the subsequent Years once the report is approved.



### **Committee Observations**

The Committee observed that

- i. the County Executive lacked an updated Fixed Asset Register; and
- ii. the delay in completion of the exercise of valuation of assets and liabilities from the defunct local authorities has affected the correct statement of assets and liabilities that county governments inherited.

### **Committee Recommendations**

The Committee recommends that the-

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

### **2. Failure to Assign Personnel Numbers**

The County Government of Vihiga had a total of 60 employees serving on contract terms and on permanent terms who had not been assigned personnel numbers. Some of the employees had been engaged as far back as 2017. It was further observed that employees without personnel numbers are not paid their salary through IPPD payroll but instead are paid through manual payroll. No explanation was given why the employees had not been assigned personnel numbers.

Consequently, lack of staff personnel number identifier may lead to overstaffing and hence increase in wage bill without approval.

### **Management Response**

The Management submitted that at the time of audit, the County had stopped the process of acquiring staff personnel numbers because of Staff Human Resource audit and payroll cleansing exercise that was being done in collaboration with the IPPD unit of the State Department of Public Service. The county was continuously and closely working with the Directorate of Public Service Management to ensure all staff have unified Personnel numbers.

### **Committee Observation**

The Committee noted that some County Executive employees lacked personnel numbers thus their salaries were processed manually rather than on the IPPD system.

### **Committee Recommendations**

The Committee recommends that;

1. the County Executive should liaise with State Department of Public Service to expedite the Human Resource Audit exercise so as to pave way for issuance of personnel numbers to staff; and
2. the accounting officer submits a status report on the matter to the OAG within sixty (60) days from the adoption of this report.

### **3. Failure to Automate the Revenue Collection**

During the year under review, it was noted that the County Executive had not automated all its revenue collection sources of internally generated revenue in single business permits fees, land rates, slaughter fees and building plan approval fees sections. This compromised its objective of meeting the budgeted target due to possible leakage in the revenue collection through manual methods.

Consequently, detecting revenue collection frauds and achieving real-time payments and reporting within the county government cannot be realized.

### **Management Response**

The County budgeted for revenue automation in FY 2018/2019. The same was advertised and several bids received. However, the vendors indicated that the County had inadequate ICT infrastructure which needed to be upgraded. The County therefore embarked on building a data centre which was to serve the revenue automated system and other ICT systems in the County.

However, the project stalled due to litigation. Consequently, the County had partially automated revenue collection by introducing Mpesa Paybill numbers 003838 and 4044643 which were being used for revenue collection across the County. This partial automation had seen the own revenue collection increase as documented in the Controller of budget report for financial year 2021/2022. Further, the County had allocated funds in the 2022/2023 financial year budget for revenue automation.

### **Committee Observation**

The Committee observed that the County Executive had not automated all the Revenue streams, thus exposing them to revenue leakages.

### **Committee Recommendations**

**The Committee recommends that;**

1. the County Executive should automate revenue collection across all revenue streams to reduce leakages and provides a status report to the Office of the Auditor General within 60 days from the adoption of this report; and
2. the Auditor General keeps the matter in view in the subsequent audit cycle.

### **4. Lack of Data Backups**

During the year under review, it was observed that the county government had no mechanism of storing revenue collection system backups data off-site. The county does not have an IT continuity plan and disaster recovery plan in place. Further, the Management had not established an IT Steering Committee and IT Strategic Committee which could result in lack of direction to Management regarding ICT



affairs, advise to the cabinets and proper budgeting. The ICT department may not therefore, meet the business requirements of the County Executive.

Consequently, the integrity and validity of the ICT Data is compromised and may not be reliable.

#### **Management Response**

The management responded that the County Executive had a directorate of ICT that is domiciled in the department of Public Service and Management. Their sector working group came up with an elaborate sectoral plan that covered an ICT strategy, master plan and key activities as detailed in the CIDP of 2018-2022. The ICT Directorate had also implemented backup strategies that include but not limited to backing up data using Microsoft One Drive Accounts, data back on discs, tapes and cloud hosted servers of the county's various systems e.g. the hospital management system, the human resource information management system, email exchange among others.

Consequently, a new County ICT Steering Committee had been set up and was reviewing the county ICT needs and would come up with a sectoral plan that would be factored in the CIDP 2022-2027.

#### **Committee Observation**

The Committee noted that the matter has since been addressed.

#### **Committee Recommendation**

**The committee recommends that the matter be marked as resolved.**

## CHAPTER FOURTEEN

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

The Governor of Wajir County Executive Hon. FCPA Ahmed Abdullahi appeared before the Committee on Thursday 18<sup>th</sup> May 2023 to respond (under oath) to audit queries raised in the Report of the Auditor General on Financial Statements for Wajir County Executive for the Financial Year 2019/2020.

#### Qualified Opinion

EXECUTIVE SUMMARY OF THE UNRESOLVED ISSUES				
S/NO	AUDIT QUERY	COMMITTEE RECOMMENDATIONS	ACTORS	TIMELINE
1.	<b>1. Cash and Cash Equivalents</b> Cash and cash equivalents balances for two fund accounts and two revenue collection accounts have no separate books of accounts and separate financial statements prepared and therefore their balances are to be reported separate from the financial statements of the County Executive	1) The County CEO undertakes administrative action against the responsible officer(s) who failed to prepare a financial statement for the two (2) funds accounts in accordance with section 167(1) of the Public Finance Management Act, 2012 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report. 2) The County CEO to appoint an administrator of the two (2) funds accounts and submit separate financial statements for the funds to the Auditor General within sixty (60) days from the adoption of this report.	i. The County Chief Executive Officer ii. The Auditor General.	60 days from the date of adoption of this report
2.	<b>4. Unsupported Expenditure - Use of Goods and Services</b> <b>4.1. Processing of Payments Outside</b>	The Committee recommends that; 1) the Accounting Officer recover the outstanding imprests with interest as per provisions Regulation	i. The County Chief Executive Officer	60 days from the date of adoption of this report



	<p><b>IFMIS-</b> payment schedules in support of the expenditure revealed that payments totalling Kshs.113,952,153 were made outside IFMIS. The payments were made from imprest account through cheques issued to individuals.</p>	<p>93 (6) of the Public Finance Management (County Governments) Regulations, 2015;</p> <p>2) sanction and surcharge of Accounting Officers who fail to recover outstanding imprests in line with Regulation 93(7) of the PFM (County Government) Regulations, 2015;</p> <p>3) sanctions against the responsible officer(s) who failed to provide the documents to the auditors in accordance with section 62(2) of the Public Audit Act, 2015 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report; and</p> <p>4) the EACC causes an investigation on the unaccounted imprest of Kshs. 113,952,153 to ascertain if there was an intent to defraud the county and provide a status update within sixty (60) days from the adoption of this report.</p>	<p>ii. The Auditor General.</p> <p>iii. EACC</p>	
3.	<p><b>4.2. Domestic Travel and Subsistence-</b> Examination of payment vouchers and other supporting documents revealed that an amount of Kshs.6,450,500 was paid to officers who were attending</p>	<p>The Committee recommends that;</p> <p>1) the Accounting Officer recover the outstanding imprests with interest as per provisions Regulation 93 (6) of the Public Finance Management (County Governments) Regulations, 2015;</p>	<p>i. County Chief Executive Officer</p> <p>ii. CECM Finance</p> <p>iii. EACC</p>	<p>60 days from the date of adoption of this report</p>

workshops, trainings and other official duties outside the County. However, the Report of the Auditor-General on County Executive of Wajir for the year ended 30 June, 2020 3 payment vouchers were not supported with invitation letters, pre-travel approvals and training programs for the trainings attended. There was no workshop attendance register, reports of activities carried out and travel evidence such as vehicles' work tickets.	<p>2) sanction and surcharge of Accounting Officers who fail to recover outstanding imprests in line with Regulation 93(7) of the PFM (County Government) Regulations, 2015;</p> <p>3) The Committee recommends sanctions against the responsible officer(s) who failed to provide the documents to the auditors in accordance with section 62(2) of the Public Audit Act, 2015 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report.</p>		
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#### OTHER MATTER

4.	<p><b>2. Unsupported Pending bills-</b> audit review of the pending bills revealed that important information such as contract number, local purchase order/local supply order numbers, sum contract, date contracted, amount paid to date and balances for the financial year were not provided.</p>	<p>The Committee recommends that;-</p> <ol style="list-style-type: none"> <li>1. the National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate so as to enable county entities settle their obligations on time;</li> <li>2. the County Executive should disclose all pending bills in the format prescribed by the Public Sector Accounting Standards Board as stipulated under Section 104(1)(h) of Public Finance Management Act, 2012;</li> </ol>	<p>The County CEO</p> <p>The National Treasury</p> <p>The DCI</p>	Continuous
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		<p>3. the county executive puts in place measures to enhance own generated revenue in order to meet its revenue target and address revenue shortfalls that contribute to the challenge of pending bills;</p> <p>4. Pending bills deemed ineligible should be forwarded to the Directorate of Criminal Investigation (DCI) for investigation proper legal action taken against those filing false claims;</p> <p>5. County Government to take note of judgement in a Kitale High Court Constitutional Petition E003 of 2023 that declared formation of pending bills verification committees unconstitutional and engage Office of the OAG and strengthen the internal audit functions.;</p> <p>6. All valid pending bills that have been reviewed by the Office of the Auditor General be paid and a payment plan be submitted to the county assembly for approval and progress report on implementation sent to the Senate and the Office of the Controller of Budget.</p>		
5.	<p><b>3. Unresolved Prior Year Matters</b></p> <p>In the audit report of the previous year, several issues were</p>	The Committee recommends that the County executive complies with section 53 of the Public Audit Act, 2015 by taking action on the issues	i. County Chief Executive Officer	60 days from the date of adoption of this report

	<p>raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, the Management has not resolved the issues or given any explanation for failure to adhere to the provisions of the Public Sector Accounting Standards Board templates and The National Treasury's Circular.</p>	<p>raises by the Auditor General and submits a report to the Auditor General.</p>	<p>ii. Auditor General</p>	
6.	<p><b>4. Non-Remittance of Statutory Deductions-</b> Kshs.260,666,736 for statutory deductions had not been remitted as at 30 June, 2020.</p>	<p>The Committee recommends that</p> <ol style="list-style-type: none"> <li>1) The County CEO undertakes administrative action against officer(s) responsible for non-remittance of statutory deductions and Sacco dues in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report; and</li> <li>2) the County Executive to provide a status report on remittance of deductions to the Office of the Auditor General within sixty (60)</li> </ol>	<p>i. The County CEO</p> <p>ii. Auditor General</p>	<p>60 days from the date of adoption of this report</p>



		days from the adoption of this report.		
7.	<p><b>5. Irregular Contribution to Council of Governors-</b></p> <p>Management paid Kshs.5,936,280 to the Council of Governors as membership fees. This is contrary to the provisions of section 37 of the Intergovernmental Relations Act, 2012</p>	<p>The Committee recommends that;-</p> <ol style="list-style-type: none"> <li>1. the irregular payments to the Council of Governors (COG) be stopped and further recommends the surcharge of any Governor, in their capacity as Chief Executive Officer, who continues to make the irregular contribution; and</li> <li>2. The EACC should oversee the recovery of all the public funds irregularly transferred to the Council of Governors (COG) by the Governor. This is in line with the Resolution of the Senate.</li> </ol>	<ol style="list-style-type: none"> <li>i. The County Executive Officer</li> <li>ii. EACC</li> </ol>	Immediate
8.	<p><b>10. Irregularities in Procurement of Legal Fees-</b></p> <p>examination of payment records and other supporting documents revealed that an amount of Kshs.17,659,000 was paid to one (1) company. This therefore implies that most of the legal cases were handled by one (1) firm although there were twenty (20) law firms prequalified.</p>	<p>The committee recommends that;-</p> <ol style="list-style-type: none"> <li>1) County Executive to make a provision in its budget for contingency liability in respect of legal fees pursuant to regulation 25(2)(e) of the Public Finance Management (County Government) Regulations, 2015; and</li> <li>2) the county executive to build the capacity of its legal department to avert risk of incurring high cost on outsourced legal services; and</li> <li>3) The County Executive utilizes the Office of the County Attorney to provide legal advice and court</li> </ol>	<ol style="list-style-type: none"> <li>i. County Chief Executive Officer</li> </ol>	Within 60 days of adoption of this report

		representation. The county should provide evidence of compliance with the County Attorneys Act within 60 days of adoption of this report.		
9.	<p><b>14. Delayed Completion of Roads Projects</b></p> <p>The County Executive initiated contracts for improvement of three (3) roads within Wajir Town to bitumen standards at a contract sum of Kshs.320,264,053. The project commencement orders were issued on 24 January, 2017 and were expected to be completed by 24 September, 2017. Physical verification of the project carried out on 19 December, 2020 revealed that the projects were incomplete and there was no sign of work in progress.</p>	<p>The Committee recommends that:</p> <p>1) the management provides a status report on the delayed completion of projects within 60 days of adoption of this report.</p> <p>2) The County executive should undertake proper project conceptualization, planning and execution to ensure timely completion of the projects as well as realization of value for money; and,</p> <p>3) OAG to follow up on this matter in its subsequent audit cycle.</p>	<p>i. The County CEO</p> <p>ii. The Auditor General.</p>	60 days from the date of adoption of this report
<b>REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE</b>				
10.	<p><b>1. Decline in Own Generated Revenue</b></p> <p>Management did not provide satisfactory explanations on why it continued to retain</p>	<p>1) the County Executive should put in place measures to improve their own source revenue collection capacity in order to meet their targets</p>	<p>i. The County CEO</p> <p>ii. CECM Finance</p>	Continuous



	high revenue targets despite the fact that the actual revenue collected was far below the budgeted targets.	2) the County Executive should adopt realistic revenue targets based on their mapped revenue streams; and 3) the County Executive should revise their budget to a realistic level based on past experience.		
11.	<p><b>2. Poor Management of Assets</b></p> <p>The register did not reflect sufficient details on the assets as required by the International Public Sector Accounting Standard (IPSAS) 17 and the reporting format prescribed by the Public Sector Accounting Standards Board. The register did not disclose information including serial numbers of the assets, their dates of acquisition, descriptions, location, class, cost of acquisition, accumulated depreciation and net book value and identification codes.</p>	<p>1) The County Executive should ensure that all assets are presented in the format prescribed by the National Treasury.</p> <p>2) the Inter-Governmental Relations Technical Committee should fast-track valuation of assets and liabilities from defunct local authorities to enable county governments recognize them in their books of accounts.</p> <p>3) the county government should acquire ownership documents for all assets under its custody and submit to the Auditor-General for verification within sixty (60) days from the adoption of this report.</p> <p>4) the Office of the Auditor General should review the matter in the subsequent Financial Years.</p> <p>5) the county government should acquire ownership documents for all assets under its custody and submit to the Auditor-General for verification within sixty (60) days from the adoption of this report.</p>	<p>i. CECM Finance</p> <p>ii. IGTRC</p> <p>iii. Auditor General</p>	60 days from the date of adoption of this report
12.	<b>3. Weakness in Internal Controls</b>	1) The Committee recommends that the County establishes an	i. County Treasury	60 days from the date of

	Examination of sampled payment vouchers revealed weaknesses in enforcement of internal controls designed for ensuring effective administration of public funds.	independent audit department with financial autonomy within sixty (60) days from the adoption of the report. 2) the Auditor General to review the matter in the subsequent audit period.	ii. Auditor General	adoption of this report
13.	<b>4. Lack of Disaster Recovery Plan</b> Management did not carry out risk assessment and the impact of an outage or disruption to the ICT system. There was also no IT disaster recovery plan, hence a significant delay or disruptions of activities may occur	1) The Committee recommends the County to put in place a Disaster Recovery Plan within sixty (60) days from the adoption of this report; and 2) The committee further recommends the Auditor General to review this matter at the next audit cycle.	i. County Chief Executive Officer  ii. Auditor General	60 days from the date of adoption of this report
14.	<b>5. Lack of Audit Committee</b>  The Management had not established an Audit Committee to monitor the entities' governance processes, accountability processes and control systems	The County should ensure the County Audit Committee in place be operationalized and given adequate funding to discharge its functions within sixty (60) days from the Adoption of this report	County Chief Executive Officer	60 days from the date of adoption of this report
15.	<b>6.1. Failure to Maintain Staff Establishment</b> Management did not maintain an approved staff establishment that indicates the optimal number of staff for each category, the	The Committee recommends that;- a) That the County should submit to the Office of the Auditor General the approved staff establishment and measures taken to rationalize the staff establishment within 60	County Public Service Board	60 days from the date of adoption of this report



	number in post and the variance.	days of adoption of this Report.		
16.	<b>6.2. Irregular Engagement of Casual Employees</b> anomalies in casual employee's engagements	The Committee recommends that; 1) The County Executive should engage the State Department of Public Service to fast-track the issuance of personal numbers to enable them onboard all employees on the Integrated Personnel and Payroll Database (IPPD) System; and 2) the Auditor General to monitor the matter in subsequent audit cycle.	County Public Service Board	60 days from the date of adoption of this report
17.	<b>6.3. Irregular Engagement of Employees on Interim Basis</b> The County Public Service Board did not maintain an approved staff establishment	The Committee recommends that;- 1) That the County should submit to the Office of the Auditor General the approved staff establishment and measures taken to rationalize the staff establishment within 60 days of adoption of this Report.	County Public Service Board	60 days from the date of adoption of this report
18.	<b>6.4. Manual Payroll</b> The County Executive maintained both IPPD payroll with a total of 3,260 employees and the manual payroll (excel sheet) with a total of 1,357 employees.	The Committee recommends that; 1) The County Executive should engage the State Department of Public Service to fast-track the issuance of personal numbers to enable them onboard all employees on the Integrated Personnel and Payroll Database (IPPD) System; 2) the County Public Service	County Chief Executive Officer  CPSB  Auditor General	60 days from the date of adoption of this report

		<p>Board to develop a framework of regularizing the casual workers and provide a status update to the Office of the Auditor General within 60 days of adoption of this report; and</p> <p>3) the Auditor General to review the matter in subsequent audit cycle.</p>		
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### **Qualified Opinion**

#### **1. Cash and Cash Equivalents**

As disclosed in Note 12 to the financial statements, the statement of assets and liabilities reflects a balance of Kshs.767,501,817 in respect of cash and cash equivalents which includes an amount of Kshs.26,214,434 for two fund accounts and two revenue collection accounts listed below:

<b>Account</b>	<b>Account Type</b>	<b>Balance as at 30 June, 2020 Kshs.</b>
Emergency Fund	Fund account	229,004
Revolving Fund	Fund account	15,368,065
Wajir County Local Revenue	Revenue collection account	9,575,815
Wajir County health Local Revenue Account	Revenue collection account	1,041,550
<b>Total</b>		<b>26,214,434</b>

The two fund accounts should have separate books of accounts and separate financial statements prepared and therefore their balances are to be reported separate from the financial statements of the County Executive. Consequently, the accuracy and completeness of the bank balance for the year ended 30 June, 2020 has not been confirmed.

#### **Management Response**

Management submitted that the County Executive prepared consolidated Financial Statements for the County Executive, County Funds, and other county public entities. The County Executive had implemented the auditor's recommendations and had since prepared separate Financial Statement for each of the funds.

#### **Committee Observations**

The Committee noted that the County Executive did not have separate accounts on the Emergency and revolving funds.

#### **Committee Recommendations**

**The Committee recommends that;**

- 1) The County CEO undertakes administrative action against the responsible officer(s) who failed to prepare a financial statement for the two (2) funds accounts in accordance with section 167(1) of the Public Finance**

**Management Act, 2012 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report.**

- 2) The County CEO to appoint an administrator of the two (2) funds accounts and submit separate financial statements for the funds to the Auditor General within sixty (60) days from the adoption of this report.**

## **2. Un-Receipted Exchequer Releases**

As disclosed in Note 1 to the financial statements, the statement of receipts and payments reflects a balance of Kshs.8,982,940,388 under Exchequer releases. However, examination of IFMIS reports revealed that receipts amounting to Kshs.3,950,486,126 were not receipted in IFMIS.

Consequently, the accuracy and completeness of Exchequer receipts captured in the financial statements of Kshs.3,950,486,126 could not be confirmed.

### **Management Response**

Management stated that the Exchequer Releases were not updated in the Account Receivable Module in IFMIS, since the Account Receivable AR Module was not active. The County Executive had since updated the IFMIS records on receipts and payment ledgers.

### **Committee Observation**

The Committee noted that the matter has since been addressed.

### **Committee Recommendation**

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

## **3. Failure to Disclose Own Source Revenue**

As disclosed in Note 7.9 – Other important disclosures at 7.9.4 under disclosure of balances in the revenue collection accounts on the financial statements, the Wajir County Health Local Revenue Account had a balance of Kshs.1,041,550 and Wajir County Local Revenue account had a balance of Kshs.9,575,815 as at 30 June, 2020 making revenue collection totalling Kshs.10,617,365 for both accounts. However, the revenue monies were not recognized as part of the own source revenue for the year under review.

In the circumstances, County's own source revenue is understated by Kshs.10,617,365 and the accuracy of the receipts reflected in the statement of receipts and payments cannot be ascertained.

### **Management Response**

Management stated that the Bank balances as at 30th June, 2020 was Kshs.1,041,550 and Kshs.9,575,815 for Wajir County Health Local Revenue Account and Wajir County Local Revenue Account respectively. The amount was not swiped to the County Revenue Fund (CRF) as at 30th June, 2020 but disclosed as Bank Balances in the Statement of Financial Position. The cash balances in these two bank accounts were



part of the revenue reported for the period in the statement of financial performance (FY 2019/2020).

#### **Committee Observation**

The Committee noted that the matter has since been addressed.

#### **Committee Recommendation**

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

### **4. Unsupported Expenditure - Use of Goods and Services**

As disclosed in Note 6 to the financial statements, the statement of receipts and payments reflects use of goods and services expenditure totaling Kshs.1, 310,997,532. However, examination of records revealed the following unsatisfactory observations: -

#### **4.1. Processing of Payments outside IFMIS**

The balance includes an amount of Kshs.152,314,851, Kshs.68,124,618 and Kshs.14,259,978 on domestic travel, training expenses and utilities supplies and services, respectively. However, examination of the payment schedules in support of the expenditure revealed that payments totaling Kshs.113,952,153 were made outside IFMIS. The payments were made from imprest account through cheques issued to individuals.

#### **Management Response**

Management submitted that the County did not process and pay expenditure outside IFMIS system only that it used Chq number as voucher number for ease of identification. There were two methods of payments which were, cash and electronic modes. These payments are all processed through IFMIS systems.

#### **Committee Observations**

The Committee noted that;

- 1) the payments totalling to Kshs.113,952,153 were made outside IFMIS.
- 2) The Committee noted that the management did not submit all the relevant documents and information to the Auditor General at the time of audit contrary to section 62 of the Public Audit Act, 2015.

#### **Committee Recommendations**

**The Committee recommends that;**

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

- 3) **The Committee recommends sanctions against the responsible officer(s) who failed to provide the documents to the auditors in accordance with section 62(2) of the Public Audit Act, 2015 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report; and**
- 4) **the EACC causes an investigation on the unaccounted imprest of Kshs. 113,952,153 to ascertain if there was an intent to defraud the county and provide a status update within sixty (60) days from the adoption of this report.**

#### **4.2. Domestic Travel and Subsistence**

Further, the balance includes an amount of Kshs.152,314,851 paid as domestic travel and subsistence allowances. Examination of payment vouchers and other supporting documents revealed that an amount of Kshs.6,450,500 was paid to officers who were attending workshops, trainings and other official duties outside the County. However, the payment vouchers were not supported with invitation letters, pre-travel approvals and training programs for the trainings attended. There was no workshop attendance register, reports of activities carried out and travel evidence such as vehicles' work tickets.

#### **Management Response**

Management submitted that the County Executive had retrieved the relevant supporting documents i.e. invitation letters, pre-travel approvals, training programs, reports of activities carried out and vehicle work tickets. These supporting documents were submitted for audit review and verification.

#### **Committee Observation**

The Committee noted that the matter was still outstanding as Kshs. 3,183,100 was not adequately supported and therefore amounts to probable loss of public funds.

#### **Committee Recommendations**

**The Committee recommends that;**

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

#### **4.3. Fuel Oil and Lubricants**



In addition, the balance includes an amount of Kshs.92,630,276 incurred on fuel, oil and lubricants. However, examination of payment vouchers and other records revealed that diesel worth Ksh.27,438,318 was not supported with relevant documents. The fuel registers maintained did not indicate the date fuel was drawn and registration numbers of the vehicles fueled. It was also noted that some of the vehicles that were fueled had defective speedometer hence it was not possible to confirm whether the vehicles were operational and were used for official assignments.

In view of the above anomalies, the accuracy, completeness and validity of expenditure amounting to Kshs.147,840,971 included in the statement of receipts and payments for the year ended 30 June, 2020 could not be confirmed.

### **Management Response**

Management submitted that the County Government of Wajir procured fuel, oil and lubricants from various suppliers within County for the financial year 2019/2020. The fuel, oil and lubricants in question related to departments of Health, Municipality and Water. The Payment vouchers listed above, and their respective supporting documents were submitted for audit review and verification.

### **Committee Observation**

The Committee noted that the matter has since been addressed.

### **Committee Recommendation**

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

### **Other Matter**

#### **1. Budget Control and Performance**

The summary statement of appropriation recurrent and development combined reflects actual expenditure of Kshs.10,881,990,623 against approved budget of Kshs.11,483,329,248 resulting to under-collection of Kshs.601,338,625 or 5% of the approved budget. Similarly, the County Executive expended an amount of Kshs.10,114,488,806 against the approved budget of Kshs.4,102,179,444 against an approved of Kshs.11,483,329,248 resulting to under-expenditure of Kshs.1,368,840,442 representing 14% of the approved budget. It was however noted that recurrent exchequer receipts and proceeds from domestic and foreign grants amounting to Kshs.1,153,126,614 were received in June and July, 2020. Due to late remittances by National Treasury, the County Government could not undertake the planned and budgeted for programmes and thereby adversely impacting on service delivery. The under absorption of funds meant that some of the planned activities were not executed which in turn hindered economic activity and service delivery to the residents of Wajir County.

### **Management Response**

The County Executive stated that the county total actual expenditure for the period was 86% of the approved budget for the financial year 2019/2020 amounting to Ksh 9,666,416,132. However, 14% was not spent due to late/non-release of funds by



National Treasury. The unspent balance was carried forward to the subsequent financial year as balance brought forward.

### **Committee Observations**

The Committee observed that;

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

### **Committee Recommendations**

**The Committee therefore recommends that:**

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

## **2. Unsupported Pending bills**

The financial statements reflects pending accounts payables balance of Kshs.995,766,591 as at 30 June, 2020. However, audit review of the pending bills revealed that important information such as contract number, local purchase order/local supply order numbers, sum contract, date contracted, amount paid to date and balances for the financial year were not provided. Further, verification of the pending bills revealed that bills amounting to Kshs.79,819,745 but supporting documents such as delivery notes and completion of works certificates, inspection and acceptance certificates and Counter Receipt Vouchers (S13) were not in the files. Further the subject files for pending bills amounting to Kshs.131,783,105 were not provided for audit verification. In addition, an analysis of the pending bills revealed that an amount of Kshs.241,176,587 related to the financial year ended 30 June, 2019. However, the Management did not settle this pending bill contrary to the Presidential Directive issued on 1 June, 2019 which required all accounting officers of public entities to ensure that all pending bills were settled before the end of 30 June, 2019. Failure to settle bills during the year in which they relate to distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

### **Management Response**

Management stated that the absorption of funds was slow due to the late release of funds by National Treasury and under collection of Own Source Revenue (in the last eight years) were the major reasons why the County's pending bills had unsteadily been increasing over the years. Due to consistent slow/late release of funds by the National Treasury at the end of every financial year, the County had always had its monthly exchequer releases in arrears for one or two months (May or June or both, of previous Financial years). The County had over the years been under collecting own revenue, due to consistent and harsh drought situation. The revenue under collection over the years had affected the County's liquidity position to pay pending bills incurred for the



previous and current financial year (s). The County Executive had initiated a Special Audit on Pending Bills for the Financial Years 2013/2014 to 2021/2022 to establish the accuracy and authenticity of the County's pending bills.

#### **Committee Observations**

The Committee observed that-

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

#### **Committee Recommendations**

The Committee recommends that:-

1. the National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate so as to enable county entities settle their obligations on time;
2. the County Executive should disclose all pending bills in the format prescribed by the Public Sector Accounting Standards Board as stipulated under Section 104(1)(h) of Public Finance Management Act, 2012;
3. the county executive puts in place measures to enhance own generated revenue in order to meet its revenue target and address revenue shortfalls that contribute to the challenge of pending bills;
4. Pending bills deemed ineligible should be forwarded to the Directorate of Criminal Investigation (DCI) for investigation proper legal action taken against those filing false claims;
5. County Government to take note of judgement in a Kitale High Court Constitutional Petition E003 of 2023 that declared formation of pending bills verification committees unconstitutional and engage Office of the OAG and strengthen the internal audit functions.;
6. All valid pending bills that have been reviewed by the Office of the Auditor General be paid and a payment plan be submitted to the county assembly for approval and progress report on implementation sent to the Senate and the Office of the Controller of Budget.

#### **3. Unresolved Prior Year Matters**

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

#### **Management Response**

Management stated that the County Executive had resolved some prior audit matters through disclosures as provided by the Public Sector Accounting Standards Board Templates and The National Treasury's Circular.

**Committee Observation**

The Committee observed that the County Executive did not take action on the issues raised in the Report of the Auditor General for the financial year 2018/2019.

**Committee Recommendation**

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

**REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

**1. Non-Submission of Financial Statements**

As disclosed under other important disclosures in the financial statements, the County Executive had established several corporate bodies which include the Wajir Water and Sewerage Company, the County Executive of Wajir Bursary Board, the Wajir Climate Change Adaptation Fund, and the County Executive Revolving Fund. However, Management did not prepare and avail separate financial statements to account for the operations of the entities contrary to Section 167 of the Public Financial (County Governments) Management Act, 2012 which requires County entities to prepare and submit financial statements in the format prescribed by the PSASB. Consequently, Management is therefore in breach of the law.

**Management Response**

Management stated that the County Executive prepared consolidated Financial Statements for the County Executive, County Funds and other county public entities. The County Executive had implemented the auditor's recommendations and had since prepared separate Financial Statement for each of the funds. The Financial Statements had been audited by the auditor.

**Committee Observation**

The Committee noted that the matter has since been addressed.

**Committee Recommendation**

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

**2. Unauthorized Expenditure**

During the year under review, the approved budget for compensation of employees was Kshs.3,316,038,030 and social security benefits had nil budget. However, the Management incurred total expenditure of Kshs.3,565,920,499 for compensation of



employees and Kshs.143,937,716 and social security benefits resulting to total over expenditure of Kshs.381,800,981 on the two components without authority. This was contrary to regulation 42(1)(b) of the Public Finance Management (County Governments) Regulations, 2015 which provides that an Accounting Officer shall ensure that public funds entrusted to their care are properly safeguarded and are applied for purposes for only which they were intended and appropriated by the County Assembly. Consequently, Management is therefore in breach of the law.

#### **Management Response**

Management submitted that The County Executive had initiated a human resources audit on suitability, placement and competence of the workforce to reduce the wage bill.

#### **Committee Observation**

The Committee noted that the matter has since been addressed.

#### **Committee Recommendation**

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

### **3. Unapproved Collection of Revenue**

During the year under review, the County Executive collected revenue amounting to Kshs.60,417,086 from own sources. However, it was noted that the County Finance Bill, 2020 submitted to the County Assembly setting out the revenue raising measures for the County government for the 2019/2020 was not approved by the County Assembly. Consequently, Management is therefore in breach of the law.

#### **Management Response**

Management stated that the County Assembly did not approve the Finance Bill for the financial year 2019/2020. The County Executive had been submitting the Finance Bills regularly to the County Assembly for consideration and approval. The County Assembly had consistently failed to debate and approve Finance Bills despite the County Executive's regular reminders to the Assembly for their passage. The County Executive had been collecting revenue from the public since it's allowed to collect revenue based on estimates in the previous Finance Act.

#### **Committee Observation**

The Committee noted that the matter has since been addressed.

#### **Committee Recommendation**

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

### **4. Non-Remittance of Statutory Deductions**

During the year under review, the Management made deductions amounting to Kshs.451,425,060 from staff salaries inform of Pay As You Earn, National Social Security Fund and other pension deductions but remitted a total of Kshs.190,758,324 only to the respective organizations. The difference of Kshs.260,666,736 had not been remitted as at 30 June, 2020. Failure to remit deductions exposes the County Executive

to additional costs in form of penalties and interests while compromising the welfare of staff upon retirement. Consequently, Management is therefore in breach of the law.

#### **Management Response**

Management stated that Executive did not remit the statutory deductions within the statutory deadline. The County Executive had reached an agreement with statutory agencies, particularly pension funds to pay in instalment the huge statutory deduction arrears over a certain period of time. The County had paid 7.3 million statutory deduction arrears to County Workers Union and staff gratuity so far. Furthermore, the County had under taken to provide a budgetary to pay these statutory deductions in arrears.

#### **Committee Observation**

The Committee noted that the County Executive did not remit the full statutory deductions of the employees to the various bodies.

#### **Committee Recommendations**

**The Committee recommends that**

- 1) **The County CEO undertakes administrative action against officer(s) responsible for non-remittance of statutory deductions and Sacco dues in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report; and**
- 2) **the County Executive to provide a status report on remittance of deductions to the Office of the Auditor General within sixty (60) days from the adoption of this report.**

#### **5. Irregular Contribution to Council of Governors**

During the year under review, Management paid Kshs.5,936,280 to the Council of Governors as membership fees. This is contrary to the provisions of section 37 of the Intergovernmental Relations Act, 2012 which states that the operational expenses in respect of the structures and institutions established in the Act shall be provided for in the annual estimates of the revenue and expenditure of the national government. Consequently, the Management is in breach of the law.

#### **Management Response**

Management stated that the County Government of Wajir paid Kshs 5,936,280 to the Council of Governors. This was payment made as contribution for intergovernmental relations as per the resolution of the Council.

#### **Committee Observation**

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



## **Committee Recommendation**

**The Committee recommends that;-**

- 1. the irregular payments to the Council of Governors (COG) be stopped and further recommends the surcharge of any Governor, in their capacity as Chief Executive Officer, who continues to make the irregular contribution; and**
- 2. The EACC should oversee the recovery of all the public funds irregularly transferred to the Council of Governors (COG) by the Governor. This is in line with the Resolution of the Senate.**

## **6. Non-Compliance with Public Procurement and Assets Disposal (Amendment) Regulations, 2015**

During the year under review, Management spent an amount of Kshs.3,998,689.65 on supply and delivery of a backup generator through request for quotation. This contrary to the requirements of Legal Notice No.106 of 18 June, 2013, on the amendments of the Public Procurement and Assets Disposal Regulations, 2016 which provides a new threshold matrix requiring value of goods and services above Kshs.2,000,000 to be procured through open tender. However, some of the mandatory requirements such as valid business permits and valid tax compliance certificates required for evaluation of the tenders were not met. Further, the procurement processes and transactions for the 2019/20 financial year revealed that Management did not procure goods, works and services through the e- procurement platform. Consequently, the Management is in breach of the law.

## **Management Response**

Management stated that the County Executive in the financial year under review procured construction of power house, installation and delivery of a backup generator. Therefore, the amount in question is within the quotation threshold matrix civil works of Kshs.4,000,000. In this respect, the County Executive was not in breach of the law.

They further added that consideration of mandatory requirements is an item in the mandatory evaluation criteria for projects. The Evaluation Committee considered the mandatory requirements for the project and awarded the company that was found to be the most responsive evaluated bidder. Therefore, the mandatory requirements such as valid business permits and valid tax compliance certificates required for evaluation of the tenders were met, and submitted for audit review and verification.

Management stated that the county government of Wajir is using IFMIS modules for the procurement of goods, works and services and all the payment are processed through the system.

## **Committee Observation**

The committee observed that the issue has been addressed.

## **Committee Recommendation**

**The committee recommends the matter be marked as resolved.**

#### **7. Non-Compliance with Public Procurement and Assets Disposal Act, 2015**

Management awarded contracts worth Kshs.182,044,780 to suppliers and contractors using quotations. However, the contractors were not among the list of prequalified suppliers under the respective categories of goods and works supplied. It was not clear how the contractors were identified for the contracts awarded. Consequently, the Management is in breach of the law.

##### **Management Response**

Management stated that there was an error in the statement above. The actual figure as per the audit certificate schedule was Kshs.18,204,780 as opposed to Kshs.182,044,780. The list was periodically updated upon receipt of the supplier profile in line with section 57 (2) and 71 of Public Procurement and Asset Disposal Act (PPADA) 2015 and Regulation 44(1) of PPDR, 2020 that allows the Head of Procurement function to maintain and update list of registered suppliers, contractors and Consultants. The County Executive confirmed that the above companies were in the pre-qualified list and it had submitted updated pre-qualified list to the auditors for audit review and verification.

##### **Committee Observation**

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The committee observed that the issue has since been addressed.

##### **Committee Recommendation**

**The committee recommends the matter be marked as resolved**

#### **8. Non-Compliance with Withholding Tax and VAT Act, 2013**

During the year under review, Management awarded a contract for the proposed rehabilitation of Wajir town roads to bitumen standard vide tender No.WCG/T/RT/56/2018-2019 at a contract price of Kshs.43,805,208. Examination of payment records and tender documents revealed that the works were completed and full payment made to the contractor. However, it was noted that 3% withholding tax and 6% VAT amounting to Kshs.3,579,942 was not deducted from the payments.

Consequently, the Management is in breach of the law.

##### **Management Response**

The Management submitted that the actual contract sum of tender No. WCG/T/RT/56/2018-2019 was Ksh 45,191,048. The county government withheld the relevant taxes and the contractor was paid the net amount as stated above.

##### **Committee Observation**

The committee observed that the issue has since been addressed



### **Committee Recommendation**

**The committee recommends the matter be marked as resolved**

### **9. Supply and Delivery of Emergency Relief Food**

Examination of payment records for the year under review revealed that Management procured relief food worth Kshs.265,427,300 for distribution to the draught stricken families in various parts of the County. However, Management through tender No: WCG/SP/OT/2019-2020 entered into a framework contract for the supply and delivery of relief food and assorted items with four companies, contrary to provisions of Section 114(c) of the Public Procurement and Assets Disposal Act, 2015 which requires a minimum of seven alternative vendors to be included for each category.

Further, the number of household's beneficiaries and distribution schedules showing the date and specific venue where food was distributed, identity cards of beneficiaries and quantity of food given out were not provided for audit review. It was therefore not possible to confirm whether the food stuffs procured were received and distributed to the intended beneficiaries. In addition, there was no evidence that the County Executive Committee member for finance sought approval from the County Assembly after making payments from the Emergency Fund as required by Section 114(1) of the Public Finance Management Act, 2012.

Consequently, the Management is in breach of the law.

### **Management Response**

Management stated that the tender for the above project were procured using open tender, tender number WCG/SP/OT/2019-2020 for supply and delivery of relief food and assorted items for relief & humanitarian aid, leading to two years' framework contract pursuant section 141 of PPDA 2015. "Subject to any prescribed restriction an accounting officer of a procuring entity may apply framework contracting arrangements by making awards of indefinite-delivery contracts and multiple awards of indefinite-quantity contracts for procurements under this Act". Hence the tender was above board since it was advertised in line with section 96(1) in one of the local dailies (Standard Newspaper) on 10th September, 2019 and further uploaded in the county website as per section 98(1) the tender document provided sufficient information to allow fair competition among those wished to submit the tender document.

The Management wished to confirm that the household's beneficiaries and distribution schedules showing beneficiaries and quantity of goods distributed were submitted for audit review and verification.

### **Committee Observation**

The Committee noted that the matter has since been addressed.

### **Committee Recommendation**

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

## **10. Irregularities in Procurement of Legal Fees**

During the year under review the County Executive paid Kshs.21,139,000 as legal fees to law firms. However, examination of payment records and other supporting documents revealed that an amount of Kshs.17,659,000 was paid to one (1) company. This therefore implies that most of the legal cases were handled by one (1) firm although there were twenty (20) law firms prequalified. It was noted that the firm was established in 2016 trading under a different business name. Further, a firm which was not in the prequalified list under provision of legal services was directly engaged and paid Kshs.3,480,000.

Under the circumstances, it was not possible to ascertain whether the law firm met the eligibility and capability criteria as provided under Section 71(2) of the Public Procurement and Asset Disposal Act, 2015.

### **Management Response**

Management stated that the payments for legal fees of Kshs. 17 million related to two law firms (HASSAN OSMAN and ASSOCIATES ADVOCATES and Yunis Osman and Mwiti Advocates). These two law firms were handling different court cases. Ms Hassan Osman and Associates advocates were handling 4 cases out the six court cases. Ms Yunis Osman and Mwiti Advocates were handling two cases out the six cases from the High Court to the Court of Appeal. The County Executive considered this law firm for reliability, continuity, and willingness to pursue the subject matter. The legal firm under reference above was paid Kshs.3,480,000, was a prequalified bidder and was in the updated prequalification list submitted to the auditors for review and verification.

### **Committee Observation**

The committee noted that there is lack of capacity at the county legal department that necessitated the county to outsource legal services.

### **Committee Recommendation**

**The committee recommends that;-**

- 1) County Executive to make a provision in its budget for contingency liability in respect of legal fees pursuant to regulation 25(2)(e) of the Public Finance Management (County Government) Regulations, 2015; and**
- 2) the county executive to build the capacity of its legal department to avert risk of incurring high cost on outsourced legal services.**

## **11. Irregular Procurement on Covid-19 Allocation**

During the year ended 30 June, 2020, Management spent Kshs.105,250,000 on procurement of medical supplies under the Covid-19 Response Plan through direct procurement method. A review of the payment records, tender documents and other records revealed the following anomalies: -



- (i) The budget for Covid-19 provided for audit did not indicate the specific details of the items, projects planned for implementation and cost estimates for the projects.

Therefore, it was difficult to link the implementation of the Covid-19 programmes with the budget.

- (ii) Two of the companies awarded the contracts were less than one-year-old since incorporation and one (1) company was one year and three months old, a clear indication that the suppliers had no qualification and experience to supply the stores.
- (iii) The tenders were awarded to private companies for supply of drugs and medical supplies instead of KEMSA contrary to the requirements of Section 4(3) of the Kenya Medical Supplies Authority Act, 2013 which provides that a national or county public health facility shall, in the procurement and distribution of drugs and medical supplies, obtain all such drugs and medical supplies from the Authority subject to (a) the drug being duly registered by the Board; and (b) the drugs and medical supplies meet the standards of quality and are efficacious as authorized by the Board.
- (iv) Examination of tender evaluation minutes, revealed that three (3) companies were given a score of 10/10 for past experience. However, a review of their company profiles, the bidders had not done similar works before, but were given maximum score by the evaluation committee.
- (v) One of the companies engaged by the Management was given a score of ten (10) marks for having power of attorney and sworn affidavit in its tender documents. However, a review of its company profile revealed that the power of attorney was not filled and signed before commissioner of oath as required. It was further noted that the contractor had no past experience contrary to the evaluation criteria for the tender.
- (vi) There was no evidence of market survey conducted to inform the placing of orders or adjudication by the relevant award committee. One of the companies supplied 6250 boxes of surgical face masks at Kshs.3,992 per box. Based on market price index survey published by Public Procurement Regulatory Authority in October, 2020, the average price of surgical face masks in Nairobi was Kshs.2,100. The Management would have saved Kshs.11,825,000 had the masks been procured using the prevailing market prices.
- (vii) The Management did not report the use of direct procurement to Public Procurement and Regulatory Authority within fourteen (14) days after notification of award of contract as required under Section 62(3) of Public Procurement Regulations, 2006.
- (viii) Further examination of the Covid-19 expenditure revealed that relief food worth Kshs.23,588,700 was procured under the Covid-19 emergency budget instead of using the allocation for emergency relief included in the annual budget.
- (ix) Examination of payments vouchers, tender documents and other records relating to Covid-19 renovation works for the year under review revealed that the management awarded contract of Kshs.8,953,706 for fencing the isolation area, renovation of dormitory and ablution block for coronavirus male and



female isolation unit at Wajir Girls Secondary School. However, the contracts were split into three contracts and awarded to the same contractor through request for quotation instead of other alternative procurement methods. No plausible explanation was provided by Management for slitting the works and the use of quotation.

- (x) Management awarded a tender for supply and delivery of 2,000 packs of N95 face mask each at unit price of Kshs.995 for the department of health vide local purchase order No: 009840. A review of stores records and discussion with the stores man revealed that only 200 packs of N95 face mask were delivered vide S13 No: 8790710 and taken on charge in store ledger. The balance of 1,800 packs worth Kshs.1,796,690 were not delivered although payment was made for the supplies.
- (xi) A company supplied 1210 packs of N95 respiratory face masks at Kshs.1,500 per pack, while another different company supplied similar supplies at Kshs.600 per pack during the same period and therefore a clear indication that no market survey was carried out before the quotations were floated to ensure the prices of the commodities were reasonable and value for money is derived from procurement of the masks.

Consequently, the Management is in breach of the law and it has not been possible to confirm if citizens of the Wajir County got value for money from the allocated Covid-19 Fund.

### **Management Response**

The Management submitted that;

- (i) the County Executive had an approved Supplementary Budget amounting to Kenya Shillings 194,820,000 that linked implementation of Covid-19 programmes with the budget.
- (ii) the Evaluation committee was guided by the evaluation criteria in the tender document, the consideration of experience was done at the tender evaluation committee in line with Section 46(4) of the PPADA 2015, that considers the technical and financial aspects of procurement including the evaluation of bids, proposals for prequalification, registration lists, expression of Interests and any other roles assigned to it. Experience was an item in the technical evaluation criteria for the project. The evaluation committee considered the mandatory, technical and financial requirements for the project and awarded the most responsive evaluated bidder. The two companies had the prerequisite documentations that led the Evaluation Committee to award the tender to the respective bidders and could deliver the goods as per the specification.
- (iii) the County Executive did not procure drugs but rather procured Personal Protective Equipment (PPE) and Infections Protection Commodities (IPC's).
- (iv) in line with Section 46(4) of the PPADA 2015, States "the consideration by the technical and financial aspects of procurement including the evaluation of bids, proposals for prequalification, registration lists, expression of Interests and any other roles assigned to it". Experience was an item in the technical evaluation criteria for the project. The evaluation committee



- considered the mandatory, technical and financial requirements for the project and awarded the most responsive evaluated bidder. The company had updated company profiles, the bidders had done similar works before and other prerequisite documentations were submitted to the auditor for review and verification.
- (v) in line with Section 46(4) of the PPADA 2015, States “the consideration by the technical and financial aspects of procurement including the evaluation of bids, proposals for prequalification, registration lists, expression of Interests and any other roles assigned to it”. Experience was an item in the technical evaluation criteria for the project. The evaluation committee considers the mandatory, technical and financial requirements for the project and awarded the most responsive evaluated bidder. The company had power of attorney filled and signed before commissioner of oath submitted to the auditor for audit review and verification.
  - (vi) the Presidential Directive on lockdown came into effect in March 2020. Due to the prevailing market situation caused by Covid-19 pandemic and lockdowns in the country, the prices of essential and infections protection items (IPC) went up. It was difficult to conduct a market survey at that moment in time. Public Procurement Regulatory Authority (PPRA) had conducted a market survey in October 2020, seven (7) months into the Covid-19 pandemic. The supply and delivery of these items were done in March 2020 therefore, the company quoted 3,992 per box, each surgical mask costing Kshs. 80 which was within the prevailing market as at that time.
  - (vii) the County Government of Wajir used the Direct Procurement method for supply and delivery of Infection Prevention Commodities (IPC) for Wajir County Referral Hospital in line with section 103(2) (b) & (c) and 104 (a) (b), (c) and (d) of Public Procurement & Disposal Act, 2015. However, the County Executive notified PPRA within the stipulated time as a result of work interruption occasioned by the Covid-19 pandemic. The PPDA section 69(2) states that “no procurement approval shall be made to operate retrospectively to any date earlier than the date on which it is made except on procurements in response to an urgent need”. Thus, this was an emergency procurement under the said section. The County Executive retrospectively reported the contracts awards to the authority vide email address to reports @ ppra.go.ke on October 2020.
  - (viii) the food aid procured by the County was distributed to the vulnerable people affected by the Covid-19 pandemic and some were further distributed to designated Covid-19 isolation centres.
  - (ix) these emergency projects were implemented on different dates and on need basis hence not split of procurement.
  - (x) the County ordered for 2,000 Packs of N95 Face masks for the department of health Covid Centres and the same was received in two batches vide S13 Nos. 8790710 and 8790749 for quantities of 200 and 1,800 packs respectively. The same was taken on charge on the store ledger Folio No. 48. The face masks were subsequently distributed to four sub-counties Covid centres (Wajir West, Bute, Habaswein and Tarbaj) via S11.



- (xi) the county government used PPRA's Price market index to ensure the prices of the commodities were reasonable and within the market price.

#### **Committee Observation**

The committee noted that the issue has been addressed

#### **Committee Recommendation**

**The committee recommends the matter be marked as resolved.**

### **12. Splitting of Contracts for Procurement of Works, Goods and Services**

During the period under review, the Management awarded contracts worth Kshs.247,643,871 through request for quotation. Examination of the contract documents revealed that contracts were structured in a manner to ensure that the procurement falls within the request for quotations threshold in order to defeat competition for the contracts. It was noted that works of similar nature within the same project locality were split and awarded to different contractors and in some instances to the same contractor. Further, medical equipment worth Kshs.29,875,500 were procured through request for quotations. However, the contracts for the medical equipment were split to defeat use of open tender as a choice of procurement. Verification of the prices charged for some of the items revealed that the prices were highly inflated compared to the prevailing market prices. There was no evidence that any market survey was carried to establish the prevailing market prices before awarding the contract. Consequently, the Management is in breach of the law.

#### **Management Response**

The Management stated that Wajir County covers 56,501 Km<sup>2</sup> is spread over six (6) constituencies, thirty (30) wards and over 300 locations. One of the mandates of the County Government is to reach and deliver services in all the locations in an equitable manner. The projects under reference above are not split tenders since there is a difference in project locality and description. Therefore, in order to enhance equity and fair distribution of resources at grassroot level these projects were captured separately in the departmental budgets, procurement and work plans. This was in line with the constitutional requirements of Article 227(1) and statutory requirements of the Public Procurement and Asset Disposal Act, 2015 Section 54 of the PPAD has An exemption under the PPADA regulations 2020 regulation 154(1) that provides that despite the provisions of Section 54(1) of the Act, a procuring entity may for the purpose of ensuring maximum participation of citizen contractors, disadvantaged groups, small, micro and medium enterprises in public procurement, unbundle a category of goods, works and services in practicable quantities.

#### **Committee Observation**

The committee noted the matter has been addressed

#### **Committee Recommendation**



**The committee recommends the matter be marked as resolved.**

### **13. Contract Agreements Signed Before Lapse of Mandatory Period**

A review of procurement records for a sample of contracts revealed that Management entered into seventy-nine (79) agreements for contracts worth Kshs.286,277,748. The contracts were signed between the Accounting Officer and the contractors before lapse of the mandatory fourteen (14) days after the notification of award as required by Section 35(3) of the Public Procurement and Asset Disposal Act, 2015. Further, a review of project files for projects worth Kshs.436,480,211 indicated that notification letters of regrets were not sent to unsuccessful bidders as required by Section 87(3) and Section 126(4) of Public Procurement and Asset Disposal Act, 2015. Consequently, the Management is in breach of the law.

#### **Management Response**

Management submitted that the signed Contract agreement by Accounting Officer within the mandatory period and notification of award as required by Section 35(3) of the Public Procurement and Asset Disposal Act, 2015 were availed for audit review and verification. The unsuccessful bidders were contacted as stipulated in line with Section 87(3) and 126(4) of Public Procurement and Asset Disposal Act, 2015. Regret Letters were issued accordingly and submitted for audit review and verification.

#### **Committee Observation**

The committee noted the matter has been addressed

#### **Committee Recommendation**

**The Committee recommends the matter be marked as resolved.**

### **14. Delayed Completion of Roads Projects**

During the period under review, the County Executive initiated contracts for improvement of three (3) roads within Wajir Town to bitumen standards at a contract sum of Kshs.320,264,053. The project commencement orders were issued on 24 January, 2017 and were expected to be completed by 24 September, 2017. The contractors requested for an extension of contract period and were granted extension of seven (7) months to July, 2018. The total payments made to the contractors as at 19 December, 2020 was Kshs.236,695,497.

However, physical verification of the project carried out on 19 December, 2020 revealed that the projects were incomplete and there was no sign of work in progress. The performance security bond for the projects had long expired and the Management did not request the contractors to renew their performance bonds as required by Section 41(4) and (5) of the Public Procurement and Disposal Regulations, 2006. No plausible explanation was provided by Management for the stalled works. In addition, the plans, if any, set to revive and complete the projects, were not disclosed.

In the circumstances, the value for money to the residents of Wajir County from the expenditure amounting to Kshs.236,695,497 could not be confirmed.

### Management Response

The County Executive confirmed that four (4) out of the five (5) projects were completed. The works for one project was 90% complete. The status report and certificates of completion of works done was annexed for audit review and verification.

### ANNEX 14

S/NO	TENDER NO.	DESCRIPTION	STATUS	PENDING BILLS	STATUS
1	WCG/T/367/2016- 2017	Improvement of Hilton Road to bitumen standard	Nihal and Kalson Construction Co Ltd	12,545,106.10	Completed
2	WCG/T/370/2016- 2017	Improvement of Wajir Girls to Surai Market to bitumen standard	Malka General Contractors Limited	25,536,541.00	Completed
3	WCG/T/371/2016- 2017	Improvement of Surai market to county assembly to bitumen standard	Kubri Road Works Limited	48,800,325.00	70% Completed

### Committee Observation

The Committee observed that there were delays in the completion of road projects in the county.

### Committee Recommendations

The Committee recommends that:

- 1) the management provides a status report on the delayed completion of projects within 60 days of adoption of this report.



- 2) The County executive should undertake proper project conceptualization, planning and execution to ensure timely completion of the projects as well as realization of value for money; and,
- 3) OAG to follow up on this matter in its subsequent audit cycle.

## **REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE**

### **1. Decline in Own Generated Revenue**

During the year under review, Management had budgeted to collect local revenues totaling Kshs.150,000,000. However, an audit review of revenue records and bank statements revealed collection of only Kshs.60,417,068 resulting to a shortfall of Kshs.89,582,914 or 60% of the budgeted amount. A review of performance for the past four (4) years has indicated a declining trend in local revenue against the budget as shown in the table below: -

Year	Budgeted Revenue Kshs.	Actual Revenue Kshs.	Variance Kshs.	Percentage (%) Variance
<b>2019-2020</b>	150,000,000	60,417,086	89,582,914	60%
<b>2018-2019</b>	200,000,000	60,123,112	139,876,888	70%
<b>2017-2018</b>	150,000,000	56,599,351	93,400,649	62%
<b>2016-2017</b>	230,119,550	75,150,051	154,969,499	67%

Management did not provide satisfactory explanations on why it continued to retain high revenue targets despite the fact that the actual revenue collected was far below the budgeted targets. In view of the foregoing, decline in revenue collection is an indication of ineffective and weak revenue collection strategies and adversely affects the provision of services to the residents of Wajir County.

### **Management Response**

The Management stated that the revenue for the year under review decreased due to several factors, among which were the breakdown in livestock marketing caused by severe drought and livestock diseases. It was worth noting that the closure of livestock markets and the non-consumption of animal products were mainly due to Rift Valley Fever. This was coupled by the Covid19 restrictions within the country and the closure of Kenya Ethiopia and Somalia border. This affected trade across the border nearly grounding the revenue from cereals and livestock trade. As a result, Miraa market entry fee, Livestock auction fee and export cess and cereal cess were affected. These streams accounted for 60 percent of the Counties revenue collection.

Further, to address the issue of dwindling revenue collections, the County Government had implemented several strategies to improve its Own Source Revenue (OSR). One of the key initiatives is the establishment of an *ad hoc* Steering Committee on revenue

enhancement. This committee would be responsible for overseeing revenue mapping, revenue automation, land valuation roll, a robust inspectorate and enforcement team, as well as the enactment of necessary legal frameworks and regulations.

### **Committee Observations**

The committee noted;

- 1) the declining trends of the county own generated revenue in Wajir County
- 2) that the decline in own source revenue affects planned expenditure as local revenues forms critical component of county budget.

### **Committee Recommendations**

The Committee recommends that—

- 1) the County executive should expedite updating of valuation roll in accordance with Section 3 of the Valuation for Rating Act CAP 266 so as to reflect current market values for optimal revenue collection and comply with the guidelines of the Public Sector Accounting Sector Boards of reporting in the FY 2023/2024;
- 2) the County Executive should put in place measures to improve their own source revenue collection capacity in order to meet their targets;
- 3) the County Executive should adopt realistic revenue targets based on their mapped revenue streams; and
- 4) the County Executive should revise their budget to a realistic level based on past experience.

## **2. Poor Management of Assets**

Annex 3 to the financial statements includes a summary of fixed assets which indicates that the County Executive owned assets valued at Kshs.12,452,875,974 as at 30 June, 2020. However, the register did not reflect sufficient details on the assets as required by the International Public Sector Accounting Standard (IPSAS) 17 and the reporting format prescribed by the Public Sector Accounting Standards Board. The register did not disclose information including serial numbers of the assets, their dates of acquisition, descriptions, location, class, cost of acquisition, accumulated depreciation and net book value and identification codes. Further, during the year under review, Management procured one (1) Land Cruiser Pick- Up (CKD) and two (2) Model Elcher pro 3009D Truck worth Kshs.15,539,482. The vehicles were procured through open tender, received and were in use. However, logbooks for the motor vehicles were not provided for audit verification. In the circumstances, it has not been possible to confirm the existence of a robust policy in the management of the county assets.

### **Management Response**

The Management stated that the County Executive was currently compiling a Fixed Assets Register that complies with IPSAS 17 requirements from the existing departmental nominal assets register. The County was currently also working closely



with the Inter-Governmental Technical Committee on the Verification of physical assets with the sole intent of having a consolidated Fixed Assets Register.

The County Executive Procured 3 No. motor vehicles for the year under review. The motor vehicles were indeed supplied, received, inspected and accepted.

#### **Committee Observations**

The Committee observed that;

- 1) the County Executive lacks an updated Fixed Asset Register; and
- 2) the county lacks ownership documents to some of its assets.

#### **Committee Recommendations**

**The Committee recommends that the-**

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

### **3. Weakness in Internal Controls**

Examination of sampled payment vouchers revealed weaknesses in enforcement of internal controls designed for ensuring effective administration of public funds. As a result of weaknesses in the enforcement of internal controls, payments totaling Kshs.21,659,263 were made without authorization by the accounting officers.

In view of the anomalies, the County Treasury operates without strong internal controls and could lead to fictitious expenditure.

#### **Management Response**

The County Executive acknowledged that there were lapses in internal controls that need strengthening of internal control systems. The payment vouchers were authorized and submitted for audit review and verification.

#### **Committee Observation**

The Committee noted that the county lacks internal audit mechanism to evaluate financial managements.

#### **Committee Recommendations**

**The Committee recommends that**

- 1) the County establishes an independent audit department with financial autonomy within sixty (60) days from the adoption of the report.

- 2) the Auditor General to review the matter in the subsequent audit period.

#### **4. Lack of Disaster Recovery Plan**

During the year under review, Management did not carry out risk assessment and the impact of an outage or disruption to the ICT system. There was also no IT disaster recovery plan, hence a significant delay or disruptions of activities may occur. Additionally, Management may not recover or restore critical infrastructure services and systems affecting all operations that rely on the information communication technology.

In the circumstances, it was not possible to confirm existence of measures to safeguard the ICT environment.

##### **Management Response**

The County Executive submitted that it would undertake measures to develop an IT infrastructure system as well as an appropriate Disaster Recovery Plan.

##### **Committee Observation**

The committee noted the county executive has not put in place a disaster recovery plan in place.

##### **Committee Recommendations**

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The Committee recommends that;

- 1) the County to put in place a Disaster Recovery Plan within sixty (60) days from the adoption of this report; and
- 2) the Auditor General to reviews this matter at the next audit cycle.

#### **5. Lack of Audit Committee**

The Management had not established an Audit Committee to monitor the entities' governance processes, accountability processes and control systems, offer objective advice on issues concerning risk control and governance and associated assurance and also follow up on the implementation of the recommendations of internal and external auditors.

In the circumstances, I am unable to confirm existence of effective overall governance measures at the County.

##### **Management Response**

Management submitted that the Audit Committee had since been constituted and was currently in office.

##### **Committee Observations**

The Committee noted that;

- 1) the County has since established an audit committee;



- 2) that the county audit committee is not operational and lacks the required resources to discharge its mandates.

### **Committee Recommendation**

**The committee recommends that the county executive operationalizes the audit committee including adequate budgetary allocation within sixty (60) days from the adoption of this report.**

## **6. Compensation of Employees**

As disclosed in Note 5 to the financial statements, the statement of receipts and payments for the year ended 30 June, 2020 reflects compensation of employees' expenditure totaling to Kshs.3,565,920,499. However, audit review of the component revealed the following anomalies;

### **6.1. Failure to Maintain Staff Establishment**

Management did not maintain an approved staff establishment that indicates the optimal number of staff for each category, the number in post and the variance. A review of the IPPD payroll and bank remittance schedules for the year under review revealed that two (2) employees were sharing bank accounts and they were paid salaries. The officers are in different job groups with different names. However, the management paid them using one account but did not clarify the relation of the two (2) officers.

### **Management Response**

Management submitted that the County Executive had a staff establishment in draft form. The draft had been forwarded to the County Public Service Board for review and approval. The draft establishment had provided for all cadre of staffs. Khadija Jellow Ahmed – P/NO. 1983078024 and Hassan Abdi Mohamed –P/NO. 20130041851 are a mother and her son who had a joint account. The officers were advised to open different accounts. Khadija Jellow Ahmed Account No. is 1108615430 while Mohamed Hassan Adan Account No. is 580177606279.

### **Committee Observations**

The committee noted that;

- 1) the county executive lacks an approved staff establishment; and
- 2) the lack of staff establishment is likely to lead to a bloated wage bill representing 39% of the county total revenue.

### **Committee Recommendations**

**The Committee recommends that the County should submit to the Office of the Auditor General the approved staff establishment and measures taken to rationalize the staff establishment within 60 days of adoption of this Report.**

## **6.2. Irregular Engagement of Casual Employees**

During the year under review, Management spent Kshs.197,024,618 on payment of wages for temporary or casual employees. Examination of records for casual payments revealed the following;

- (i) Muster rolls for the casuals were not provided for audit review.
- (ii) Some casuals were assigned job groups such, H, K, L and N which ordinarily apply to employees appointed on contractual and permanent basis of employment.
- (iii) Some casual employees shared Kenya Revenue Personal Identification Numbers. In the circumstances, it was not clear how the Pay As You Earn deducted from their salaries was transmitted to Kenya Revenue Authority.
- (iv) According to the manual payroll for June, 2020, a total of 156 casuals who were in the payroll were engaged continuously for more than three months. It was further noted that they were not attached to any specific department or any specific area of deployment in the County Executive. It was therefore not possible to confirm whether they provided any services to the County. Even though the monthly deductions in respect of both the NHIF and NSSF were done on their wages, the manual payrolls did not indicate the KRA PIN, NHIF and NSSF registration numbers for some casual employees. It was not clear how the deductions were remitted to the respective statutory organizations.

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### **Management Response**

#### **Management submitted that;**

- (i) the County maintained a Muster Roll and was hereby attached for audit review and verification.
- (ii) the officers in question were appointed during the transition to devolved system of government on need-basis. The appointments were to be regularized by the County Public Service Board. However, this process took long because of budgetary issues and the county executive was working towards regularizing the same.
- (iii) The auditor did not provide the specific officers who shared KRA PIN.
- (iv) the County Executive had engaged the service of casuals. The contract of these casuals was renewed after the expiry of the appointment terms. These casuals were all attached to various county departments. Their duty departments were confirmed in their respective muster roll.
- (v) some casual employees lack NHIF and NSSF numbers but their national identity card numbers was in the payroll. It had initiated the process of updating the personal records of these casual employees.

### **Committee Observation**

The Committee noted that there were 429 employees being paid outside the IPPD system.

### **Committee Recommendations**



**The Committee recommends that;**

- 1) The County Executive should engage the State Department of Public Service to fast-track the issuance of personal numbers to enable them onboard all employees on the Integrated Personnel and Payroll Database (IPPD) System;**
- 2) the County Public Service Board to develop a framework of regularizing the casual workers and provide a status update to the Office of the Auditor General within 60 days; and**
- 3) the Auditor General to monitor the matter in subsequent audit.**

### **6.3. Irregular Engagement of Employees on Interim Basis**

During the financial year under review, the County Executive engaged some employees on interim positions. A review of their appointments revealed the following anomalies:

- i. The County Public Service Board did not maintain an approved staff establishment. It was therefore not possible to confirm whether the interim positions were available to be filled.
- ii. Management did not provide evidence to confirm that the positions were competitively filled by County Public Service Board as required.
- iii. Some of the staffs appointed to the interim positions were in job groups H, K, L and N which would ordinarily be job groups for appointments on contract or permanent basis.
- iv. Salaries paid to officers appointed on interim positions were not based on salary structure grading issued by the Salaries and Remuneration Commission.

### **Management Response**

The County Executive had a staff establishment in draft form. The draft had been forwarded to the County Public Service Board for review and approval. The draft establishment has provided for all cadres of staffs. The officers in question were appointed during the transition to devolved system of government on need-basis. The appointments were to be regularized by the County Public Service Board. However, this process took long because of budgetary issues and the county executive is working towards regularizing the same.

### **Committee Observation**

The committee noted that the county executive lacks an approved staff establishment.

### **Committee Recommendations**

**The Committee recommends that the County should submit to the Office of the Auditor General the approved staff establishment and measures taken to rationalize the staff establishment within 60 days of adoption of this Report.**

### **6.4. Manual Payroll**

A review of the payroll records established that the County Executive maintained both IPPD payroll with a total of 3,260 employees and the manual payroll (excel sheet) with

a total of 1,357 employees. No plausible explanation was provided by Management for maintaining the two (2) sets of payrolls.

In the circumstances, the existence of a strong Human Resource Policy Framework cannot be confirmed.

### **Management Response**

Management submitted that the County Government of Wajir had two (2) sets of payrolls; The IPPD and the Manual Payroll. The County Manual payroll contained persons awaiting personal numbers, casual staff (with no personal numbers) and ECD teachers. The Manual Payroll was for transition purpose to the IPPD payroll. The Manual payroll was meant to process salary for staff before they receive their Personal Numbers. It took time from Personal Number request to DPSM and the time the same received. It took months. The County was forced to process salary for the affected employees. Immediately their personal numbers were received their details were transferred into the IPPD payroll. The other group of County staff who are in the Manual Payroll were the Early Childhood Education Teachers (ECD's) who were recruited by the County Public Service Board. The ECDE teachers had no personal numbers, scheme of services and no code numbers in the IPPD system.

### **Committee Observation**

The committee noted that the county maintained manual payroll system in addition to IPPD system to process county employee's salary which is prone to errors and manipulation.

### **Committee Recommendations**

**The Committee recommends that;**

- 1. The County Executive should engage the State Department of Public Service to fast-track the issuance of personal numbers to enable them onboard all employees on the Integrated Personnel and Payroll Database (IPPD) System;**
- 2. the County Public Service Board to develop a framework of regularizing the casual workers and provide a status update to the Office of the Auditor General within 60 days; and**
- 3. the Auditor General to review the matter in subsequent audit cycle.**



## CHAPTER FIFTEEN

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

The Governor of Samburu County Executive Hon. Lati Leletit appeared before the Committee on Thursday, 15<sup>th</sup> June, 2023 to respond (under oath) to audit queries raised in the Report of the Auditor General on Financial Statements for Samburu County Executive for the Financial Year 2019/2020.

#### Adverse Opinion

EXECUTIVE SUMMARY OF THE UNRESOLVED ISSUES				
S/NO	AUDIT QUERY	COMMITTEE RECOMMENDATIONS	ACTORS	TIMELINE
1.	<b>1.Discrepancies in Management Report and Financial Statements</b> - The Key Management Information Report and the financial statements contain numerous discrepancies	<p>The Committee recommends that;-</p> <ol style="list-style-type: none"> <li>1. The County CEO undertakes administrative action against the accounting officer, the Chief Officer Finance, the Head of County Treasury and any other officer(s) responsible for failure to undertake reconciliation of financial statements within the stipulated timelines and submit a report to the Committee within 60 days of adoption of this report;</li> <li>2. The Institute of Certified Public Accountants (ICPAK) takes action(s) against the Head of Treasury for misrepresentation of financial statements which constitutes professional misconduct pursuant to Section 8 (a) and 30 of the Accountants Act CAP 531 and reports to the Committee within 60 days of adoption of this report;</li> <li>3. County CEO must ensure strict adherence to the Public Audit Act, 2015 by providing</li> </ol>	<ol style="list-style-type: none"> <li>1) The County Chief Executive Officer</li> <li>2) The National Treasury</li> </ol>	60 days from the date of adoption of this report

		accurate and reliable reconciliations of the financial statements, payment details and the vote books during the audit cycle; The County Executive to identify training needs of its staff serving in the Finance Department and initiate capacity building and training in conjunction with the National Treasury within 60 days of adoption of this report.		
2.	<b>1.2 Inaccuracies and Misstatements -</b> The annual report and financial statements contain discrepancies and misstatement.	The Committee recommends that;- 1. The County CEO undertakes administrative action against the accounting officer, the Chief Officer Finance, the Head of County Treasury and any other officer(s) responsible for failure to undertake reconciliation of financial statements within the stipulated timelines and submit a report to the Committee within 60 days of adoption of this report; 2. The Institute of Certified Public Accountants (ICPAK) takes action(s) against the Head of Treasury for misrepresentation of financial statements which constitutes professional misconduct pursuant to Section 8 (a) and 30 of the Accountants Act CAP 531 and reports to the Committee within 60 days of adoption of this report; 3. County CEO must ensure strict adherence to the Public Audit Act, 2015 by providing accurate and reliable reconciliations of the financial statements, payment details and the vote books during the audit cycle; The County	1) The County Chief Executive Officer  2) Institute of Certified Public Accountants (ICPAK)	60 days from the date of adoption of this report



		Executive to identify training needs of its staff serving in the Finance Department and initiate capacity building and training in conjunction with the National Treasury within 60 days of adoption of this report.		
3.	<p><b>Unconfirmed Balances-Variations between Financial Statement and Ledger Balances</b></p> <p>Fourteen large balances reflected in the financial statements differ with those reflected.</p> <p>in respect to identical accounts in the IFMIS ledger.</p>	<p>The Committee recommends that:-</p> <ol style="list-style-type: none"> <li>1. The County CEO undertakes administrative action against the accounting officer, the Chief Officer Finance, the Head of County Treasury and any other officer(s) responsible for failure to undertake reconciliation of financial statements within the stipulated timelines and submit a report to the Committee within 60 days of adoption of this report;</li> <li>2. The Institute of Certified Public Accountants (ICPAK) takes action(s) against the Head of Treasury for misrepresentation of financial statements which constitutes professional misconduct pursuant to Section 8 (a) and 30 of the Accountants Act CAP 531 and reports to the Committee within 60 days of adoption of this report; County CEO must ensure strict adherence to the Public Audit Act, 2015 by providing accurate and reliable reconciliations of the financial statements, payment details and the vote books during the audit cycle; and</li> <li>3. The County Executive to identify training needs of its staff serving in the Finance Department and initiate capacity building and training</li> </ol>	<ol style="list-style-type: none"> <li>1) The County Chief Executive Officer</li> <li>2) The National Treasury</li> <li>3) The Auditor General</li> </ol>	60 days from the date of adoption of this report

		in conjunction with the National Treasury within 60 days of adoption of this report.		
4.	<p><b>2.3 Compensation of Employees Costs</b></p> <p>Unexplained variances totaling Kshs.110, 774,012 on basic salaries of permanent employees, personal allowances paid as part of salary, and pension and other social security contributions were noted.</p>	<p>The Committee recommends that:-</p> <ol style="list-style-type: none"> <li>1. The County CEO undertakes administrative action against the accounting officer, the Chief Officer Finance, the Head of County Treasury and any other officer(s) responsible for failure to undertake reconciliation of financial statements within the stipulated timelines and submit a report to the Committee within 60 days of adoption of this report;</li> <li>2. The Institute of Certified Public Accountants (ICPAK) takes action(s) against the Head of Treasury for misrepresentation of financial statements which constitutes professional misconduct pursuant to Section 8 (a) and 30 of the Accountants Act CAP 531 and reports to the Committee within 60 days of adoption of this report;</li> <li>3. County CEO must ensure strict adherence to the Public Audit Act, 2015 by providing accurate and reliable reconciliations of the financial statements, payment details and the vote books during the audit cycle; and</li> <li>4. The County Executive to identify training needs of its staff serving in the Finance Department and initiate capacity building and training in conjunction with the National Treasury within 60 days of adoption of this report.</li> </ol>	<ol style="list-style-type: none"> <li>1) The County Chief Executive Officer</li> <li>2) The National Treasury</li> </ol>	60 days from the date of adoption of this report



5.	<b>2.4 Misclassified Expenditure-</b> expenditures totaling Kshs.485, 767,075 on the two items are misclassified	<p>The Committee recoemnds that:-</p> <ol style="list-style-type: none"> <li>1. The County CEO undertakes administrative action against the accounting officer, the Chief Officer Finance, the Head of County Treasury and any other officer(s) responsible for failure to undertake reconciliation of financial statements within the stipulated timelines and submit a report to the Committee within 60 days of adoption of this report;</li> <li>2. The Institute of Certified Public Accountants (ICPAK) takes action(s) against the Head of Treasury for misrepresentation of financial statements which constitutes professional misconduct pursuant to Section 8 (a) and 30 of the Accountants Act CAP 531 and reports to the Committee within 60 days of adoption of this report;</li> <li>3. the EACC causes an investigation on to the expenditure of Kshs.485,767,075 to ascertain if there was an intent to defraud the county and provide a status update within sixty (60) days from the adoption of this report.</li> <li>4. County CEO must ensure strict adherence to the Public Audit Act, 2015 by providing accurate and reliable reconciliations of the financial statements, payment details and the vote books during the audit cycle; and</li> <li>5. The County Executive to identify training needs of its staff serving in the Finance</li> </ol>	The EACC	60 days from the date of adoption of this report
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		Department and initiate capacity building and training in conjunction with the National Treasury within 60 days of adoption of this report.		
6.	<b>2.6 Social Security Benefits</b>  Records on the payments reflected unpaid mortgage deductions totaling Kshs.6, 102,145 expensed under compensation of employees.	1) The Committee recommends that the county provides financial statements of the mortgage fund, schedule of those who received the mortgages; name, amount and designation, security offered, repayments that have been made to date and measures the county is taking to ensure recovery to the auditor general within sixty (60) days from the adoption of this report; and  2) The Committee recommends that the EACC investigates the mortgage matter in the county to ascertain prudence in the use of county revolving funds and provide a status report to the Senate within 90 days of adoption of this report.	1) The County Chief Executive Officer  2) The EACC	60 days from the date of adoption of this report
7.	<b>2.8 Bank Accounts-</b> six (6) bank accounts.  However, the accounts were not supported with cash book records, or bank balance certificates.	1) The County CEO undertakes administrative action against the responsible accounting officers, the County Executive Committee Member (CECM) in charge of Finance and Economic Planning, who failed to provide the documents to the auditors in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report.	The County Chief Executive Officer	60 days from the date of adoption of this report



8.	<p><b>2.9 Unreported Bank Accounts-</b> Bank accounts with cash balances totaling Kshs.1, 269,375 as at 30 June, 2020 held</p> <p>In commercial banks were omitted from the financial statements.</p>	<p>The County CEO undertakes administrative action against the responsible accounting officer, the head of county treasury and any other officer(s) for omitting the bank accounts and failure to ensure the accuracy of the financial statements within the stipulated timelines in accordance with section 156 of the Public Finance Management Act, 2012 and submit a report to the Office of the Auditor General within sixty (60) days of adoption of this report.</p>	The County Chief Executive Officer	60 days from the date of adoption of this report
9.	<p><b>5.0 Pending Bills-</b> the accuracy and completeness of the pending bills balance totaling Kshs.737, 915,217 as at 30 June, 2020 could not be confirmed.</p>	<p>The Committee recommends that;-</p> <ol style="list-style-type: none"> <li>1. the National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate so as to enable county entities settle their obligations on time;</li> <li>2. the County Executive should disclose all pending bills in the format prescribed by the Public Sector Accounting Standards Board as stipulated under Section 104(1)(h) of Public Finance Management Act, 2012;</li> <li>3. the county executive puts in place measures to enhance own generated revenue in order to meet its revenue target and address revenue shortfalls that contribute to the challenge of pending bills;</li> <li>4. Pending bills deemed ineligible should be forwarded to the Directorate of Criminal Investigation (DCI) for investigation proper legal action taken against those filing false claims;</li> </ol>	<ol style="list-style-type: none"> <li>1) The County Chief Executive Officer</li> <li>2) The National Treasury</li> <li>3) The DCI</li> <li>4) The Auditor General</li> </ol>	Continuous

		<p>5. County Government to take note of judgement in a Kitale High Court Constitutional Petition E003 of 2023 that declared formation of pending bills verification committees unconstitutional and engage Office of the OAG and strengthen the internal audit functions.;</p> <p>6. All valid pending bills that have been reviewed by the Office of the Auditor General be paid and a payment plan be submitted to the county assembly for approval and progress report on implementation sent to the Senate and the Office of the Controller of Budget.</p>		
10.	<b>6.0 Other Grants and Payments - Emergency Payments</b>	<p>1) The County CEO undertakes administrative actions against the accounting officer(s) who failed to provide all the documents to the auditors in accordance with section 156 of the Public Finance Management Act and provides a status report to the Office of the Auditor General within 60 days from the adoption of this report.</p> <p>2) The County Executive Committee should regularise the process of establishing the fund through the Samburu County Assembly in line with Section 110 of the PFM Act, 2012.</p>	<p>1) The County CEO</p> <p>2) CECM Finance</p>	60 days from the adoption of this report
11.	<b>7.0 Refunds of Deposits and Retention Monies</b>	The committee recommends the EACC to cause investigation into contractors' deposit and retention payments and provides a status update to the Senate within ninety (90) days from the adoption of this report.	The EACC	Within 90 days from the adoption of this report



12.	<b>8.0 Budgetary Control and Performance</b>  under-expenditure of Kshs.456, 827,487 Or 11% of the budget.	1) the National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate and comply with Article 219 of the Constitution and Section 17(6) of the Public Finance Management Act, 2012. 2) the County executive puts in place measures to enhance its own generated revenue in order to meet its revenue target and address revenue shortfalls.	The National Treasury	
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**REPORT ON LAWFULNESS AND EFFECTIVE IN USE OF PUBLIC RESOURCES**

13.	<b>1.2Idle Donor Project Funds</b>  Funds set aside for the development of Maralal Municipality but were not put to use. No satisfactory explanation was provided for the Failure to utilize the funds.	The Auditor General should conduct project verification to ascertain the completion status and report back to the Senate within 60 days of adoption of this report.	Auditor General	Within 60 days of adoption of this report
14.	<b>1.4 Boreholes Drilled Without Authority-</b> Water Resources Management Authority (WARMA) permits were not obtained for the drilling of 30 boreholes.	1. The Committee recommends that the Auditor General conducts project verification to ascertain the completion status and report back to Senate within 60 days of adoption of this report.  2. The committee further recommends Water Resources Management Authority (WARMA) to enforce the regulations made under the water act and provides a status update to the	1)Auditor General  2)Water Resources Management Authority (WARMA )	

		OAG within 60 days of adoption of this report.		
15.	<p><b>2.0 Irregular Grants Issued to Samburu Water and Sanitation Company Limited</b></p> <p>the grants were issued contrary to Section 71 of the Public Finance Management (County Government) Regulations, 2015</p>	<p>The committee recommends the Senate County Public Investment and Special Fund to look into this matter. The committee further recommends the County Government to operate within the provision of the law for such grants provided to County Corporations</p>	<p>The County Chief Executive Officer</p> <p>Senate CPISF</p>	
16.	<p><b>4.0 Irregular Payments to Council of Governors payments</b></p> <p>totaling Kshs.3, 227,133 were made to the Council of Governors contrary to Section 37 of the Intergovernmental Relations Act, 2012,</p>	<p>The Committee recommends that;-</p> <ol style="list-style-type: none"> <li>1. the irregular payments to the Council of Governors (COG) be stopped and further recommends the surcharge of any Governor, in their capacity as Chief Executive Officer, who continues to make the irregular contribution; and</li> <li>2. The EACC should oversee the recovery of all the public funds irregularly transferred to the Council of Governors (COG) by the Governor. This is in line with the Resolution of the Senate.</li> </ol>	<p>The County CEO</p> <p>EACC</p>	Immediately



17	<b>5.0 Uncollected Land Rates</b>  Examination of revenue records revealed unpaid land rates, including penalties for Delayed payment, totaling Kshs.60, 343,374	1) The county executive should automate their revenue collection to enhance revenue collection, administration, enforcement and also seal revenue leakages and provide a status update to the Office of the Auditor General within 60 days of adoption of this report; 2) The county executive should adopt realistic revenue targets based on their mapped revenue streams; and 3) the Auditor General to review the matter in the next audit cycle.	1) The County CEO 2) The Auditor General 3) CECM Finance 4) Receiver of Revenue	Subsequent Audit Cycle
<b>REPORT ON THE EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE</b>				
18	<b>1.0 Irregular Payroll System</b>  The County Government maintains two (2) payroll systems; the electronic Integrated. Payroll and Personnel Database (IPPD) for its 1,614 permanent staff and a manual System for 529 non-permanent	1. The County Executive should engage the State Department of Public Service to fast-track the issuance of personal numbers to enable them onboard all employees on the Integrated Personnel and Payroll Database (IPPD) System; 2. the County Public Service Board to develop a framework of regularizing the casual workers and provide a status update to the Office of the Auditor General within 60 days; and 3. the Auditor General to review the matter in subsequent audit cycle.	1) CECM Finance 2) Auditor General	Continuous
1.	<b>3.0 Lack of County Performance Management and Staff</b>	1. The committee recommends the County Public Service Board put in place a performance and staffs appraisal systems and tools in place and provide a status update to the	1) County Public Service Board	60 days from the Adoption of the Report

	<p><b>Appraisal System</b></p> <p>Management of Samburu County Executive had neither designed a Performance Management Plan nor established a Performance Management Committee. As a result, staff were not evaluated on their performance in the year</p>	<p>OAG within sixty (60) days from the adoption of this report.</p> <p>2.The committee further recommends the Auditor General to monitor the matter.</p>	2) Auditor General	
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## Adverse Opinion

### 1.0 Discrepancies in Management Report and Financial Statements

The Key Management Information Report and the financial statements contain numerous discrepancies, as outlined below:

#### 1.1 Omissions and Errors

- (i) The financial statements are titled 'County Government of Samburu without denoting that they are specific to the County Executive.
- (ii) The information provided on key members of Management at Page iii does not include the profile of the County Secretary.
- (iii) The report on expenditure for the year at page xi indicates that the County Executive equipped 24 boreholes during the year under review whereas the operational performance report at page xiv indicates that seventeen (17) boreholes were equipped.
- (iv) Contrary to the requirements of Paragraph 19 of IPSAS (Cash Basis), the summary statement of appropriation: recurrent and development combined does not provide footnotes on various under-expenditures and adjustments totaling Kshs.1, 281,017 made on the budget for the year. Further, the statement does not indicate the surplus or deficit amount for the year under review.
- (v) Important disclosures in Note 5 to the financial statements on establishment of other County Government entities at page 43 have omitted Maralal Municipality



and Samburu County Persons Living with Disabilities Fund both of which are in operation.

- (vi) Annex 3 - analysis of pending staff payables does not indicate the aggregate sum of payables as at 30 June 2020.
- (vii) The asset classes reflected in Annex 5-summary of fixed assets register- at page 104 do not correspond with the asset disclosures in Note 17- description of assets. The former reflects 19 classes of assets whereas the latter reflects 9 (nine).
- (viii) Disclosures on Inter-entity transfers at page 106 have not been signed off by the Director of Finance and as a result, their validity has not been confirmed.
- (ix) Pages iii to xv of the financial statements do not have headers.
- (x) Note 1 on page 41 on other important disclosures - pending accounts payables indicates that detailed analyses of the payables are reflected in Annex 1 to the financial statements. However, actual analyses are reflected in Annex 2. Further, the attached annex reflects pending accounts balances as at 30 June, 2019 instead of 30 June, 2020.
- (xi) The disclosures at Note 1- pending staff payables at page 41 make reference to detailed analysis at Annex 2 instead of Annex 3. Similarly, the disclosures at Note 3, other pending payables at page 41 makes reference to a detailed analysis at Annex 3 instead of Annex 4.
- (xii) The disclosure on accounts receivables-outstanding imprests in Note 22 to the financial statements does not indicate the amounts of imprests issued and surrendered. xiii. Annex 8 on pending bills owed by the defunct local authorities at page 108 reflects a balance of Kshs.34,877,937 for the year comprised of Kshs.31,837,590 and Kshs.3,040,347 owed to the defunct County Council of Samburu and Town Council of Maralal respectively. However, detailed analyses of the balances have not been provided.

### **Management Response**

The Management submitted the following that;

- i) The omissions referred in i and ii have been noted and we shall make amendments in subsequent years.
- ii) The correct status is that the County Executive equipped 24 boreholes during the year under review. The seventeen boreholes indicated at page xiv was an error in the financial statements.
- iii) County did not provide foot notes to explain the over/under expenditures as per IPSAS 1.9.23 however the County had done explanations of such variances in subsequent years.
- iv) People Living with Disabilities (PLWD) Fund was an omission; however, we have made amendments in subsequent years. The municipality was still under the normal operation of the County Executive.
- v) The errors referred in VI have been noted.
- vi) Note 17 reflect the transactions of assets purchased during the year while Annex 5 is the summary of the total assets of the county.
- vii) The Director Finance had duly signed disclosure on inter-entity transfer as per the attached annexure.

- viii) The omissions and errors referred ix to xi have been noted and we shall make amendments in subsequent years.
- ix) The outstanding imprest balance of 1,176,272 is supported by a schedule under note 22 which show imprest issued and surrendered as per the attached annexure.
- x) The analyses of pending Bills Of Defunct Local Authorities are well Captured In The County Assets And Liability Committee Report attached as annexure

### **Committee Observations**

The Committee noted that the financial statements of Samburu were basic bookkeeping issues, and it points to gross professional negligence.

### **Committee Recommendations**

**The Committee recoemnds that;-**

1. **The County CEO undertakes administrative action against the accounting officer, the Chief Officer Finance, the Head of County Treasury and any other officer(s) responsible for failure to undertake reconciliation of financial statements within the stipulated timelines and submit a report to the Committee within 60 days of adoption of this report;**
2. **The Institute of Certified Public Accountants (ICPAK) takes action(s) against the Head of Treasury for misrepresentation of financial statements which constitutes professional misconduct pursuant to Section 8 (a) and 30 of the Accountants Act CAP 531 and reports to the Committee within 60 days of adoption of this report;**
3. **County CEO must ensure strict adherence to the Public Audit Act, 2015 by providing accurate and reliable reconciliations of the financial statements, payment details and the vote books during the audit cycle; and**
4. **The County Executive to identify training needs of its staff serving in the Finance Department and initiate capacity building and training in conjunction with the National Treasury within 60 days of adoption of this report.**

### **1.2 Inaccuracies and Misstatements**

The annual report and financial statements contain the following discrepancies:

- i. The Foreword by the County Executive Committee Member (CECM) for Finance, Economic Planning and Information Communication Technology at Page (vii) indicates that the County Executive had in the year under review budgeted for revenues totaling Kshs.5, 615,006,285. However, the balance differs with the revenue budget balance totaling Kshs.6,075,395,125 reflected in respect to the account in the statement of appropriation: recurrent and development combined, resulting to an unexplained variance of Kshs.460,388,840.



- ii. In addition, the Foreword highlights a cash and cash equivalents balance of Kshs.485,008,631 as at 30 June, 2020 whereas, the statement of financial assets and liabilities reflects a balance of Kshs.1,546,199,279 resulting to an unexplained variance of Kshs.1,061,190,648.
- iii. The statement of receipts and payments reflects payments totaling Kshs.5, 182,428,104 whereas the statement of appropriation: recurrent and development combined reflects Kshs.4, 692,131,086 resulting to an unexplained variance of Kshs.490, 297,018.
- iv. The disclosure in Note 9 to the financial statements reflects County own generated receipts totaling Kshs.215,349,580 but a recast of the balances included therein yields Kshs.215,069,579 resulting to an unexplained variance of Kshs.280,001.
- v. The statement of receipts and payments reflects comparative transfers (receipts) from other government entities totaling Kshs.213, 955,254. However, the balance does not tally with the sum of Kshs.224, 702,414 reflected in Note 3 to the financial statements resulting to an unexplained variance of Kshs.10, 747,160. The disclosure in Note 24 to the financial statements reflects a fund balance totaling Kshs.1, 388,400,396 but a recast of the amounts shown as comprising the balance yields a sum of Kshs.1, 386,700,686 resulting to an unexplained variance of Kshs.1, 699,710.
- vi. The statement of receipts and payments reflects use of goods and services expenditure totaling Kshs.1, 516,808,956, as further disclosed in Note 12 to the financial statements. The balance includes other operating expenditure totaling Kshs.827,507,583 which in turn includes cash transfers totaling Kshs.159,861,552 from the County Revenue Fund as outlined below:

Date	Payment Voucher No	Payee	Amount (KSH.)
24-10-2019	724	Samburu County Naris Operational Account	6,500,000
06-03-2020	2002	Samburu County Ideas Project Account	32,288,748
30-03-2020	2236	ASDP II Special Purpose Account	10,747,160

30-06-2020	2839	Samburu County Narig Operational Account	100,325,644
30-06-2020	3430	Samburu County Narig Operational Account	10,000,000
Total			159,861,552

The funds were held in Project accounts operated with commercial banks as at 30 June, 2020 and therefore, did not qualify as expenditure items as their reflection in The statement of receipts and payments is intended to portray. As a result of the incorrect treatment of the transfers, the expenditure on goods and services is overstated by Kshs.159, 861,552 and the surplus for the year understated by the same amount.

In view of these matters, the financial statements and the Management report do not provide adequate disclosure on the financial position of the County Executive as at 30 June, 2019 and of its operations for the year then ended. In addition, they do not conform to the reporting format prescribed by the Public Sector Accounting Standards Board.

### **Management Response**

Management submitted that;

- i) The statement in the highlights referred in i and ii by the CECM relate to prior year. The error is noted. We shall endeavor to proofread document before submission to the auditor General.
- ii) The statement in the highlights referred in i and ii by the CECM relate to prior year. The error is noted. We shall endeavor to proofread document before submission to the auditor General.
- iii) A recast of the certified financial statements indicate the correct amount of Ksh 215,349,579.
- iv) The errors have been noted.
- v) The transfers were expensed under management fees rather than transfer to other County entities however the funds were utilized as per the attached bank statements, bank reconciliations and certificates of bank balances.
- vi) The balances of the unutilized funds are well captured in the financial statements as per attached annexure.

### **Committee Observation**

The Committee noted that there was negligence in preparation of the financial statements by the county treasury.

### **Committee Recommendations**



**The Committee recommends that:-**

- 1) The County CEO undertakes administrative action against the accounting officer, the Chief Officer Finance, the Head of County Treasury and any other officer(s) responsible for failure to undertake reconciliation of financial statements within the stipulated timelines and submit a report to the Committee within 60 days of adoption of this report;**
- 2) The Institute of Certified Public Accountants (ICPAK) takes action(s) against the Head of Treasury for misrepresentation of financial statements which constitutes professional misconduct pursuant to Section 8 (a) and 30 of the Accountants Act CAP 531 and reports to the Committee within 60 days of adoption of this report;**
- 3) County CEO must ensure strict adherence to the Public Audit Act, 2015 by providing accurate and reliable reconciliations of the financial statements, payment details and the vote books during the audit cycle; and**
- 4) The County Executive to identify training needs of its staff serving in the Finance Department and initiate capacity building and training in conjunction with the National Treasury within 60 days of adoption of this report.**

## **2. Unconfirmed Balances**

### **2.1 Variances between Financial Statement and Ledger Balances**

Fourteen large balances reflected in the financial statements differ with those reflected in respect to identical accounts in the Integrated Financial Management Information

Systems (IFMIS) ledger. The accounts include cash and bank balances, exchequer releases, proceeds from domestic and Foreign grants, use of goods and services, transfers to other government entities, Accounts payables, other grants and transfers, among others.

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

### **Management Response**

The County Treasury of Samburu had teamed up with staff from National Treasury to conduct a cleanup exercise of the system data for previous years which was affecting the year in question in order to harmonize system generated reports against financial statements. After the above explained exercise, here below is the resulting comparative analysis of financial statements data against IFMIS balances. The funds returned to CRF at the commencement of the year are categorized under exchequer releases in the system due to use of the similar chart of account code. Consequently, in the system, funds transferred to other government units exclude transfers to the County Assembly since the Assembly generates its reports separately.

County Executive attached the latest IFMIS extracts of Receipts and Payments, Assets and Liabilities and CRF extracts showing amounts returned and transfers to the County Assembly in the year.

### **Committee Observation**

The Committee noted that there was a discrepancies variance between the balances in the financial statements and ledger balances.

### **Committee Recommendations**

**The Committee recommends that:-**

- 1. The County CEO undertakes administrative action against the accounting officer, the Chief Officer Finance, the Head of County Treasury and any other officer(s) responsible for failure to undertake reconciliation of financial statements within the stipulated timelines and submit a report to the Committee within 60 days of adoption of this report;**
- 2. The Institute of Certified Public Accountants (ICPAK) takes action(s) against the Head of Treasury for misrepresentation of financial statements which constitutes professional misconduct pursuant to Section 8 (a) and 30 of the Accountants Act CAP 531 and reports to the Committee within 60 days of adoption of this report;**
- 3. County CEO must ensure strict adherence to the Public Audit Act, 2015 by providing accurate and reliable reconciliations of the financial statements, payment details and the vote books during the audit cycle; and**
- 4. The County Executive to identify training needs of its staff serving in the Finance Department and initiate capacity building and training in conjunction with the National Treasury within 60 days of adoption of this report.**

### **2.2 Transfers from Other Government Entities**

The statement of receipts and payments reflects transfers from other Government entities totaling Kshs.159, 899,473, as disclosed in Note 3 to the financial statements. Included in the balance are receipts on account of Road Maintenance Levy Fund (RMLF) and Health Workers Emergency Allowance (HWEA) totaling Kshs.131, 167,313 and Kshs.16, 485,000 respectively, or Kshs.147, 652,313 in Aggregate. However actual RMLF and HWEA receipts for the period reflected in bank statements totaled Kshs.188, 754,490 and nil respectively resulting to unexplained net variances of Kshs.57, 587,177 and Kshs.16, 485,000 respectively.

Consequently, the accuracy and completeness of the reported transfers from other government entities receipts totaling Kshs.159, 899,473 reflected in the statement of receipts and payments for the year ended 30 June, 2020 could not be confirmed.

### **Management Response**

In FY 2015/16 the amount received from Kenya Roads Board by the Department of Roads, Transport and Public Works was Ksh. 45,129,788.00 which was not utilized and was returned to CRF as unspent balance on 21/7/2016. In the following year, FY



2016/17 Kenya Roads Board again transferred another amount of Ksh. 58,898,596 to CRF. The amount was transferred from CRF to special purpose account but upon financial year closure the entire amount was not utilized and was refunded back to CRF as unspent balances on 27/7/2017. The two figures of unspent balances returned to CRF of Ksh. 45,129,788 and Ksh. 58,898,596 gives a total of Ksh. 104,028,374 Kenya Roads Board balance in CRF. The entire amount of Ksh. 104,028,374 remained un-utilized until FY 2018/19 where Ksh. 46,441,197.00 was first transferred from CRF to Special purpose account leaving a balance of Ksh. 57,587,177.00 which was later transferred to special purpose account in FY 2019/20 on 11/5/2020. As per the attached annexure 7(a) 16,485,000 relates to funds for COVID Response for Health Workers Emergency Allowance (HWEA) sent by ministry of health. County executive attached the authority to incur expenditure from the ministry of health in the annexure 7(b).

#### **Committee Observation**

The Committee noted that the matter has since been addressed.

#### **Committee Recommendation**

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

### **2.3 Compensation of Employees Costs**

The statement of receipts and payments reflects compensation of employee's costs totaling Kshs.1, 801,273,580, as further disclosed in Note 11 to the financial statements. However, unexplained variances totaling Kshs.110, 774,012 on basic salaries of permanent employees, personal allowances paid as part of salary, and pension and other social security contributions were noted, as detailed below:

Description	Amount in Financial Statements (Kshs.)	Amount in Payroll (Kshs.)	Variance (Kshs.)
Basic Salaries of Permanent Employees	1,004,788,871	787,642,718	217,146,153
Personal Allowances Paid as Part of Salary	690,963,143	819,683,792	(128,720,649)
Personal Allowances Paid as	1,333,095	0	1,333,095

Reimbursements			
Pension and Other Social Security Contributions	104,188,471	83,173,059	21,015,413
Total	1,801,273,580	1,690,499,569	110,774,012

In view of the unexplained variances, the accuracy and completeness of the compensation of employee's costs totaling Kshs.1, 801,273,580 reflected in the statement of receipts and payments could not be confirmed.

### **Management Response**

We acknowledge the variances between amount in financial statements and amount in payroll emanated from manual payroll. Not all staff compensation was processed through the payroll system thus resulting to a discrepancy between the payroll an Actual amount spent. Having spent on the following lead to the difference mentioned;

- Gratuity of KES 34,223,903 paid to retired members of County Public Service Board and other staff.
- Casual laborers engaged for short term jobs by the Health department in the three main hospitals in the county drew KES 12,379,796.85 in terms of wages.
- Employer's pension contribution amounted to KES 52,641,048.80 is normally processed out of the payroll.

### **Committee observation**

The Committee noted that Management had reconciled the misposted variances up to kshs.99, 244,749 but kshs.11,529,263 worth of variance not explained.

### **Committee Recommendations**

**The Committee recoemnds that;-**

1. **The County CEO undertakes administrative action against the accounting officer, the Chief Officer Finance, the Head of County Treasury and any other officer(s) responsible for failure to undertake reconciliation of financial statements within the stipulated timelines and submit a report to the Committee within 60 days of adoption of this report;**
2. **The Institute of Certified Public Accountants (ICPAK) takes action(s) against the Head of Treasury for misrepresentation of financial statements which constitutes professional misconduct pursuant to Section 8 (a) and 30 of the Accountants Act CAP 531 and reports to the Committee within 60 days of adoption of this report;**
3. **County CEO must ensure strict adherence to the Public Audit Act, 2015 by providing accurate and reliable reconciliations of the financial statements, payment details and the vote books during the audit cycle; and**



4. **The County Executive to identify training needs of its staff serving in the Finance Department and initiate capacity building and training in conjunction with the National Treasury within 60 days of adoption of this report.**

#### **2.4 Misclassified Expenditure**

The statement of receipts and payments reflects use of goods and services and Acquisition of assets balances totaling Kshs.1, 516,808,956 and Kshs.829, 286,906, as disclosed in Note 12 and Note 17 to the financial statements respectively. However, expenditures totaling Kshs.485, 767,075 on the two items are misclassified.

Consequently, the use of goods and services balance totaling Kshs.1, 808,273,580 and acquisition of assets totaling Kshs.829, 286,906 reflected in the statement of receipts and payments are not fairly stated in the financial statements.

#### **Management Response**

The management has put in place measures to minimize misclassifications of expenditures.

#### **Committee Observation**

The Committee observed that the county spent money outside the correct budget line without approval from the county assembly.

#### **Committee Recommendation**

**The Committee recommends that;-**

1. **The County CEO undertakes administrative action against the accounting officer, the Chief Officer Finance, the Head of County Treasury and any other officer(s) responsible for failure to undertake reconciliation of financial statements within the stipulated timelines and submit a report to the Committee within 60 days of adoption of this report;**
2. **The Institute of Certified Public Accountants (ICPAK) takes action(s) against the Head of Treasury for misrepresentation of financial statements which constitutes professional misconduct pursuant to Section 8 (a) and 30 of the Accountants Act CAP 531 and reports to the Committee within 60 days of adoption of this report;**
3. **the EACC causes an investigation on to the expenditure of Kshs.485,767,075 to ascertain if there was an intent to defraud the county and provide a status update within sixty (60) days from the adoption of this report.**
4. **County CEO must ensure strict adherence to the Public Audit Act, 2015 by providing accurate and reliable reconciliations of the financial statements, payment details and the vote books during the audit cycle; and**
5. **The County Executive to identify training needs of its staff serving in the Finance Department and initiate capacity building and training in conjunction with the National Treasury within 60 days of adoption of this report.**

## **2.5 Transfers to Other Government Entities**

The statement of receipts and payments reflects transfers to other government entities totaling Kshs.630, 127,269 as disclosed in Note 14 to the financial statements. The balance includes other capital transfers to Wildlife Conservancies totaling Kshs.93, 643,164. However, the transfers were not supported by any legal framework or provision and there were no records of activities or expected outputs identified before the transfers were made. Further, expenditure returns, if any, indicating the use of the grants were not provided for audit review.

In view of these anomalies, the accuracy, completeness and validity of transfers to other government entities totaling Kshs.630, 127,269 made in the year under review could not be confirmed.

### **Management Response**

These transfers were done in anticipation of the enactment of the Samburu County Conservancy act 2020

### **Committee Observation**

The Committee noted that the matter has since been addressed.

### **Committee Recommendation**

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

## **2.6 Social Security Benefits**

The statement of receipts and payments reflects social security benefits payments totaling Kshs.6, 767,634. However, records on the payments reflected unpaid mortgage deductions totaling Kshs.6, 102,145 expensed under compensation of employees.

Consequently, the accuracy and completeness of social security benefits expenditure totaling Kshs.6, 767,634 for the year ended 30 June, 2020 could not be confirmed.

### **Management Response**

We accept the error; mortgage was wrongly classified as social security. The management has put in place measures to minimize misclassifications.

### **Committee Observation**

The Committee observed that the county used money meant for mortgages to pay for social security benefits.

### **Committee Recommendations**

**The Committee recommends that;**



- 1) The Committee recommends that the county provides financial statements of the mortgage fund, schedule of those who received the mortgages; name, amount and designation, security offered, repayments that have been made to date and measures the county is taking to ensure recovery to the auditor general within sixty (60) days from the adoption of this report; and
- 2) The Committee recommends the EACC to investigate the mortgage matter in the county to ascertain prudence in the use of county revolving funds and provide a status update to the Senate within 90 days of adoption of this report.

## 2.7 Bank Balances

The statement of assets and liabilities reflects bank balances totaling Kshs.1, 546,199,279, as further disclosed in Note 21A to the financial statements.

However, the following anomalies were noted in respect to the balances:

## 2.8 Bank Accounts

Included in the balance is Kshs.244, 708,334 reportedly held in six (6) bank accounts.

However, the accounts were not supported with cash book records, or bank balance certificates:

Account Name	Balance (Kshs.)
Samburu County Roads Maintenance & Fuel Levy	113,092,333
Samburu County Narig Project	9,941,915
Samburu County Maralal Youth Polytechnic	250,292
Samburu County IDEAS Project	47,951,933
Maralal Municipality KUSP UDG	49,997,931
Maralal Municipality UIG	23,473,930
<b>Total</b>	<b>244,708,334</b>

Further, Annex 7 - other bank account balances - reflects eighteen (18) bank accounts shown as having balances totaling Kshs.293, 400,534 as at 30 June, 2020. However, cash books and certificates for these bank accounts were likewise, not provided for audit review.

## Management Response

We wish to present the cash books, bank balance certificates and bank reconciliations as per the attached annexure.

#### **Committee Observation**

The Committee noted that no bank certificates and balances were provided.

#### **Committee recommendation**

**The County CEO undertakes administrative action against the responsible accounting officers, the County Executive Committee Member (CECM) in charge of Finance and Economic Planning, who failed to provide the documents to the auditors in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report.**

### **2.9 Unreported Bank Accounts**

Bank accounts with cash balances totaling Kshs.1, 269,375 as at 30 June, 2020 held

In commercial banks were omitted from the financial statements as detailed below:

Account Name	Amount (Kshs.)
Samburu County Maralal International Camel Derby	0
Samburu County Asset Creation Accounts	1,244,356
Samburu County ASDP	0
Samburu County Maralal Village Youth Polytechnic	25,018.50
Total	1,269,375

In view of these discrepancies, the accuracy, completeness and fair statement of the reported bank balances totaling Kshs.1, 546,199,279 as at 30 June, 2020 could not be confirmed.

#### **Management Response**

Samburu County Maralal International Camel Derby, Samburu County ASDP and Samburu County Maralal Village Youth Polytechnic bank accounts were captured in the financial statement of FY 2019/2020 page 36 and page 107 however there was an omission of Samburu County Asset creation bank accounts.



### **Committee Observation**

The Committee noted that the Bank accounts with cash balances totaling Kshs.1,269,375 as at 30 June, 2020 held in commercial banks were omitted from the financial statements.

### **Committee Recommendation**

**The County CEO undertakes administrative action against the responsible accounting officer, the head of county treasury and any other officer(s) for omitting the bank accounts and failure to ensure the accuracy of the financial statements within the stipulated timelines in accordance with section 156 of the Public Finance Management Act, 2012 and provides a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report.**

### **3.0 Accounts Receivables - Outstanding Imprests**

The statement of assets and liabilities reflects accounts receivables- outstanding imprests balance totaling Kshs.71, 134,261 as at 30 June, 2020, as disclosed in Note

22 to the financial statements. Included in the balance is Kshs.15, 527,402 reportedly owed by unnamed County Assembly Members and staff. Further, records on the imprests indicated that, only Kshs.229, 244,724 of the imprests totaling

Kshs.332, 968,572 issued during the year under review were surrendered leaving a balance of Kshs.103, 723,848 outstanding as at 30 June, 2020. However, as indicated, the statement of assets and liabilities as at 30 June, 2020 reflects outstanding imprests totaling Kshs.71, 134,261 only. The variance amounting to

Kshs.32, 589,587 between the two sets of records has not been explained. As a result, the accuracy and fair statement of the reported accounts receivables – outstanding imprests - totaling Kshs.71, 134,261 as at 30 June, 2020 could not be confirmed.

### **Management Response**

The County executive reported receivable amount of Ksh. 71,134,260.90 which comprises of;

- (i) Outstanding imprest of Ksh. 55,606,859
- (ii) Receivable from County Assembly of Ksh. 15,527,401.90

Therefore, the outstanding imprest of Ksh, 55,606,859 is the accumulated amount for the following years;

S/N	FINANCIAL YEAR	AMOUNT
O		
1.	FY 2013/2014	21,183,478.00
2.	FY 2014/1015	10,775,658.00

3	FY 2015/2016	9,190,638.00
4	FY 2016/2017	4,396,828.00
5.	FY 2017/2018	3,269,684.00
6.	FY 2018/2019	5,614,301.00
7.	FY 2019/2020	1,176,272.00
	<b>TOTAL</b>	<b>55,606,859.00</b>

The total amount of imprest issued during the year 2019/2020 was Ksh. 358,034,912.00 and Ksh. 356,858,640.00 were fully surrendered leaving a balance of Ksh. 1,176,272 as outstanding imprest as per attached analysis and impress register.

#### **Committee Observation**

The Committee noted that the matter has since been addressed.

#### **Committee Recommendation**

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

### **4.0 Acquisition of Assets**

The statement of receipts and payments reflects acquisition of assets balance totaling Kshs.829, 286,906 as further disclosed in Note 17 to the financial statements. Included in the balance are purchase costs for motor vehicles and other transport equipment totaling Kshs.47, 577,032. However, log books for an undisclosed number of motor vehicles valued at Kshs.37, 403,032 as at 30 June, 2020 were not provided for audit and as a result, their ownership by the County Executive could not be confirmed.

#### **Management Response**

There was delay in delivery of vehicles from Toyota due to challenges Related to cross boarder movement as a result of covid-19 pandemic Nonetheless, all the five vehicles have now been delivered and attached as

#### **Committee Observation**

The Committee noted that the matter has since been addressed.

#### **Committee Recommendation**

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

### **5.0 Pending Bills**

Note 5.10 to the financial statements on other important disclosures reflects pending



Accounts payable balance totaling Kshs.1, 149,826,715 arrived at by adding the Balances from 2018/2019 to the unpaid bills for the year under review. Out of this Balance, Kshs.411, 911,497 is indicated to have been paid in the year leaving an Outstanding balance of Kshs.737, 915,217 as at 30 June, 2020. However, records Made available for audit indicated that actual payments in the year totaled Kshs.22, 236,618 only. As a result, the unpaid bills totaling Kshs.737, 915,217 disclosed in the financial Statements as at 30 June, 2020 may have been understated by Kshs.389, 674,879. Therefore, the actual unpaid bills may have totaled Kshs.1, 127,590,096 as at 30 June, 2020. Consequently, the accuracy and completeness of the pending bills balance totaling Kshs.737, 915,217 as at 30 June, 2020 could not be confirmed.

### **Management Response**

The pending bills for the year under review were reported as Ksh. 737,915,217. The balance is work in progress. However correct status of pending bills has been ascertained by the pending bills Committee. The current status is that the said pending bills have been settled.

### **Committee Observations**

The Committee observed that-

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

### **Committee Recommendations**

The Committee recommends that;-

1. the National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate so as to enable county entities settle their obligations on time;
2. the County Executive should disclose all pending bills in the format prescribed by the Public Sector Accounting Standards Board as stipulated under Section 104(1)(h) of Public Finance Management Act, 2012;
3. the county executive puts in place measures to enhance own generated revenue in order to meet its revenue target and address revenue shortfalls that contribute to the challenge of pending bills;
4. Pending bills deemed ineligible should be forwarded to the Directorate of Criminal Investigation (DCI) for investigation proper legal action taken against those filing false claims;
5. County Government to take note of judgement in a Kitale High Court Constitutional Petition E003 of 2023 that declared formation of pending bills

verification committees unconstitutional and engage Office of the OAG and strengthen the internal audit functions.;

6. All valid pending bills that have been reviewed by the Office of the Auditor General be paid and a payment plan be submitted to the county assembly for approval and progress report on implementation sent to the Senate and the Office of the Controller of Budget.

#### **6.0 Other Grants and Payments - Emergency Payments**

The statement of receipts and payments reflects other grants and payments totaling Kshs.398, 163,759 which in turn includes payments for emergency relief and refugee Assistance totaling Kshs.299, 363,759, as disclosed in Note 15 to the financial Statements. The relief payments include Kshs.71, 363,759 spent without sufficient Records on the unforeseen needs funded. As a result, the occurrence and propriety of The payments could not be confirmed. Further, the spending contravened Section 110 Of the Public Finance Management Act, 2012 that requires the County Executive Committee to seek the approval of the County Assembly before establishing an Emergency Fund.

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#### **Management Response**

Ksh 71,363,759 relates to emergency relief food supplies to drought affected people, locust invasion and security emergency response within the County which is a budget expenditure item in our budget under special programs.

#### **Committee Observations**

The committee noted that;

- 1) the responses given by the county executive were unsatisfactory;
- 2) the lack of sufficient documentation towards expenditure on emergency relief food supplies
- 3) the executive failed to seek county assembly's approval on the establishment of the county emergency fund which is irregular.

#### **Committee Recommendation**

The Committee recommends that;

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



- 2) The County Executive Committee should regularise the process of establishing the fund through the Samburu County Assembly in line with Section 110 of the PFM Act, 2012.**

### **7.0 Refunds of Deposits and Retention Monies**

Project expenditure records indicated that deposits and retentions totaling Kshs.106, 537,548 were paid to contractors during the year under review. However, the refunds were not supported with official receipts, demand notices from contractors, Certificates of final account and approvals from the Department of Roads and Public Works. This was contrary to Section 151(2) (h) of the Public Procurement and Asset Disposal Act, 2015 which requires each project implementation team to ensure a Contract is completed - including all handover procedures, transfer of title if applicable, And payment of final retention payment- prior to closing the contract file.

Therefore, Management did not adhere to the law and further, the propriety of the Payments could not be confirmed.

#### **Management Response**

It is true that the suppliers are refunded their retention fees at the end of defect liability period, we ensure that support documentation must include certificate of completion from public works, demand notice from suppliers and confirmation of approvals to make payments by the authorized chief officers

#### **Committee Observations**

The Committee noted that;

- 1) the responses given by the county executive is unsatisfactory.
- 2) the management did not provide sufficient documentation on payment of contractor's deposit and retention money.

#### **Committee Recommendation**

**The Committee recommends that the County CEO undertakes administrative actions against the accounting officer(s) who failed to provide all the documents to the auditors in accordance with section 156 of the Public Finance Management Act and provides a status report to the Office of the Auditor General within 60 days from the adoption of this report;**

### **Other Matter**

#### **Budgetary Control and Performance**

The statement of appropriation: recurrent and development combined reflects final Expenditure budget and actual on comparable basis totaling Kshs.6, 413,311,289 and Kshs.4, 692,131,086 respectively resulting in an under-expenditure of Kshs.1, 721,180,203 or 27% of the budget. The under-expenditure mainly occurred in the development vote with Kshs.906, 603,119 spent against an allocation of Kshs.2,

170,955,835 resulting in Under-expenditure of Kshs.1, 264,352,716 or 58% of the budget. under the recurrent vote, actual expenditure totaled Kshs.3, 785,527,967 against an Allocation of Kshs.4, 242,355,454 resulting in under-expenditure of Kshs.456, 827,487 Or 11% of the budget. Failure to spend the whole of the development vote implied that some portion of the planned for execution during the year under review were not implemented. As a result, a significant portion of the goods and services promised to the residents of Samburu County were not delivered.

### **Management Response**

There were delays in implementation of development projects in the year Under review due to challenges in rolling out e-procurement module and Delay of disbursement of funds by the National Treasury which led to Low budget absorption.

### **Committee Observations**

The Committee observed that;

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

### **Committee Recommendations**

The Committee therefore recommends that:

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

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

## **REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

### **1.0 Unsatisfactory Implementation of Projects**

#### **1.1 Failure to Implement Contracted Projects**

The Projects Implementation Status Report as at 30 June, 2020 indicated that projects Valued at Kshs.1, 358,248,530 were contracted for implementation during the year Under review and payments totaling Kshs.822, 960,480 or 61% of the total value of The portfolio was made to the contractors as indicated below:

<b>Department</b>	<b>Contracted Amount</b>	<b>Amount Paid (Kshs.)</b>	<b>Works Outstanding</b>



	(Kshs.)		(Kshs.)
Finance and Economic Planning	16,897,900	16,897,900	-
Agriculture, Livestock, Veterinary Services & Fisheries	98,941,908	98,941,908	-
Water, Environment, Natural Resources and Energy	174,839,935	131,647,826	43,192,109
Education & Vocational Training	104,696,542	72,276,680	32,419,862
Medical Services	235,845,190	48,523,970	187,321,220
Lands and Physical Planning	183,863,060	93,955,280	89,907,780
Public Works	516,711,320	341,890,589	174,820,731
Tourism, Trade, Enterprise Development and Cooperatives	18,826,348	18,826,327	21
Culture, Social Services, Gender, Sports and Youth Affairs	7,626,327		7,626,327
Total	1,358,248,530	822,960,480	535,288,050

Several unsatisfactory matters were noted on implementation of the projects, as

Described below:

**Management Response**

The management reported that the projects in question have been completed as evidence and project implementation report to affirm successful completion of the same.

**Committee Observation**

The Committee noted that the matter has since been addressed.

**Committee Recommendation**

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

**1.2 Delays, Poor Workmanship, and Unutilized Projects**

Audit inspection of a sample of twenty-nine (29) development projects valued at Kshs.328, 381,595 revealed several unsatisfactory issues. The issues included delay in completion, poor quality workmanship and failure to put Completed projects to use. In view of these issues, value for money on the public funds spent on the projects May not be realized.

**Management Response**

I wish to report that the projects in question have been completed as evidenced in annexure 19 which include photos and project implementation report to affirm successful completion of the same.

**Committee Observation**

The Committee noted that the matter has since been addressed.

**Committee Recommendation**

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

**1.3 Idle Donor Project Funds**

the financial statements reflect Kenya Urban Support Programmed funds totaling Kshs.49, 997,931 held by the County Executive as at 30 June, 2020. The Funds were, two years previously, set aside for the development of Maralal Municipality but were not put to use. No satisfactory explanation was provided for the Failure to utilize the funds. The delay is contrary to the provisions of Section 149(1) of The Public Finance Management Act, 2012 that requires an Accounting Officer to Ensure that the resources of the entity for which the Officer is designated are used in A way that is effective, efficient, economical and transparent. Further, in view of the failure to spend the funds, the expected improvement of local infrastructure expected to benefit County's residents was not realized.

**Management Response**



We admit there were delays in implementation of the donor funded projects, however the funds are now fully utilized and the project complete. The project entails the construction of Maralal market and construction of carobs in Maralal Town.

#### **Committee Observation**

The Committee noted that the matter was outstanding.

#### **Committee Recommendation**

**The Committee recommends that the Auditor General conducts project verification to ascertain the completion status and report back to Senate within 60 days of adoption of this report.**

#### **1.4 Boreholes Drilled Without Authority**

Expenditure records indicated that payments totaling Kshs.69, 891,200 were made for thirty boreholes drilled in various Wards in the County. However, contrary to the provisions Section 2(2) of the Fourth Schedule to the Water Act, 2016, requirements For hydrological surveys, Environmental Impact Assessment (EIA) and Water Resources Management Authority (WARMA) permits were not obtained before award of the drilling contracts. The provision requires any person intending to construct a borehole or well to obtain a permit from the Authority and comply with any other requirements set.

#### **Management Response**

The county executive drilled 35 boreholes during the year under review out of which 24 boreholes were successful equipped and is in use.

#### **Committee Observation**

The Committee noted that the matter was outstanding and the response given by the county executive is unsatisfactory.

#### **Committee Recommendations**

**The Committee recommends that;**

- 1. the Auditor General conducts project verification to ascertain the completion status and report back to Senate within 60 days of adoption of this report;**
- 2. Water Resources Management Authority (WARMA) to enforce the regulations made under the water act and provide a status update to the Auditor General within 60 days of adoption of this report.**

#### **2.0 Irregular Grants Issued to Samburu Water and Sanitation Company Limited**

Examination of expenditure records indicated that in the year under review, the County Executive provided grants valued at Kshs.46, 187,071 disbursed in cash and kind to Samburu Water and Sanitation Company Limited to augment its budgetary resources.

However, the grants were issued contrary to Section 71 of the Public Finance Management (County Government) Regulations, 2015 which prohibits One County Government entity from making donations to another for the purpose of augmenting The budgetary resources of the recipient entity.

#### **Management Response**

The County Assembly of Samburu approved a budget for grant to support SAWASCO to provide water to urban centers within the County. It is the responsibility of the County Government to ensure the residents of Samburu County gets adequate and reliable water supply and as such the expenditure is regular as per attached approved County supplementary budget.

#### **Committee Observation**

The committee noted that the grants to Samburu Water and Sanitation Company Limited was irregular as it was provided outside the provision of the law.

#### **Committee Recommendations**

**The Committee recommends that;**

1. the Senate County Public Investment and Special Funds to look into this matter.
2. the County Government to operate within the provision of the law when providing such grants to County Corporations.

### **3.0 Irregular Commitments for Supply of Goods and Services**

Procurement records indicated that expenditure commitments totaling Kshs.108,765,543 were made during the month of June, 2020 without the written Approval of the Accounting Officer. This was contrary to Section 50(1) of the Public Finance Management (County Government) Regulations, 2015 that requires all Commitments for supply of goods or services to be done not later than the 31 May, Each year, except with the express approval of the Accounting Officer in writing.

#### **Management Response**

I wish to confirm that all commitments done after 31st of May 2020 were done with express approval by the Accounting officers.

#### **Committee Observation**

The committee observed that the matter has since been addressed

#### **Committee Recommendations**

**The committee recommends that the matter be marked as resolved.**

### **4.0 Irregular Payments to Council of Governors**



Records on operating expenses indicated that payments totaling Kshs.3, 227,133 were made to the Council of Governors contrary to Section 37 of the Intergovernmental Relations Act, 2012, which provides that all operational expenses of The Council should be met by the National Government.

Therefore, in effecting the expenditure, Management may have breached the law.

#### **Management Response**

Irregularity noted.

#### **Committee Observation**

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

#### **Committee Recommendation**

**The Committee recommends that:-**

- 1. the irregular payments to the Council of Governors (COG) be stopped and further recommends the surcharge of any Governor, in their capacity as Chief Executive Officer, who continues to make the irregular contribution; and**
- 2. The EACC should oversee the recovery of all the public funds irregularly transferred to the Council of Governors (COG) by the Governor. This is in line with the Resolution of the Senate.**

### **5.0 Uncollected Land Rates**

Examination of revenue records revealed unpaid land rates, including penalties for delayed payment, totaling Kshs.60,343,374 as at 30 June, 2020. Failure to collect the rates denied the County Government revenue for use in funding public services and development activities. In addition, it contravened Regulation 63(1) of the Public Finance Management (County Governments) Regulations, 2015, which requires the Accounting Officer and Receiver of Revenue in each County entity to ensure that adequate safeguards exist and are applied for the prompt collection and proper Accounting for all County Government Revenue and all other public monies related to The Counties.

#### **Management Response**

It is true that the arrears of land rates stood at 60,343,374 as at 30<sup>th</sup> June 2020. We had Covid-19 pandemic during the year under review which significantly affected general revenue collection in the County. The County is in the process of acquiring an integrated revenue collection and management system in order to enhance revenue collection, administration, enforcement and provision of information to aid management in decision making especially after passing of national policy to support enhancement of

county government revenue collection acquisition of the Electronic Revenue module including;

- Samburu county purchase requisition form
- Samburu County Tender Notice
- Minutes of tender opening committee dated 14<sup>th</sup> February, 2023
- Minutes and Report of Tender Evaluation Committee dated 15<sup>th</sup> March, 2023
- GOK IFMIS Evaluation Matrix Report
- Head of Supply Chain Management Professional Opinion for Supply, Installation and Commissioning of Revenue Collection Automation System dated 20<sup>th</sup> March, 2023
- Notification of award and Award Letter to Web Tribe Limited Dated 21<sup>th</sup> March, 2023
- Local Purchase Order (L.P.O) awarded to Web Tribe Limited dated 17<sup>th</sup> April, 2023
- Contract Agreement between Samburu County Government and Web Tribe Limited dated 5<sup>th</sup> April, 2023

#### **Committee Observation**

The committee noted the county failed to collect land rates totalling totaling Kshs.60,343,374.

#### **Committee Recommendation**

**The Committee recommends that;**

- 1) **The county executive should automate their revenue collection so as to enhance revenue collection, administration, enforcement and also seal revenue leakages and provide a status update to the OAG within 60 days of adoption of this report;**
- 2) **The county executive should adopt realistic revenue targets based on their mapped revenue streams; and**
- 3) **the Auditor General to review the matter in the next audit cycle.**

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

#### **1.0 Irregular Payroll System**

The County Government maintains two (2) payroll systems; the electronic Integrated Payroll and Personnel Database (IPPD) for its 1,614 permanent staff and a manual system for 529 non-permanent. No satisfactory explanation has been provided for

The use of the manual system. Further, in addition to the manual payroll being overly

Prone to error and misstatement, its lack of integration with the IPPD system has increased the risk of duplication of salary and other payments to staff.

#### **Management Response**



The manual payroll system is as result of casual workers engaged mostly at the department of health and medical services who are engaged on 3 months contract from time to time. The salaries for new County employees on probation awaiting processing of their personal numbers are also processed manually. This number of employees in Manual Payroll System has tremendously reduced to 333 Employees as per Payroll report on May, 2023.

#### **Committee Observation**

The Committee observed that the County was processing salaries manually instead of using the IPPD system.

#### **Committee Recommendations**

**The Committee recommends that;**

- 1. The County Executive should engage the State Department of Public Service to fast-track the issuance of personal numbers to enable them onboard all employees on the Integrated Personnel and Payroll Database (IPPD) System;**
- 2. the County Public Service Board to develop a framework of regularizing the casual workers and provide a status update to the Office of the Auditor General within 60 days; and**
- 3. the Auditor General to review the matter in subsequent audit cycle.**

#### **2.0 Failure to Activate Electronic Revenue Module**

Review of revenue collection records indicated that the County Government had not Activated the IFMIS module for revenue collection but instead collected and accounted For its revenues through manual procedures. The practice is contrary to Section 109(1) Of the Public Finance Management (County Governments) Regulations, 2015 which Requires County Government entities to use efficient and effective electronic systems To process financial data.

Consequently, the revenue collection system does not comply with the Public Finance Management (County Government) Regulations, 2015.

#### **Management Response**

TFMIS revenue module has been in existence and utilized by county government since its inception a couple of years ago. However, the module has limitations in that it does not support aspect of revenue collection which has been pointed out. Hence it necessitated the county to initiated the process of acquiring an integrated revenue collection and management system in order to enhance revenue collection, administration, enforcement and provision of information to aid management in decision making especially after passing of national policy to support enhancement of

county government revenue collection. Management provided the full procurement documents to support the acquisition of the Electronic Revenue module including;

- Samburu county purchase requisition form
- Samburu County Tender Notice
- Minutes of tender opening committee dated 14<sup>th</sup> February, 2023
- Minutes and Report of Tender Evaluation Committee dated 15<sup>th</sup> March, 2023
- GOK IFMIS Evaluation Matrix Report
- Head of Supply Chain Management Professional Opinion for Supply, Installation and commissioning of Revenue Collection Automation System dated 20<sup>th</sup> March, 2023
- Notification of award and Award Letter to Web Tribe Limited dated 21<sup>st</sup> March, 2023
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- Contract Agreement between Samburu County Government and Web Tribe Limited dated 5<sup>th</sup> April, 2023.

#### **Committee Observation**

The committee noted that the matter has since been addressed.

#### **Committee Recommendation**

**The Committee recommends that the issue be marked as resolved.**

### **3.0 Lack of County Performance Management and Staff Appraisal System**

Section C.5 (1) of the County Public Service Human Resource Manual, 2013, requires All County Governments to develop their own performance appraisal instruments and Apply these in evaluating the performance of staff in the County Public Service.

However, Management of Samburu County Executive had neither designed a Performance Management Plan nor established a Performance Management Committee. As a result, staff were not evaluated on their performance in the year

Under review. Consequently, Management had not complied with regulations and lacked objective Means to measure and control staff performance for effective human resource Development and service delivery to the residents of Samburu County.

#### **Management Response**

We are in agreement that during the time of audit the County Government had not yet established performance management and staff appraisal system however the process has already been started beginning with County Executive Committee Members and is expected to cascade downwards to other levels of staff.

#### **Committee Observation**



The committee noted that the county executive did not have performance management and staff appraisal system in place to monitor and evaluate the performance of its employees.

#### **Committee Recommendations**

**The Committee recommends that;**

- 1) the County Public Service Board puts in place a performance and staffs appraisal systems and tools and provide a status update to the office of the Auditor General within sixty (60) days from the adoption of this report; and**
- 2) the Auditor General to monitor the matter in the subsequent audit cycle.**

#### **4.0 Lack of Risk Management Policy**

Audit review of operational systems indicated that the County Executive had not Instituted a risk management system contrary to Section 158(1) (a) and 1581(b) of the Public Finance Management (County Government) Regulations, 2015. The provision Requires the Accounting Officer to develop risk management strategies which include fraud prevention mechanisms and internal controls that build robust business Operations.

Consequently, the County Executive lacks objective means to identify, measure, and Mitigate risks to its operations.

#### **Management Response**

The County Executive did not have a risk management policy during the year under review however the County has developed a risk management policy.

#### **Committee Observation**

The committee noted that the matter has since been addressed.

#### **Committee Recommendation**

**The Committee recommends that the issue be marked as resolved.**

